

# Trade Remedies: Overview (Singapore)

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A Practice Note providing a general overview of the trade remedies regime in Singapore, including anti-dumping duties (ADDs) and countervailing duties (CVDs). The Note covers the legal and institutional framework, the substantive requirements for applying remedies, and the procedures for investigations, reviews, and appeals.

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This Note provides a general overview of the trade remedies regime in Singapore, including anti-dumping duties (ADDs) and countervailing duties (CVDs). Specifically, the Note addresses:

- The legal framework governing trade remedies.
- The institutional framework, including a description of the authorities responsible for conducting trade remedies investigations and making key decisions.
- The key substantive legal requirements for applying ADDs and CVDs.
- The procedure for ADD and CVD (also known as anti-subsidy) investigations.
- Post-investigation reviews and procedures.
- Domestic procedures for challenging trade remedy decisions.

Singapore reserves the right to apply safeguards in accordance with the [World Trade Organization \(WTO\) Agreement on Safeguards](#), but it does not currently have any domestic legislation governing safeguard measures. To date, Singapore has only been relying on the WTO Agreement on Safeguards to, among other things, request consultations with other members on their decisions to apply safeguard measures (for example, Singapore requested consultations on 9 February 2018 following the US notification of its decision to apply a safeguard measure on imports of crystalline silicon photovoltaic cells ([G/SG/N/8/USA/9/Suppl.4-G/SG/N/10/USA/7-G/SG/N/11/USA/6](#))). For more information on WTO rules on safeguards, see [Practice Note, WTO Rules on Trade Remedies: Overview: Safeguard Measures](#).

## Legal Framework

The main legislation in Singapore governing anti-dumping duties and countervailing duties is the [Countervailing and Anti-Dumping Duties Act 1996 \(CADDA\)](#) and its subsidiary legislation, including the [Countervailing and Anti-Dumping Duties Regulations 1997 \(CADDR\)](#).

The CADDA was enacted to align Singapore's laws on trade remedies with the relevant WTO agreements, that is:

- The [Agreement on Implementation of Article VI of the GATT 1994 \(Anti-Dumping Agreement\)](#).
- The [Agreement on Subsidies and Countervailing Measures \(SCM Agreement\)](#).

The CADDA must be construed alongside the [Customs Act 1960 \(Customs Act\)](#). In the event of inconsistency, the provisions of the CADDA prevail over the Customs Act (section 32, CADDA).

The CADDR mainly deals with the procedures and factors to take into consideration to initiate, conduct, and determine the outcome of CVD and ADD investigations.

## Institutional Framework

The Ministry for Trade and Industry is the primary authority responsible for administering the CADDA. The Minister of Trade and Industry (Minister) has the authority to determine whether to:

- Commence ADD and CVD investigations.
- Impose ADDs and CVDs.

Goods cannot be subject to both ADDs and CVDs to address the same situation of dumping and subsidisation (section 42, CADDA).

The Minister has broad investigatory powers, including those to:

- Impose provisional measures before making a final determination on:
  - the existence and amount of a countervailable subsidy; or
  - the dumping margin in relation to subject goods.

(Sections 8(1) and 22(1), CADDA.)

- Take action under the CADDA when there is no applicable international obligation relating to CVDs or ADDs between a third country and Singapore (section 39, CADDA). The CADDA does not specify the scope of what these international obligations entail. It could be construed as a power exercisable against countries that are not party to the WTO Agreements on Anti-Dumping and Subsidies and Countervailing Measures.

The Minister is also responsible for the constitution of the Anti-Dumping Tribunal (section 30, CADDA). The Anti-Dumping Tribunal comprises a chairperson and up to two other members, who are appointed to review determinations of the Minister on the application of an interested party (see [Challenging Trade Remedy Decisions](#)).

## Substantive Requirements to Apply Trade Remedies

### Requirements to Apply Anti-Dumping Duties

The Minister has the discretion to impose ADDs on goods imported into Singapore where:

- The export price of the goods is less than the goods' normal value (that is, there is dumping).
- The dumping:
  - causes or threatens to cause material injury to the domestic industry producing like goods; or
  - causes material retardation of the establishment of the domestic industry.

