

THE ANTI-DUMPING AND SUBSIDIES COMMISSION

A Portfolio Agency of the Ministry of Industry, Commerce, Agriculture and Fisheries



Investigating DUMPING AND SUBSIDIES

BASIC FACTS AND THE INVESTIGATION PROCESS FOR BUSINESSES

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“Working to ensure a level playing field for domestic production”

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TRADE REMEDIES

The primary function of the Anti-dumping and Subsidies Commission is to conduct investigations and make determinations in Trade Remedy matters (Anti-dumping Countervailing Duties and Safeguards). In addition, an important part of the mandate of the Commission is to increase awareness of Trade Remedies and Jamaica's obligations under the WTO Agreements among businesses and the general public. The Commission has played an advisory role nationally, regionally and internationally.

Trade Remedies are an important trade policy tool for many countries as they enable a user country to mitigate the negative impact that liberalizing import trade could have on domestic industries. Trade remedies are intended to benefit domestic industries. The Anti-dumping and Subsidies Commission helps to preserve a level playing field for domestic industry in the home market by being prepared to discipline imports which are dumped or subsidized, and is a resource for Jamaican firms exporting into overseas markets, helping them to understand and not run afoul of trade remedy rules enforced abroad. As the vanguard trade remedies body in the Caribbean, the Commission is also increasingly recognized as a regional resource for trade remedy expertise.

THE LEGISLATION

Jamaica has enacted legislation as a Member of the World Trade Organization (WTO) to implement the WTO Agreement on the implementation of Article VI of the GATT 1994 (the Antidumping Agreement), and the WTO Agreement on Subsidies and Countervailing Measures. The Jamaican Customs Duties (Dumping and Subsidies) Act of 1999 (the 'Act') sets out the substantive law on dumping and subsidization of goods, the investigation process and provides for anti-dumping and countervailing duties to be applied against certain imports into Jamaica. The Act established the Anti-dumping and Subsidies Commission as the agency responsible for the administration of the provisions of the Act.

ANTI-DUMPING ACTIONS

What is dumping?

Dumping is a pricing policy of firms. It occurs where a company exports a product at a price (Export Price) lower than the price it normally charges on its domestic market (Normal Value). Dumping is not a prohibited practice. However, the Antidumping Agreement allows a WTO Member country to take action against dumping where it causes material injury to the Jamaican industry which produces like goods. The domestic industry claiming injury may file an application with the Commission for redress in the form of an antidumping duty. The duty is equal to or less than the dumping margin which is the difference between the normal value and the export price.

COUNTERVAILING ACTIONS

What is a subsidy?

A subsidy is a financial contribution made by or on behalf of a government, applied to the production, manufacture or export of goods. It can also be a form of income or price support which confers a benefit on the recipient. Subsidies which fit the criteria of being specific to a firm, an industry, or even a region may be countervailed after an investigation which determines that the subsidies are causing or threaten to cause material injury to the Jamaican producers of like products.

REMEDIES

Remedies are usually duties and may be in effect for five years. Antidumping duties remedy injury caused by dumping and may be imposed at the level of the dumping margin. A duty imposed to counteract a subsidy is called a countervailing duty. The level of countervailing duty is based on the amount of the subsidy. It is possible for the level of duty applied to be less than the dumping margin or the amount of the subsidy where such lower amount is deemed adequate to remedy the injury to the domestic industry. Duties may be deferred where an exporter's undertaking to increase the export price to eliminate the margin of dumping or the effect of the subsidy is accepted by the Commission.

APPLICATION FACTS

The application process for both Dumping and Countervailing investigations are essentially the same.

An application may be made by or on behalf of the domestic industry producing like goods to those allegedly being dumped or subsidized. The application must provide information and sufficient supporting evidence to:

