

# International Trade Remedies

## Anti-dumping and Subsidies Commission, Jamaica

### 2018 Seminar Series



INTERNATIONAL & INDUSTRY LIAISON UNIT

TRADE BEAT



*ADSC Executive Director, Andrea Marie Dawes and team members with a stakeholder at the Launch of their 2018 Trade Remedies Seminar*

The Anti-dumping and Subsidies Commission (ADSC) launched its 2018 Trade Remedies Seminar Series on Friday, March 23, at the Terra Nova All-Suite Hotel. Manufacturers, producers and other stakeholders, as well as representatives of various Ministries, Departments and Agencies (MDAs) of the Government of Jamaica gathered to increase their technical competence in the various trade remedies that can be legitimately implemented under the international trading regime.

The World Trade Organization (WTO) administers a global system of trade rules and serves as a forum for negotiating trade agreements and settling trade disputes. Members of the WTO, through multilateral agreements, commit to this rules based system which forms the basis of the multilateral trading system (MTS). The WTO Agreements are based on principles such as trade liberalization, non-discrimination and fair trade. A key element of non-discrimination is the principle of Most-Favoured Nation (MFN), where Members agree to bind their tariffs and apply them equally to all fellow WTO trading partners.

However, derogations from the MFN principle are allowed under special circumstances. Under the WTO Agreements, certain trade practices which result in injury to a Member can be the subject of international trade remedies, which represent a form of derogation from the fundamental principles of the WTO, allowing Members to take actions against unfair trade practices. The WTO Agreement on the Implementation of Article VI of the GATT, also called the Anti-dumping Agreement (ADA); the Agreement on Subsidies and Countervailing Measures (CVD); and the Agreement on Safeguards allow Members to take action against certain practices which result in injury to a domestic industry of an importing Member. These are collectively referred to as "International Trade Remedies", and are only applied to the particular exporter or country of export.

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**International Trade Remedies include:**

- **Anti-dumping Duties**—duties taken against dumping. (Dumping is selling a product to an export market below its "normal value")
- **Countervailing Duties**— duties to offset subsidies. (Subsidies are financial support to the exporting industry by the government of the exporting country)
- **Safeguards**—Duties or quotas under certain conditions to address imports which are seriously injured or threatened by a surge in the volume of imports.

# International Trade Remedies



## The Importance of Trade Remedies

As more and more businesses engage in international trade, it is imperative for manufacturers and producers to understand the trade remedies available to them, and when to invoke them. The ADSC educates Jamaican businesses about available trade remedies, providing guidance on the specific circumstances under which trade remedies may be used. The ADSC also sensitizes Jamaican exporters on the various trade remedies that they may face in overseas markets, and how to avoid them.

Trade remedies are used by many countries as an important trade policy tool, to mitigate the negative effects of trade liberalization. Domestic industries are often threatened or injured by competing imports. Trade remedies aim to level the playing field within the domestic market. The ADSC actively defends the interest of domestic industries in Jamaica, through the rigorous enforcement of the international trade rules. Enforcement of trade rules helps to build the manufacturing and productive sectors, promote investment, and provide support and sustainable employment. In commitment to its mandate, the ADSC provides training and education to the trading community in an effort to empower stakeholders in the effective use of the international trade rules.

## Legislative Framework

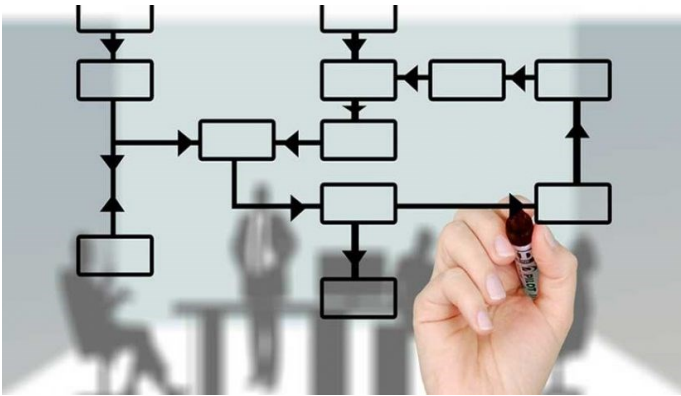
As a Member of the WTO, Jamaica has enacted legislation to implement the WTO Antidumping Agreement, the WTO Agreement on Subsidies and Countervailing Measures and the Agreement on Safeguards. In Jamaica, the Customs Duties (Dumping and Subsidies) Act of 1999 (the “Act”) sets out the legal framework for the investigation process and provides for antidumping and countervailing duties to be applied against imports into Jamaica. The “Act” establishes the Anti-dumping and Subsidies Commission (ADSC) and gives effect to the provisions of the Agreements. The ADSC also administers the Safeguard Act 2001.