(Section 14, CADDA.)

### Dumping

Goods are considered to be dumped if the export price of the goods is less than the goods' normal value.

The export price means the price actually paid or payable for the imported goods in question (section 16, CADDA).

The normal value means the comparable price actually paid or payable in the ordinary course of trade for like goods sold for consumption in the domestic market of the exporting country (section 15(1), CADDA). If there are no such sales in the domestic market or a proper comparison is not possible due to a low volume of sales or other market conditions there, the normal value of the goods can be determined by referring to either:

- The comparable price actually paid or payable in the ordinary course of trade for like goods exported to any appropriate third country, if that price is representative.
- The constructed value of the subject goods, which must include the cost of production in the exporting country plus a reasonable amount for profits.

(Section 15(2), CADDA.)

Usually, sales of like goods in the domestic market or to an appropriate third country are considered to be of a sufficient quantity to determine the normal value if they constitute 5% or more of the sales of the subject goods to Singapore, although a lower ratio can suffice if there is substantiating evidence that an effective comparison is still possible (section 15(3), CADDA). In

computing normal value, costs are usually calculated based on records kept by the exporter or producer under investigation, provided these records:

- Comply with the generally accepted accounting principles of the exporting country.
- Reasonably reflect the costs associated with the production and sale of the subject goods.

(Regulation 27(1), CADDR.)

The determination of the normal value and export price are essential, as the dumping margin is defined as the amount by which the normal value of the subject goods exceeds the export price (section 2(1), CADD). This determination usually involves an examination of sales during the one-year period preceding the initiation of the investigation, but the Minister can examine sales in any additional or alternative period the Minister thinks appropriate if such sales allow for a proper comparison (regulation 26, CADDR).

Different rules apply to goods of non-market economy countries. Non-market economies are defined as those in which the government has a substantial or complete monopoly over trade and fixes the domestic prices of goods (section 2(1), CADD). In cases involving non-market economies, the Minister can base the calculation of the dumping margin on other reasonable methods (see [Anti-Dumping Investigation Procedure: Establishing the Dumping Margin](#)).

### **Establishing the Dumping Margin**

The Minister must normally establish an individual margin of dumping for each known exporter or producer of the subject goods (regulation 31(1), CADDR). The dumping margin must normally be based on a comparison of a weighted-average normal value with a weighted-average of prices of all comparable export transactions of the subject goods (section 17(3), CADD). However, the Minister can also, where appropriate, establish the margin of dumping by comparing the export prices of individual transactions over the period under investigation with the normal value of comparable individual transactions determined over that period (regulation 31(2), CADDR).

If these two methods are inappropriate to use because the export prices differ significantly among different purchasers or periods, the Minister can establish a dumping margin by comparing the respective export prices of individual transactions with the weighted-average normal value of comparable transactions (regulation 31(3), CADDR). If the Minister adopts this method, they must provide a written explanation of how the differences in export prices make the first two methods impractical to adopt (regulation 31(4), CADDR).

If the exporting country is a non-market economy, the Minister can base the calculation of the dumping margin on other reasonable methods, including:

- The prices of like goods sold in the ordinary course of trade in an appropriate surrogate market-economy country.
- The constructed value of like goods based on the factors of production in the exporting country and the costs of producing like goods sold in the ordinary course of trade in an appropriate surrogate market-economy country.
- The prices, in the ordinary course of trade, of like goods produced and sold in Singapore.

(Regulation 35, CADDR.)

When the number of exporters, producers, importers, or types of subject goods is so large as to make it impracticable to individually examine each interested party or all the subject goods for purposes of establishing an individual dumping margin for each known exporter or producer of the subject goods, the Minister can limit the extent of the examination to either:

- A reasonable number of parties or subject goods by using samples that are statistically valid based on information available to the Minister at the time of selection.
- The largest percentage of the volume of exports from the country in question which can reasonably be investigated.

(Regulation 33(1), CADDR.)

This selection must be made in consultation with, and with the consent of, the exporters, producers, and importers concerned (regulation 33(2), CADDR).

