

THE ANTI-DUMPING & SUBSIDIES COMMISSION

JAMPRO TRADE & INVEST BUILDING
18 TRAFALGAR ROAD
KINGSTON 10



APPLICATION KIT

AN APPLICATION TO INITIATE AN ANTI-DUMPING /COUNTERVAILING/SAFEGUARD INVESTIGATION

*The Commission reserves the right to amend this document from time to time.
Interested parties are advised to contact the Commission for updated versions of this
material in advance of filing an action with the Commission.*

THE ANTI-DUMPING AND SUBSIDIES COMMISSION

2011

WELCOME TO THE WORKBOOK.

This Workbook is designed to assist Jamaican producers in preparing a properly documented complaint for a dumping, subsidy, or safeguard investigation, as applicable.

A decision by the Anti-dumping and Subsidies Commission (ADSC) to investigate an allegation of any of the above requires adequate and accurate information about “the goods under consideration” and the effects of the imports on the Jamaican industry.

This Workbook provides checklists for your application and has space to record the actions which you must perform at each stage.

Please retain the Workbook after your application is lodged as it provides a valuable record of the sources, if further evidence is required during a subsequent investigation.

Here are the symbols used in the Workbook:



Shows you a tip to complete a particular section.



Look here if your case seems different from the norm.



Record your next action here.



Shows you where further help may be available.

The controlling legislation, **the Customs Duties (Dumping and Subsidies) Act, 1999** and **the Safeguard Act 2001**, indicate that an application must be made in an approved form to the Anti-dumping and Subsidies Commission (ADSC). To comply with legislative requirements, the Applicant must address all relevant sections of the application. The type of information required in each section is outlined in the pages that follow.



THE LEGISLATION

The Customs Duties (Dumping and Subsidies) Act, also referred to as the CDDASA or CDDSA, provides remedies to Jamaican producers who are being materially injured by the dumping or subsidising of goods imported into Jamaica. The Safeguard Act provides remedies to Jamaican producers who are being seriously injured by a surge of goods imported into Jamaica. The Anti-dumping and Subsidies Commission (ADSC) is responsible for administering these laws. The ADSC conducts investigations and determines whether the goods are dumped or subsidised or are entering the country in a surge, and whether the “goods under consideration” is causing injury to Jamaican producers.

It must be remembered that any action under these laws becomes an international trade issue in the case of dumped or subsidized goods, it represents an accusation that a trading partner is trading unfairly. In the case of safeguards, consultations must be held with the exporting country before final measures can be imposed. For this reason, any action contemplated must be carefully examined and solid grounds must be established to demonstrate that the action meets the requirements of the law and Jamaica’s obligations under international trade agreements.

Action to impose duties against the goods under consideration can be taken by the ADSC only after it is established that importation of the goods is causing or is likely to cause injury to a Jamaican industry producing “like goods” to the “goods under consideration.”

The investigation process for dumping and subsidy investigations is essentially the same. There is a slight variation for safeguard investigations.

WHO MAY COMPLAIN?

In order for an action to be initiated under the laws, a written Application, also called a Complaint or a Request, must be made by or on behalf of the Jamaican industry.

The following conditions must be met:

- In dumping and subsidy investigations, the complaint must be expressly supported by a producer or producers whose collective production of the goods in question represents 25 per cent or more of total Jamaican production of the goods; AND those who support the complaint must collectively account for more than 50% of the total production of the industry that has expressed either support or opposition.
- In Safeguard investigations, the domestic industry’s collective output of the like or directly competitive product must constitute a major proportion of the total domestic production of those products.

PURPOSE OF THE APPLICATION

- The Application specifies the information and documents required from your company for the purpose of initiating an investigation.

Please provide your answers to questions presented in the sequence requested. **Allegations made in the application should be supported by documentation, data or other satisfactory evidence and explanation.**

The ADSC will initiate an investigation when the Jamaican industry has provided a properly documented application containing supporting evidence that discloses a reasonable indication that goods imported during the Period of Investigation (POI) were dumped/subsidised or have been exported to Jamaica in a surge, and as a result have caused or threaten to cause injury to the Jamaican production of like goods.