## The Role of the Anti-dumping and Subsidies Commission (ADSC)

The ADSC is a portfolio agency of the Ministry of Industry, Commerce, Agriculture and Fisheries (MICAF) and was established in 1999 to administer Jamaica’s trade remedies legislation. The primary function of the ADSC is to conduct investigations and make determinations in trade remedy matters. Additionally, the Commission seeks to increase awareness of trade remedies and highlight Jamaica’s obligations under the WTO Agreements among businesses and the general public. As the leading trade remedies body for the Caribbean region, the ADSC serves as a regional resource and acts in an advisory capacity on trade remedy and related matters, both nationally and regionally.

# International Trade Remedies



## How the Commission Does Its Work

The Commission is comprised of a Board of five (5) Commissioners who are appointed for terms of up to three (3) years by the Minister of Industry, Commerce, Agriculture and Fisheries (MICAF); and ten (10) staff members, comprising five technical staff, the Executive Director, Senior Legal Counsel, Senior Economist, General and Case Manager and Forensic and Financial Analysts.

Determinations in investigations reached by Commissioners are disclosed publicly. The Commission can make affirmative determinations of dumping or subsidization and the duty level for a remedy. The Notice of the Affirmative Determination is sent to the portfolio Minister and the Minister of Finance. The Notice to the Ministry of Finance would inform an Order from the Minister, which would then guide the Jamaica Customs Agency to impose the relevant duty.

## Dumping & Antidumping Actions

Dumping is a pricing policy that is employed by firms, which occurs when a product is exported at a price (Export Price) lower than the price it normally charges in its domestic market (Normal Value). Although dumping is not a prohibited practice under the WTO, the Anti-dumping Agreement allows a WTO Member to take action against dumping where it causes material injury to the domestic industry which produces like goods.

A domestic industry in Jamaica claiming injury, may file an application with the ADSC for redress, in the form of an antidumping duty. The duty applied would typically

cover the dumping margin, but it could be less. The dumping margin is the difference between the normal value and export price, as a percentage of export price, both prices adjusted to their ex-factory level. The duty may be imposed for an initial five (5) years, however it may be reviewed before the expiration of duty and the period extended, with the aim of remedying the injury caused by the dumping.

## Subsidies & Countervailing Actions

A subsidy is a financial contribution made by or on behalf of a government, which is applied to the production, manufacture or export of goods. Subsidies may take the form of income or price support, loans below market rate and other forms, which confer a benefit on the goods subsidised. Subsidies which fit the criteria of being specific to a firm, an industry, or even a region may be countervailed after an investigation determines that the subsidies have caused injury or threatens to cause injury to the producers of like products in a domestic market.

The additional duty is imposed to counteract the effects of a product that has benefitted from a subsidy. This specific measure is referred to as a countervailing duty and is based on the estimated amount of the subsidy applied. The level of duty applied can be less than the dumping margin, or the amount of subsidy where such lower amount is deemed adequate to remedy the injury to the domestic industry. Remedies are usually imposed for five years initially and can be extended upon the conduct of a review.

## Safeguard Measures

Safeguard measures may be imposed on goods that are not unfairly traded, but are imported at volumes that have significantly increased over a period of time, and pose a detriment to the domestic industry producing the same or directly competing goods. In certain situations, after an investigation, additional duty may be imposed to protect, or “safeguard”, temporarily, the domestic industry against a “surge in imports”, and to allow the domestic industry to adapt to greater foreign competition. The additional duty is imposed for up to six (6) years initially.

