CASE STUDY: BABYFOOD

Introduction
In October 1997, H.J. Heinz Company of Canada Ltd. filed an antidumping petition in Canada against the only U.S. exporter of baby food, Gerber Products Company, claiming that Gerber was selling certain prepared baby foods at less than normal value in the Canadian market, and these imports were causing H.J. Heinz material injury. The following year, the agencies charged with investigating Canadian antidumping petitions, Revenue Canada and the Canadian Trade Tribunal, determined that antidumping duties should be imposed upon imports of baby food from the United States. Although the duties were later rescinded in 2002, the U.S. baby food industry exports virtually nothing to Canada to this day.

Background: The North American Baby Food Industry

The antidumping investigation described above centered on jarred baby food containing finely homogenized vegetables, fruit and meat, as well as strained juices. Foods for the youngest infants typically include a single ingredient such as carrots or peas that are strained or pureed so they do not need to be chewed before swallowing. Older infants typically consume baby food that includes a combination of ingredients, such as rice or pasta combined with meat or combinations of fruits and vegetables; these products typically contain small pieces of fruits, vegetables and meat to encourage infants to chew but that are still easy to swallow.

In 1997, the Canadian market for jarred baby food was estimated to be valued at C$60 to C$70 million. Historically, Heinz accounted for about 75 to 80 percent of the Canadian baby food market, with Gerber accounting for the remainder. Although Gerber initially produced baby food in Canada, in 1990 the company closed its Canadian production facilities and began exporting baby food produced in the United States to Canada through a Canadian subsidiary, Gerber (Canada) Inc. At the time, Gerber sold baby food for as little as C$0.33 per jar, about 10 cents less than Heinz.¹

Gerber U.S. was, and continues to be, the largest baby food producer in North America, accounting for approximately 65 percent of the U.S. market in 1997. Two other companies, Heinz U.S. and Beech-Nut Nutritional Corporation, accounted for most of the remaining U.S. market share at this time. In 1997, Gerber had three U.S. plants producing baby food, although all of the products exported to Canada were produced in Fremont, Michigan.

In the mid-1990s, the Canadian market for jarred baby food began to shrink; Heinz estimates that the baby food market shrank six percent between 1996 and 1998. Canada was not only experiencing declining birth rates, but more consumers were preparing their own baby food following an announcement by the Canadian Centre for Science in the Public Interest which questioned the nutritional value of baby food. Organic baby food,

which was not targeted by the antidumping petition, was also realizing growing market shares in the mid to late 1990s. Heinz filed the antidumping petition in the face of declining profitability and production levels, claiming that Gerber could be blamed for at least a portion of the company’s poor financial situation.

The Antidumping Petition

Heinz initially filed the antidumping petition against Gerber on October 3, 1997. Heinz claimed that if not for the large dumping margins, Gerber would be unable to compete in the Canadian market. Moreover, dumping by Gerber had allowed Gerber to win significant contracts, thus reducing the size of the market held by Heinz. Moreover, pricing practices by Gerber had prevented Heinz from increasing their own price, thus limiting profit margins.

The agency charged with determining the degree of dumping, Revenue Canada, announced its preliminary decision on December 30, 1997, imposing a dumping margin of 68.7 percent on Gerber products. The final margin was revised slightly to 59.76 percent on May 30, 1998. In calculating this margin, Revenue Canada defined the normal value as Gerber’s weighted average selling price to selected U.S. customers, or those customers that bought a comparable quantity of baby food as the Canadian importer, Gerber Canada. This normal value was then compared to the adjusted export price, calculated as the importer’s resale price of the goods in Canada less import and other sales expenses plus a profit margin.2

On April 29, 1998, the agency charged with determining whether the domestic industry has been materially injured due to imports, the Canadian International Trade Tribunal (Tribunal), made an affirmative decision, paving the way for the permanent imposition of dumping duties of 59.76 percent to be imposed on Gerber’s imports. The Tribunal noted that while there were other significant causes of injury to Heinz during this time period, the dumping by Gerber resulted in significant price erosion and a decrease in the market share enjoyed by Heinz. At the time of the decision, Gerber (Canada) Inc. said it was “shocked” at the ruling, and warned that Gerber products may double in price or it may be forced to pull out of the Canadian market all together.3

The Case Outcome

In fact, Gerber did stop selling baby food in Canada soon after the final decision, an outcome that had been feared by the Consumers Association of Canada and the Canadian Institute of Child Health.4 In a peculiar turn of events, the Canadian agency charged with regulating business conduct, the Canadian Competition Bureau, requested that a North American Free Trade Agreement (NAFTA) panel review the antidumping decision. However, the NAFTA panel upheld Canada’s decision on November 17, 1999.

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2 Canadian antidumping law specifies that the export price is defined as the lower of this method or the exporter’s declared selling price less export charges.
In response to Gerber’s withdrawal from the Canadian market, the Tribunal instituted a public interest investigation regarding the antidumping duties on July 3, 1998. As a result of this investigation, on June 23, 1999 the Minister of Finance reduced the antidumping duties on Gerber products by two-thirds. However, the reduction in duties was not enough to induce Gerber to re-enter the Canadian market. Gerber closed its Asheville, North Carolina plant in 1998, reducing its production capacity for baby food by approximately one-third. It also disposed of all equipment in the Fremont, Michigan plant that produced baby food that met Canadian requirements for jar size.

By 2002, Heinz Canada continued to be the only producer and provider of baby food in Canada. Heinz gained about half of the sales volume held by Gerber, as the Canadian baby food market continued to decline due to decreasing birth rates and increasing consumption of organic and frozen baby food. The Tribunal estimated that the Canadian baby food market decreased by almost 25 percent between 1998 and 2003. Meanwhile, Gerber remained the largest baby food producer in North America, accounting for approximately 70 percent of the U.S. market, followed by Heinz U.S. and Beech-Nut Nutrition Corp. In contrast to Canada, the size of the U.S. baby food market remained stable due to stable birth rates as well as innovations introduced primarily by Gerber in packaging and baby food products.

As required under the World Trade Organization (WTO), Canada initiated a sunset review of the antidumping duties on August 19, 2002. Although the Commissioner of Customs and Revenue determined that the elimination of duties would likely result in the resumption of dumping by Gerber, the Tribunal determined on April 28, 2003 that the elimination of the duties would not result in material injury of domestic producers, and the order was suspended.

Despite the elimination of dumping duties, it is not certain that Gerber will try to re-enter the Canadian market. At the time of the sunset review, Gerber noted that it would have to purchase and install equipment to produce the containers and labels necessary for export to the Canadian market. Moreover, it would have to hire staff and conduct new market research to develop products that meet Canadian regulatory requirements. As of 2004, Gerber had still not re-entered the Canadian market.

References