Accordingly, the application is intended to elicit in reasonable detail information reasonably available to the applicant to determine normal values, export prices, like goods and material injury. The applicant is in the best position to assess the nature of the injury therefore it is the applicant's responsibility to document the injury in sufficient detail and to show that it has been caused by the goods under consideration.



There will be circumstances, where an applicant/complainant does not have access to these details. In such instances, a statement should be provided indicating what steps were taken to obtain the information and the reasons why the information was not available.



It is essential that supporting evidence be provided.

Please read carefully the “Guidelines for the Filing of Submissions” attached hereto which addresses the designation and disclosure of confidential information, and the number of submissions required.

Completed applications are to be submitted to:

THE ANTI-DUMPING & SUBSIDIES COMMISSION
The JAMPRO Trade and Invest Building, 18 Trafalgar Road, Kingston 10
Telephone: (876) 927-8665 / 978-1800 Fax: (876) 978-1093
E-Mail: antidump@jadsc.gov.jm



CHECKLIST



Please Use This List To Help You Meet The Requirements Of A Properly Documented Complaint.

The Customs Duties (Dumping and Subsidies) Act of 1999 requires that a properly documented complaint contain information and evidence to support the allegation that the goods under consideration have been either dumped, or subsidised, and the Safeguard Act, 2001 requires that the request show that the good has been exported to Jamaica in a surge. The Acts require that this action has caused, is causing or is likely to cause injury to the domestic production of like goods (in the case of Safeguards, “like or directly competitive goods”). The applicant/complainant is required to provide such information as is available to prove the facts which the complaint/application alleges and such other information as the Commission may reasonably require him/her to provide.

In practice, the Commission considers a complaint to be properly documented if it includes the following information, where it is available:

1. The identity of the Jamaican producer(s) making the complaint or on behalf of whom it is made (the complainant(s));
2. The identity of all known Jamaican producers of like goods;
3. A description of the volume and value of the domestic production of the like goods both by the complainant(s) and all other known Jamaican producers;
4. A complete description of the goods under consideration;
5. The names of the countries of origin or export of the goods under consideration;
6. The identity of each known exporter or foreign producer and importers of the goods under consideration;
7. Information on the prices at which the goods under consideration are sold when destined for consumption in the domestic markets of the countries of origin or export, or where appropriate, the prices based on a constructed value (normal value);
8. Information on the export prices of the goods under consideration (or, where appropriate the prices at which the goods are first resold in arm’s length transactions in Jamaica);
9. Information on the evolution of the volume of the goods under consideration imported into Jamaica;



10. The effects that the imports of the goods under consideration have had, or will have, on prices of like goods in Jamaica;
11. The consequent impact of those imports on the domestic industry, as demonstrated by relevant factors and indices having a bearing on the state of the domestic industry.
12. Other relevant factors affecting the domestic industry that may have a bearing on the information required in the two sections immediately prior to this one.
13. Information on whether the volume of imports was foreseeable. (Safeguard)
14. An adjustment plan showing how the industry intends to become competitive during the period within which duties or a quota may be imposed.
15. The level of duties/quotas/safeguards that you are seeking that will result in the removal of your injuries.



Numbers 1-12 must be addressed in your application/complaint for dumping, subsidies and safeguards investigations, AND Numbers 13-14 must also be specifically addressed for Safeguard Investigations.



1. INSTRUCTIONS FOR DATA SUBMISSION

1. All sources of data must be clearly identified.
2. Units of measurements must be clearly identified.
3. Worksheets showing calculations must be submitted.
4. Data must be submitted for the periods specified (where available).
5. Where charts or graphs are presented then the raw data must be clearly shown and all sources identified and supporting documentation provided.
6. Names of officers who compiled data and prepared worksheets must be included in the event that further clarification is required.



2. THE GOODS UNDER CONSIDERATION

“Goods under consideration” is otherwise known as the **“imported dumped/subsidized goods, or goods which are imported in a surge”**.

