UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

LUIS MANUEL RODRIGUEZ, *et al*., Plaintiffs, v. IMPERIAL BRANDS PLC, *et al*., Defendants.	Case No.: 1:20-cv-23287-DPG

DEFENDANT IMPERIAL BRANDS PLC'S FIFTH STATUS REPORT

Defendant Imperial Brands plc ("Imperial") respectfully submits this status report in reference to the Court's September 23, 2020 Order [D.E. 49] which granted Imperial's motion for a limited stay of proceedings and directed Imperial to submit monthly status reports on its application for authorization to defend this lawsuit or, at a minimum, to file and litigate a motion to dismiss.

1. As Imperial advised the Court in its Fourth Status Report dated January 25, 2021 [D.E. 61], the "Brexit" transition period ended on December 31, 2020, without the European Commission issuing a decision on Imperial's August 27, 2020 application for permission to defend against this litigation, or at a minimum, for authorization to file and litigate a motion to dismiss the Complaint. *Id.* ¶ 3.

2. On December 31, 2020, the United Kingdom incorporated Regulation (EC) No. 2271/96, Protecting Against the Effects of the Extra-Territorial Application of Legislation Adopted by a Third Country, and Actions Based Thereon or Resulting Therefrom, 1996 O.J. (L. 309) 1 (EC), into U.K. law as "retained EU law." *Id.* ¶ 4 & Ex. A.

3. Therefore, on January 10, 2021, Imperial submitted an application to the U.K. Department for International Trade for authorization from the Secretary of State for International Trade to defend against this litigation, or at a minimum, for authorization to file and litigate a motion to dismiss the Complaint. *Id.* ¶ 5.

4. Earlier today, a statutory instrument was published, Protection of Trading Interests, Trade, The Protection of Trading Interests (Authorisation) Regulations 2021, 2021 No. 132 (made at 9:00 p.m. on Feb. 5, 2021). The statutory instrument, a copy of which is attached hereto as Exhibit A, permits Imperial to file and litigate a motion to dismiss the Complaint in this action.

5. Subject to the Court's direction, and subject to all of its defenses, including defenses as to personal jurisdiction, Imperial will confer with the other parties about a schedule and procedure for motions to dismiss the Complaint, with a view to submitting a joint proposal to the Court no later than February 12, 2021.

Dated: February 8, 2021
Miami, Florida

Respectfully submitted,

/s/ *Mark F. Raymond*

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Exhibit A

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STATUTORY INSTRUMENTS

2021 No. 132

PROTECTION OF TRADING INTERESTS TRADE

The Protection of Trading Interests (Authorisation) Regulations 2021

Made - - - - at 9.00 p.m. on 5th February 2021

The Secretary of State makes the following Regulations in exercise of the powers conferred by Article 5, second paragraph, point (a), of Council Regulation (EC) No 2271/96 of 22 November 1996 protecting against the effects of the extra-territorial application of legislation adopted by a third country, and actions based thereon or resulting therefrom(**1**).

Citation

1. These Regulations may be cited as the Protection of Trading Interests (Authorisation) Regulations 2021.

Interpretation

2. In these Regulations, "the Helms-Burton Act" means the Cuban Liberty and Democratic Solidarity (LIBERTAD) Act of 1996(**2**).

Authorisation to comply with Title III of the Helms-Burton Act

3. The person specified in Part 1 of the Schedule is, for the purpose specified in Part 2 of the Schedule, authorised to comply with any requirement or prohibition based on or resulting from Title III of the Helms-Burton Act(**3**) (protection of property rights of United States nationals).

(**1**) EUR 1996/2271, amended by S.I. 2020/1660. EUR 1996/2271 was incorporated into domestic law at 11 p.m. on 31st December 2020 under section 3 of the European Union (Withdrawal) Act 2018 (c. 16).
(**2**) 22 U.S.C. §§ 6021-6091.
(**3**) Title III of the Helms-Burton Act is codified in 22 U.S.C. §§ 6081-6085.

Signed by authority of the Secretary of State for International Trade

Ranil Jayawardena
Parliamentary Under Secretary of State
Department for International Trade

At 9.00 p.m. on 5th February 2021

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SCHEDULE Regulation 3

Authorisation to file motion to dismiss

PART 1

Authorised person

Imperial Brands plc(**4**)

PART 2

Authorised purpose

Filing and litigating a motion to dismiss the complaint brought before the federal judiciary of the United States of America under Title III of the Helms-Burton Act in which Imperial Brands plc is named as a defendant (case number 1:20-cv-23287-DPG).

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations, which come into force at the time they are made, authorise compliance by a specified person, for a specified purpose, with a requirement or prohibition referred to in the first paragraph of Article 5 of Council Regulation (EC) No 2271/96 of 22 November 1996 protecting against the effects of the extra-territorial application of legislation adopted by a third country, and actions based thereon or resulting therefrom (EUR 1996/2271, amended by S.I. 2020/1660).

The law of the United States of America referred to in these Regulations may be found online at https://uscode.house.gov/.

A full impact assessment has not been produced for this instrument as no, or no significant, impact on the private, voluntary, or public sector is foreseen.

(**4**) Imperial Brands plc is a public limited company registered in England and Wales (company number 3236483).