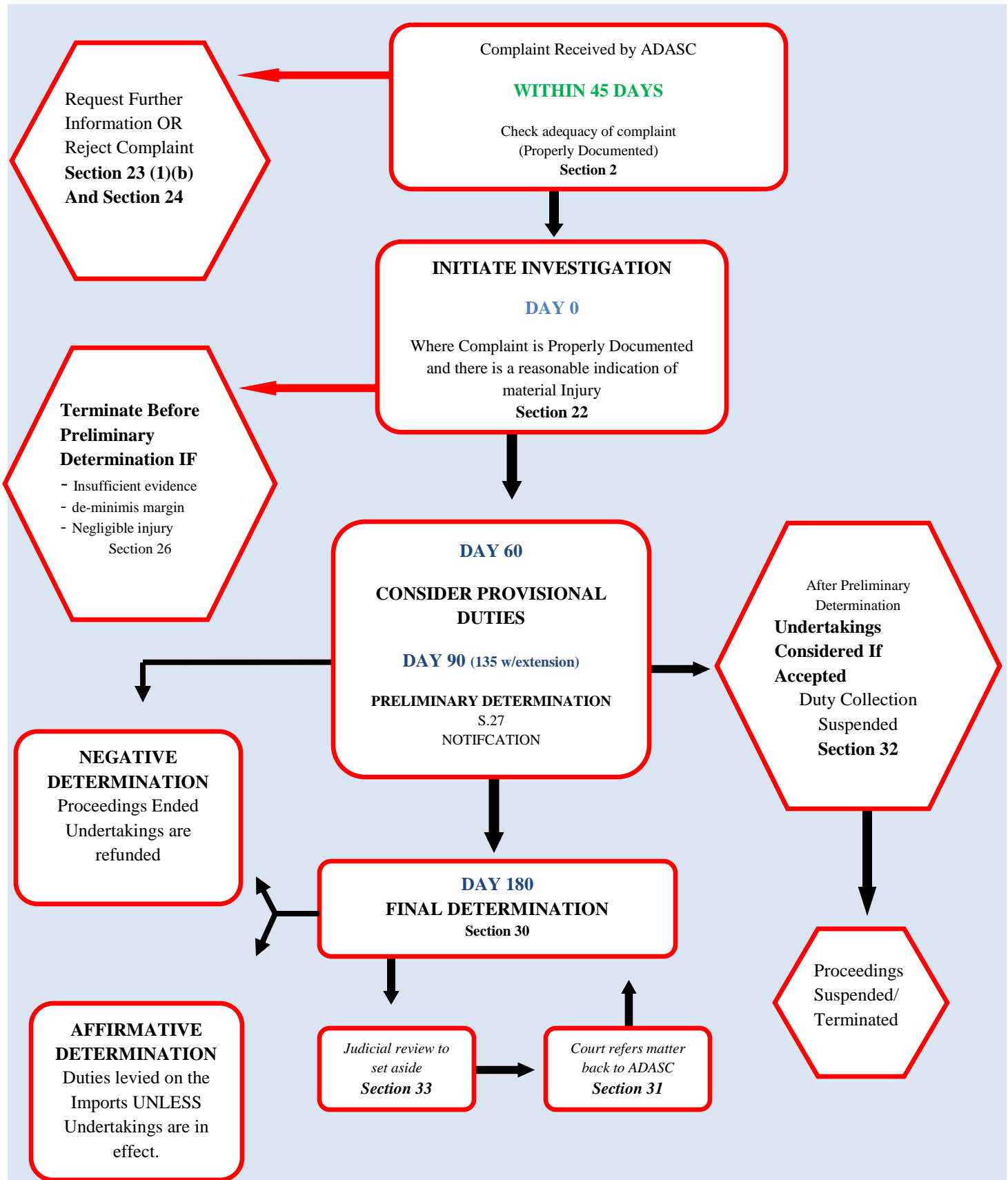
- Identify the dumped or subsidized goods;
- Identify the domestic like goods;
- Identify the country of export;
- Identify the relevant Jamaican industry;
- Estimate normal value and export price and establish that the goods have been dumped;
- Identify the subsidy programme and estimate the amount of the 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.

Confidential Information

Information which is required for the investigation may be deemed to be business confidential information which is protected from disclosure. Unauthorized disclosure is an offence, punishable by fine and/or imprisonment of any employee of the Commission who discloses same.

INVESTIGATION PROCESS

Where an industry's application meets the information and evidentiary standards required under the Act, the Commission will investigate. Notice must be given to the government of the exporting country, interested parties, the public, and the international trading community of critical developments in the investigation. An investigation typically takes 305 days from receipt of a completed application to final determination. The process is subject to judicial review in the Supreme Court in Jamaica and WTO dispute Settlement.



For assistance, contact:
The Anti-dumping and Subsidies Commission
Or visit our website: www.jadsc.gov.jm