It is important to note that the description of the goods under consideration determines the terms of reference and as such should be described in sufficient detail to enable their identification in the market. Where there are different sizes, grades, models or technical specifications, care should be exercised in providing a description of the product range.

1. Please describe fully the *goods under consideration*, and if possible supply samples, brochures and catalogues for these imports.
2. Please provide the Harmonized System (Tariff) classification number for the goods under consideration.



Jamaica Customs or customs brokers can assist with finding the appropriate tariff classification.



2A. SOURCE OF THE GOODS UNDER CONSIDERATION

It is important that the application identifies the countries of export and the particular exporters (and manufacturers, if applicable) of the goods under consideration.

The Country of Origin is the country where the goods are produced. The Country of Export is the country from which the goods are exported to Jamaica, whether or not it is the country where the goods are produced.

1. Identify the **Country of Export** and/or **Country of Origin**, of the goods under consideration, and identify whether the country of export is the country of origin of the goods under consideration. If not, please provide details.
2. State other countries known to be exporting these goods to Jamaica.
3. State other countries known to be exporting similar or identical goods to Jamaica.
4. Are all of the countries identified at questions 1 to 3 above included in the complaint? If no, why?
5. Where possible provide the names and contact details of:
 - a. Producers of the goods exported to Jamaica,
 - b. Exporters of the goods to Jamaica, and
 - c. Importers of the goods in Jamaica.
 - d. Any other party known to be involved in the procurement, importation and distribution of the goods.
6. Indicate when these goods began causing injury.
7. *Evidence that the increased imports resulted from unforeseen circumstances.
8. *A description of the increase in imports (absolute or relative) to domestic production or both.
9. *If you are requesting an increase in the tariff rate or a quota, provide support for your recommendation.
10. *An increase in the tariff rate or quota may only be applied if it is in *the Public Interest*, provide support for this recommendation.

**** Your responses are mandatory for Safeguards Investigations.***



2B. IMPORTS OF THE GOODS UNDER CONSIDERATION BY YOUR INDUSTRY

If you (the domestic industry) or a company or companies which form part of the domestic industry have imported the goods under consideration in the past three years, please provide:

- Full description of the goods that were imported.
- Details of each shipment (including dates of importation, supplier, country of origin, values for duty and F.O.B., CIF values, and volume) and if possible supply import and clearance documentation.
- An explanation of why the industry has imported the goods under consideration.
- Information about whether the practice of importation by the domestic industry has ceased or is expected to resume.



3. THE LIKE GOODS

Investigations can only be commenced where the Jamaican industry produces like goods to the goods under consideration. “Like Goods” are goods that are identical in all respects to the goods under consideration, or in the absence of identical goods, goods of which the uses and other characteristics closely resemble those of goods under consideration.

1. Describe fully the goods you produce, including standards or specifications, and supply samples, brochures and catalogues.
2. Explain how the goods produced by you and the domestic industry are like the goods under consideration, including physical characteristics, end use and methods of manufacture.
3. Describe any differences in nature or end use between the goods under consideration and your product.
4. *Prepare a positive structural adjustment plan setting out how your industry intends to reposition itself during the period of respite.

**This question is mandatory for Safeguards Investigations.*

4. OTHER JAMAICAN PRODUCERS



Copy or reprint this worksheet before you start so you can complete it for each relevant producer.

Please give details for all other Jamaican producers of the like product.

1. Name _____

2. Address _____

3. Phone _____ 4. Fax _____

5. Briefly list all goods produced and/or sold:

6. Written expressions from Jamaican Producers, of support for the application, or opposition to it, should be attached to the application. To show clearly the position regarding support and opposition, complete the form on the next page.



In Dumping and Subsidy investigations, the collective output of Jamaican producers represented in the application must be 25% or more of the total Jamaican production of like goods during the most recent period of not less than 6 months. As well, producers supporting the application must be responsible for at least 50% of total Jamaican production of those producers supporting or opposing the application in writing.

In Safeguard investigations, the domestic industry's collective output of the like or directly competitive product must constitute a major proportion of the total domestic production of those products.



