

Conglomerated Nanyu Tobacco Ltd.

Background to the dispute

Conglomerated Nanyu Tobacco Ltd. ("CNT") and Real Quik Convenience Stores Ltd. ("RQCS") entered into a Distribution Agreement of selected tobacco products and merchandise on 14 December 2010 ("the Agreement"). The Agreement was a successive step in an already fruitful business cooperation between the Parties, dating back to 2000. Considering CNT's strong position in the worldwide tobacco market, CNT and RQCS expressly agreed on an adequate price for the products established in the Agreement. On 13 April 2012, under a huge controversy the Gondwandan Senate passed the "Clean our Air" Bill 275/2011 ("Bill 275"). The tobacco industry in Gondwana was affected by the Bill and experienced a preliminary decline in sales through all channels. The situation also strongly affected the activity of CNT, which incurred substantial developmental and manufacturing costs in order to comply with the Bill 275 and suffered losses in sales. Nevertheless, Claimant was able to retain its strong and uncontested position between the tobacco producers in the Gondwandan market, and its products are still popular between consumers. No longer than a month after a last meeting between CNT and RQCS's representatives, RQCS surprisingly notified CNT of its inevitable intention to cut the long-lasting commercial bonds with CNT, allegedly because of the new governmental regulations making it impossible to perform its duties thereunder.

The issues

CNT feels that RQCS is abusing the trust built between the parties for over a decade. By contracting large quantities of its products, CNT has acknowledged the leading role of RQCS on the Gondwandan convenience stores market and provided it with an opportunity of benefitting from the already established, worldwide brand of CNT's products in the commercial expansion of RQCS. At all moments CNT supported a fruitful cooperation between the Parties and has remained open to any discussions regarding the adjustment of any aspects in such cooperation that were no longer viable. After the meeting in April 2013, CNT specifically left an open door to an amicable solution to be reached in the future. Before reaching any premature decisions, CNT waited at that time to see if the negative trend in the sales of tobacco products in Gondwana was not merely a short-term fluctuation. Unfortunately, RQCS did not share this concern, and acting on short-term assessments terminated the Agreement with CNT. To CNT surprise, RQCS failed to take into account the

equally affected situation of CNT, whose trademarks were removed from the Gondwandan market. For this reason, CNT does not see it justified to compensate for RQCS's losses in the market equally affected by the legislation of Gondwana. CNT feels that RQCS should shoulder its financial burden and carry on with the contract performance; in the alternative, it should adhere to the contract by paying the liquidated damages..

Interests of the parties

- CNT wishes to rebuild the cooperation between the parties;
- As a sign of its good faith in reaching an amicable solution, CNT is ready to adjust the volume of contractually agreed products to meet the actual demand on the market
- In the alternative, CNT wishes to obtain the outstanding liquidated damages;
- It is ready to accept on a payment of the damages in installments.

Mediation strategy and Responsibility sharing

CNT wishes to start the mediation by preparing an agenda that the parties intend to discuss. In the opening statement, Mr. Chow will outline his understanding of the issues and his respective interests. The opening statement will be concluded with presenting the legal case by the legal representative. In the negotiation phase, Mr. Chow may explore options and present offers to resolve the dispute. Mr. Chow supported with advice from the legal representative in this regard would like to first discuss the content of the Agreement and the duties of the parties. Mr. Chow is aware of CNT strong position in the market and will remind the other party that they might lose the only trustworthy supplier of the tobacco products in the market with a huge demand in Gondwana, which of course equals to profit for RQCS. CNT is open to future cooperation with RQCS but CNT still holds strong position in the market but understands the poor situation of RQCS and in order to maintain the business partner it may rennegotiate the volume of products in the Agreement and help with the products piling up in the stockrooms. Mr. Chow supported with advice from the legal representative would like to also discuss the impact of Bill 275 to remind RQCS that it was not impossible to perform the contract and possibilities of fruitful cooperation in distribution of tobacco products. Alternatively, Mr. Chow wishes to touch upon the liquidated damages and its payment by RQCS. The legal representative will be responsible for any legal arrangements and will be involved in any discussions regarding the shape of final agreement between parties, however he will play a subsidiary role in general.