

Keeping **FreeTrade** *Fair*

A quick look at Trinidad and Tobago's Anti-Dumping policies and mechanisms for dealing with unfair trading behaviour



REPUBLIC OF TRINIDAD AND TOBAGO
MINISTRY OF TRADE
AND INDUSTRY

The Basics



What is Dumping?

Simply put, dumping occurs when an imported product is being sold in your country for much less than the price it would be sold for in its home country, or the price for which it is being sold in your country is much less than the cost of production.

According to the World Trade Organization (WTO), of which Trinidad and Tobago is a member, “If a company exports a product at a price lower than the price it normally charges on its home market, it is said to be ‘dumping’ the product”.

And the legal definition is, “Dumping occurs when the price of a product sold in the export market is lower than the normal value of the same product when sold in the domestic market”.

If an item is significantly cheaper than its competitors, does this mean it is dumped?

Not necessarily. There is a fine line between cutthroat competition and dumping. Just because a product is cheap does not mean it is being dumped.

How can you tell that an item is being dumped?

Generally speaking, local producers of the item and policy makers would recognise that the price of the item on the local market is significantly less than the cost of production.

What remedy is available to me if dumped products are hurting my business?

The basic remedy against dumped and/or subsidized imports is the imposition of anti-dumping or countervailing duties.

When can these duties be imposed and by whom?

Anti-dumping and countervailing duties can only be imposed once an investigation has clearly shown that a local industry has been hurt by dumping and/or subsidization, specifically that:

- Dumping or subsidization is or has been taking place
- This dumping or subsidisation is causing, or threatening to cause, material injury to a local industry
- The imposition of such duties would be in the local interest

The Basics



Only the Minister of Trade and Industry, acting on advice and information supplied by the Anti-Dumping Authority, has the power to impose anti-dumping and countervailing duties, once there is clear evidence that these are required to bring about redress for the local industry.

What is the impact of dumped products on local industry and the economy, as a whole?

The ill effects of dumping result in material injury to a local industry.

If a dumped product is affecting my business negatively, what should I do?

Once you can see that a dumped product is having a negative impact on your business, a complaint should be lodged with the Anti-Dumping Authority of the Ministry of Trade and Industry. Once the complaint has been filed, the Fair Trading Unit (Unit) will determine whether the complaint is valid. The Unit is responsible for conducting the investigation.

Who can make an application to have an instance of dumping investigated?

Applications for action against dumped or subsidized imports may be made by representatives of the local industry, who believe their operations are being injured by the imports. Normally, the application will require the support of a major part of the industry (i.e. whose collective output constitutes at least 25% of local production).

What is required in the application?

All applications should contain reasonably prima facie evidence of dumping or subsidization, and show that material injury has resulted. They should also contain valid information which will assist in the full investigation of the complaint.

How long does an Anti-Dumping Investigation take?

An Anti-Dumping Investigation can take as few as 12 months to as many as 18 months to be completed.