4a. SUMMARY OF JAMAICAN PRODUCTION

TOTAL JAMAICAN DOMESTIC PRODUCTION OF LIKE GOODS (During the period of *.../.../... to .../.../...)



***The period is the most recent representative period, being not less than six months, preferably one year. You may contact the Commission for guidance.**

Domestic Production of *like goods* by those Jamaican Producers who have, in writing, **supported** the Application.

	Quantity
Producer:	
Producer:	
	Total A

Domestic Production of *like goods* by those Jamaican Producers who have, in writing, **opposed** the Application

	Quantity
Producer:	
Producer:	
	Total B



4a. SUMMARY OF JAMAICAN PRODUCERS Cont'd

Domestic Production of *like* goods by those Jamaican Producers who have *neither supported nor opposed* the Application.

	Quantity
Producer:	
Producer:	
	Total C

Total domestic production (i.e.. Total A + Total B + Total C)	Total D
Total domestic production of those producers who have, in writing, expressed support for or opposition to the application. (i.e. Total A+ Total B)	Total E
Total A as % of Total D	%
Total A as % of Total E	%

For Safeguard applications, demonstrate “like or directly competitive” products if different than “*like goods*’.



5. PRICES

NORMAL VALUE

The Normal Value is usually the price at which like goods are sold in the ordinary course of trade in the domestic market of the exporting country or the country of origin. If it is not possible to establish normal value in the country of origin, two alternatives are available. The value can be based on the price charged by the exporter in another country (known as third country market price), or a value obtained from the addition of the cost of production of the like product in the country of origin plus a reasonable amount for selling, general and administrative expenses and for profit (known as Constructed Normal Value).

1. State the normal value for the goods on the domestic market in the country of origin.
2. Provide supporting evidence such as price lists or invoices for any value given in response to question 1.



5. PRICES Cont'd

EXPORT PRICE

Export Price is the price paid by the importer for the goods, adjusted for any costs incurred on exportation, such as wharfage, port charges, transportation cost from the factory to port, ocean freight, insurance, terminal handling etc.

1. Provide the **export price** of the *goods under consideration*.

Where sufficient information has not been furnished or is not available, an export price may be constructed, in the manner outlined below.

Model/Type

Constructed Export Price		
Price Adjustments		
Base Price - Point of first resale in Jamaica J\$	XXX	
Exchange rate	XXX	
Base Price - Point of first resale in Jamaica US\$	XXX	XXX
Adjustments to account for:	XXX	
Importers profit on resale into Jamaica	XXX	
Selling expenses	XXX	
Freight	XXX	
Inland Freight in Jamaica	XXX	
Costs of further processing in Jamaica (if any)	XXX	
Costs of further assembling in Jamaica (if any)	XXX	
Brokers Fees	XXX	
Insurance	XXX	
Jamaican Customs Duty	XXX	
Surcharge	XXX	
Any other costs (state reasons for inclusion)		
Constructed Export Price (CEP)- starting price		XXX



5. PRICES Cont'd

PRICE COMPARISON

An application must specify the amounts of the adjustments necessary to ensure that the normal value and the export price are compared in a fair manner. This means that the normal value sales must be made under the same conditions and terms, and during the same period of time as those of the exports.

- Please state any factors that would affect the price comparability for normal value and export price sales. These factors may include quantities sold, conditions and terms of sales, level of trade, taxation or physical differences.



6. THE DUMPING MARGIN

The Dumping Margin is the amount by which the normal value exceeds the export price and is usually expressed as a percentage of the export price.



Before calculating the dumping margin, make adjustments to normal value and export price.

If the dumping margin is less than 2% expressed as a percentage of the export price, the dumping margin is considered de minimis and the investigation cannot be initiated.

ILLUSTRATION

TYPE OF GOOD	I	II
NORMAL VALUE	56	78
EXPORT PRICE	40	50
DUMPING MARGIN	16	28
% DUMPING MARGIN	40 %	56 %

- Provide the calculations for dumping margins below, ensuring that a calculation is done for each grade, model, or type of good.