## Applications

An application can be made to the ADSC by or on behalf of the domestic industry alleging dumping, subsidization or a surge in imports causing injury to that domestic industry. After the application has been received, the ADSC will advise the applicant if sufficient evidence has been received to justify the investigation, which would satisfy the requirements for initiation.

### Applications must provide information and sufficient evidence to:

- Identify the dumped or subsidized goods;
- Identify the country of export;
- Identify the relevant Jamaican Industry;
- Estimate normal value and export price and establish that the goods have been dumped;
- Identify the subsidy programme, and estimate the amount of subsidy claimed to exist;
- Establish the material injury that the industry has suffered, or is likely to suffer; and
- Demonstrate how the dumped goods have caused, or are likely to cause material injury.

## Investigations

A full investigation involves a critical evaluation of the evidence in the application and extensive gathering and analysis of industry and trade data to establish whether dumping, subsidization or surge of imports is causing injury to the complaining local industry. Where an industry's claim is sufficient, the ADSC will investigate and Notice will be given to the government of the exporting country, interested parties, the public, and the international trading community of the critical developments in the investigation. An investigation typically takes 305 days from receipt of a completed application to final determination. The investigative process in Jamaica is subject to judicial review by the Supreme Court, as well as the WTO Dispute Settlement.

An investigation for Dumping or Subsidies normally takes 225 days from receipt of a completed application to final determination. A Safeguard investigation normally takes 180 days to be completed.

## KEY CONCEPTS

*Initiation or Opening of an investigation will take place if there is sufficient evidence to justify the investigation.*

*Goods under consideration are the imported goods that are viewed by the domestic industry as causing or threatening to cause the injury.*

*Like Goods are goods that are identical to the imported goods or which have characteristics which closely resemble those goods under consideration*

*Material Injury includes current injury or threat of injury to the domestic industry which is not negligible.*

*Serious Injury to the industry is required under the Safeguards Act for remedies to be imposed.*

For additional information visit or contact:

### The Anti-Dumping and Subsidies Commission

The JAMPRO Trade and Invest Building Second Floor,  
18 Trafalgar Road,  
Kingston 10.

Tel: (876) 927-8665; 978-1800

Email: [antidump@jadsc.gov.jm](mailto:antidump@jadsc.gov.jm)

Website: [www.jadsc.gov.jm](http://www.jadsc.gov.jm)

# International Trade Remedies

## ANTI-DUMPING AND SUBSIDIES COMMISSION 2018 TRADE REMEDIES SEMINAR SERIES

- May 17 - How to File a Dumping Complaint
- May 30-How to File a Subsidies Complaint
- June 13 -How to File a Safeguard Complaint
- June 21 -Dumping Margin Calculations
- July - Injury Analysis (including Assessment of Imports)
- Sept - Dumping Margin Calculations
- Oct - Subsidies Calculations
- Nov - Injury Analysis (including Assessment of Imports)

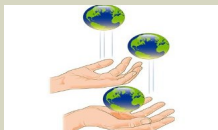
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### JAMAICA CUSTOMS AGENCY INTERNATIONAL & INDUSTRY LIAISON UNIT

Myers Wharf  
New Port East  
P.O. Box 466  
Kingston 15

Phone: 8769225140-8 ext.3028/3182  
E-mail: [international.liaison@jacustoms.gov.jm](mailto:international.liaison@jacustoms.gov.jm)



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*The International and Industry Liaison Unit is committed to raising the level of awareness on topics relating to the Caribbean Community, as well as issues concerning the wider topic of international trade, to both our internal and external stakeholders. Our monthly newsletter seeks to highlight global trade topics and their importance to Customs Administrations worldwide and specifically how they affect the Jamaica Customs Agency. As we realize our vision of becoming a modern Customs administration delivering excellent service, we recognize the importance of knowledge transfer in delivering our objectives and use this forum as our way of contributing to the vision of the JCA. The International Liaison Unit is located at the Myers Wharf head office and our officers are available to respond to your queries and clarify any points of concern.*

Prepared by: *International Liaison Unit in collaboration with  
the Anti-dumping and Subsidies Commission*

Email: *[marsha.wilson@jacustoms.gov.jm](mailto:marsha.wilson@jacustoms.gov.jm)*