Investigations

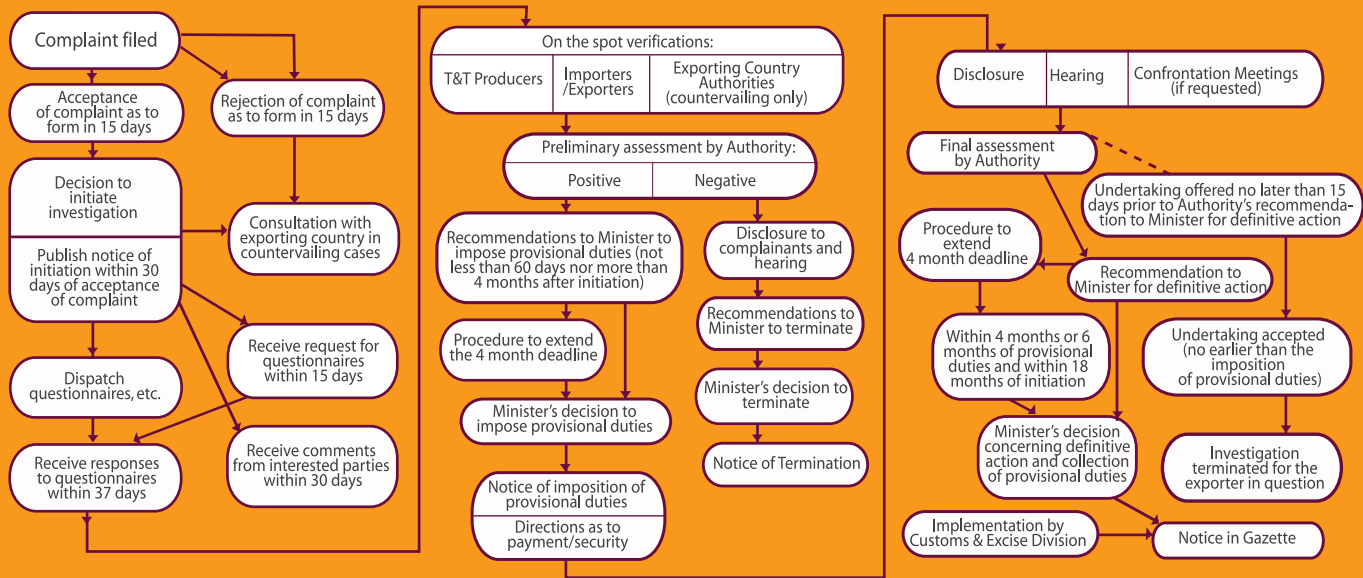


The stages of an Anti-Dumping Investigation are:

- Initiation
- Information Gathering
- Preliminary Determination
- Further Investigation
- Response to Preliminary Determination
- Verification of Information
- Final Determination
- Reviews -
Changed Circumstance; New Shipper
(New entrant into market) and Sunset
(Continuance of duty)

Investigations

Flowchart: Steps and Procedures in an Anti-Dumping Investigation.



About the Fair Trading Unit (FTU)



The FTU was initially called the Anti-Dumping Unit. It was established in the Ministry of Trade and Industry on January 1st 1996 to administer and enforce legislation that protects against certain unfair trade practices. These include under-pricing of products, subsidization, or sudden increases in volume of products exported to the particular country.

Freeing up an economy to embrace free trade-via policies such as lowering tariffs and non-tariff barriers-makes a country vulnerable to unfair trade practices, that is why the WTO acknowledges the need for governments to take action to provide protection to their local industries from incidences of unfair trade.

As a member of the WTO, Trinidad and Tobago is within its legal right to introduce and employ these trade remedies, including Anti-Dumping Legislation. The relevant laws and regulations governing the FTU's activities are:

- Act No. 11 of 1992 – the Anti-Dumping and Countervailing Duties Act
- Act No. 23 of 1995 – an Act to amend the Anti-Dumping and Countervailing Act of 1992
- Anti-Dumping and Countervailing Duties Regulations – 1996
- Anti-Dumping and Countervailing Duties (Subsidies) Regulations – 1996

Glossary



Dumping – this is defined as selling a product in markets abroad at prices below what is termed the “normal value”. In most cases, this is the price that the foreign producer charges for comparable sales in its own country.

Margin of Dumping – In relation to a product, this means the amount, if any, by which the normal value of such product exceeds the price at which it is exported.

Subsidization – This is direct or indirect financial assistance which governments or public authorities outside of Trinidad and Tobago may give to the producers, and from which the latter derive a benefit.

Duty – This means anti-dumping duty and countervailing duty, as the case may require.

Industry - A group of local manufacturers of a particular product, who together produce 25% or more of the total local market.

Material Injury – In respect of the dumping, or subsidizing of any goods, material injury to the production in Trinidad and Tobago of like products and including, in respect only of the subsidizing of agricultural product, an increase in the financial burden on the government.



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