7. ESTIMATION OF AMOUNT OF SUBSIDY

Provide FULL details of all calculations and assumptions used, including supporting documentation, if relevant.

- (1) Name the subsidy programmes which are believed to apply to the allegedly subsidised goods, and the legislation or regulation under which the scheme operates. Identify the government agency responsible for the administration of the programmes, and provide copies of laws, regulations or other evidence of the programmes. Where the laws, regulations or other evidence are not in English, please provide an English translation of those parts referring specifically to the subsidy programmes.
- (2) Describe the nature and operation of the programmes, including the product coverage, the form of assistance provided, e.g. export subsidy, government grants, loan guarantees, or tax credits.
- (3) Explain why you consider the subsidy to be specific and countervailable.
- (4) Identify the benefits provided under the programmes. Where the claimed benefit arises from preferential treatment, e.g. through lower interest charges, you should provide information on the normal treatment, such as the commercial interest rates that would otherwise be payable.
- (5) For each of the overseas producers and exporters identified in this application, please explain why you consider them to be eligible to receive assistance under each subsidy programme, e.g. the programme is limited to a particular region of a country where the overseas producer is located.
- (6) Where possible identify the companies providing goods or services to the overseas producers and exporters listed above. State which are also receiving assistance under any of the subsidy programmes you have identified. Explain why these companies are eligible to receive assistance under these programmes.
- (7) Estimate the amount of the subsidy under each programme, calculated as a percentage of the value for duty of the goods when imported into Jamaica.



8. EFFECTS OF INJURY

For Safeguard Investigations provide evidence detailing serious injury or threat of serious injury.

For Dumping and Subsidies Investigations provide evidence detailing material injury or threat of material injury.



8A. PRICE EFFECTS

Price undercutting refers to the margin between the Jamaican market price of the goods under consideration and that of the domestic like good.

1. Outline the extent to which the goods under consideration are undercutting the prices of the domestic like goods.

Price depression refers to the reduction in the domestic industry's selling price.

2. Outline the extent to which the goods under consideration are causing price depression. Also provide supporting evidence e.g. price lists, invoices, and declines in average unit ex-factory prices, discounts and rebate levels.

Price suppression refers to the decline in the margin between a company's unit cost of production and its selling price. This occurs when price increases that would otherwise have taken place do not occur because of the presence of the goods under consideration.

3. Outline the extent to which the goods under consideration have caused **price suppression**. Also provide supporting evidence such as details of increases in production costs, selling and administration costs, and any information on your pricing policy and history.



Provide information on price effects for each model, product or type of the goods under consideration, and for each exporter named in this application. Ex-factory prices should, where possible, be compared with prices ex importers store (excluding any distribution costs).



8B. VOLUME EFFECTS

Volume effects refer to changes in the volume of imports of the goods under consideration. This can be measured in absolute terms or relative to production or consumption in Jamaica.



If the goods under consideration (actual or potential) from a particular country account for less than 3 % of total imports of the like goods, the Commission cannot pursue an investigation.



In order to carry out a proper assessment, data submitted should (if available) cover the most recent three complete years, and current year-to-date data, on a monthly basis, inclusive of the most recent complete month prior to the filing of the application.



The information on import volumes may be available from Jamaica Customs or STATIN. Whatever sources are used please, indicate these clearly and provide supporting documentation. Where possible provide data by volume, always indicating the unit of measure.



If the information is available only by value, derive the volume showing the prices used in the calculation. Where the answer you provide on the volume effects is derived from calculations or formulas, you must include this information in the narrative response to the question and include all worksheets.

1. State the quantities of the goods under consideration.
2. State the dollar value of the goods under consideration.
3. State the quantity of total imports of similar goods, giving the percentage of the goods under consideration.
4. Provide evidence of the size of the Jamaican market (sales + imports). Be sure to submit data that allows for comparison before and after importation of the goods under consideration.
5. Provide details on changes in the pattern of sales, as well as details on overall changes in sales and declines in sales to the five largest customers.



8B. VOLUME EFFECTS cont'd

6. Provide a comparison of the market share of:

- i) The domestic industry
- ii) The goods under consideration
- iii) Imports from other sources

7. Please provide a schedule for the period stated above of sales, by dollar value and quantity, in the Jamaican Market by:

- i) Your company
- ii) Other Jamaican producers
- iii) Imports from other sources



8c. ECONOMIC IMPACT OF INJURY

The following is required in order to prepare an injury summary of the domestic industry.



Remember to provide data for the most recent three years and year to date information.



Prepare a table showing the amalgamated figures of all the producers by or for whom this application is made. Please state if the table amalgamates different accounting years, and if so, identify the different accounting years for each producer.



If the information required below is readily available from your costing, financial and reporting systems, please provide these rather than preparing special reports for the Commission.

Trading Profit & Loss Account (Detailed)

Period
Sales Volume
Revenue
Cost of Sales
Gross Profit
Selling & Admin
Earnings before interest
Exceptional items, amortized gains or loss
- interest
- exceptional items
- amortized gain or loss
Net Profit before tax

Cost and Production Summary (Detailed)

Period
Production quantity
Cost of production
-Raw Material
-Direct labor
-Direct Overheads
-Fixed Overheads
-Percentage allocation of general admin, finance, and any other costs



8c. ECONOMIC IMPACT OF INJURY Cont'd



Remember to provide data for the most recent three years and year to date information.

OUTPUT

1. Provide details of any decline in the industry's output of the like goods for the Jamaican market.

SALES

1. Provide details of any decline in the industry's sales of like goods.
2. Explain any lost sales due to direct competition from the goods under consideration.
3. Give copies of any correspondence or cancelled orders from the industry's customers as evidence that they are buying the goods from other sources.
4. Provide a schedule of dollar value, and quantity of export sales over the most recent three years available, if possible by month or by quarter.

MARKET SHARE

1. Provide evidence of the size of the Jamaican market, preferably by volume, but otherwise by value.
2. Compare the market share of the domestic industry with the share held by imports of the goods under consideration, and imports from other sources. (Show details of calculations).

PROFITS

1. Explain how the gross and net profit on the Jamaican sales of like goods, has been affected.



This explanation should be consistent with changes in gross and net profit shown in the Trading and Profit and Loss Summary.



8c. ECONOMIC IMPACT OF INJURY



Remember to provide data for the most recent three years and year to date information.

PRODUCTIVITY

1. Show how productivity has been affected.



Remember to state the basis used for measuring productivity (e.g. Production per worker, or per period etc.)

RETURN ON INVESTMENTS

1. Show return on shareholders' funds or return on assets, or a similar appropriate measure of return on investment, in terms of net profit.
2. Provide details of how any allocation of shareholder's funds or assets has been made to like goods.

USE OF PRODUCTION CAPACITY

1. State the industry's production capacity for the like goods.



Explain the basis for this assessment, e.g., machine capacity, number of shifts, and state the units of measurement, for example, tonnes, metres, litres.

2. What has been the industry's capacity utilization rate for the periods specified above?

OTHER ADVERSE EFFECTS OF INJURY

1. Please provide evidence to support claims of the injurious effects (actual or potential) in any of the following areas:
 - cash flow
 - inventories
 - employment
 - wages
 - growth
 - ability to raise capital investments



9. CAUSAL LINK

The goods under consideration must be proven to be the cause of the injury suffered by your industry.

- Please provide supporting information.

10. OTHER CAUSES OF INJURY

There may be other factors causing injury to your industry other than the goods under consideration. These factors could include:

- The volume and prices of like goods that **are not** sold at dumped/subsidised prices.
- Reduction in demand or changes in the pattern of consumption.
- Restrictive trade practices of, and competition between, overseas and Jamaican producers.
- Developments in technology.
- The export performance of the Jamaican producers over the past 3 years and current year-to-date, if possible by month.
- Provide details of correspondence or cancelled orders from the industry's customers showing they are buying from other sources.

LAST UPDATED May 26, 2011

See also "Guidelines for the Filing of Submissions."