The Minister remains obliged to determine an individual dumping margin or countervailing duty rate for any exporter or producer who is not selected but submits the necessary information to the Minister, unless the number of such exporters or producers is so large that individual examinations would be unduly burdensome for the Minister to complete the investigation within the applicable timelines (regulation 33(3), CADDR).

## Injury

Before the Minister may impose ADDs, the Minister must determine that the dumped goods either:

- Caused or threaten to cause material injury to the domestic industry.
- Caused material retardation of the establishment of the domestic industry.

(Sections 14(1)(b) and 14(3), CADD.)

A finding of injury must be based on positive evidence after an objective examination of the following factors:

- The volume of dumped imports and the effect of these imports on prices in the domestic market for like goods.
- The consequent impact of these imports on domestic producers of like goods.

(Regulation 15(1), CADDR.)

In determining the impact on the domestic industry, the Minister must consider all relevant economic factors, including:

- The actual and potential decline in output, sales, market share, profits, productivity, return on investments, or utilisation of capacity.
- The factors affecting domestic prices.
- The magnitude of the margin of dumping.
- The actual and potential negative effects on cash flow, inventories, employment, wages, growth, or ability to raise capital or investments.

(Regulation 15(3), CADDR.)

When assessing whether there is a threat of material injury to the domestic industry, the Minister must consider the following factors, among others:

- A significant rate of increase of dumped imports into the domestic market indicating the likelihood of substantially increased imports.
- Sufficiently freely disposable, or an imminent substantial increase in, capacity of the exporter indicating the likelihood of substantially increased dumped exports to the market in Singapore, taking into account the availability of other export markets to absorb any additional exports.
- Whether the imported goods are entering at prices that will have a significant depressing or suppressing effect on domestic prices and would likely increase demand for additional imported goods.
- Inventories of the goods investigated.

(Regulation 17, CADDR.)

To determine a material retardation of the establishment of the domestic industry, the Minister must determine that:

- A domestic industry producing like goods is in the process of being established.
- A domestic industry is viable.
- The establishment of a domestic industry is imminent.
- The dumped imports are materially retarding the establishment of a domestic industry.

(Regulation 18, CADDR.)

Where imports of goods from more than one country are subject to an ADD investigation, the Minister can, for the purposes of determining whether injury exists, cumulatively assess the effects of the dumped imports if the following conditions are met:

- The petitions are filed simultaneously.
- The Minister determines that the amount of dumping established for imports from each country is more than *de minimis* and the volume of imports from each country is not negligible. For a discussion of what constitutes *de minimis* dumping and negligible imports, see [Anti-Dumping Investigation Procedures: Termination of Investigation](#).
- The Minister determines that a cumulative assessment of the effects of the imports is appropriate in light of the conditions of competition:
  - between the imported goods; and
  - between the imported goods and like domestic goods.

(Regulation 20, CADDR read with section 24(3), CADD.)

### Causation

To impose ADDs, the Minister must also find that there is a causal link between the dumping and the injury or threat of material injury to the domestic industry or material retardation to the establishment of the domestic industry.

In making this determination, the Minister must consider the following factors, among others:

- Whether there has been a significant increase in dumped imports in absolute terms or relative to production or consumption in Singapore.
- Whether there has been significant price undercutting by dumped imports as compared with the price of any like domestic goods.
- Whether the effect of the dumped imports is such as to depress prices to a significant degree or to prevent price increases that would otherwise have occurred to a significant degree.
- Whether there are factors other than the dumped imports that are injuring the domestic industry, including:
  - the volume and prices of imports not sold at dumping prices;
  - contraction in demand or changes in the patterns of consumption;
  - trade restrictive practices of and competition between foreign and domestic producers;
  - developments in technology; and
  - the export performance and productivity of the domestic industry.

(Regulation 16, CADDR.)

#### **Lesser Duty Rule**

Singapore applies the lesser duty rule when imposing ADDs. Although the amount of ADDs is, generally, equal to the dumping margin, the Minister has the discretion to impose a lower ADD if they determine that a lower duty is sufficient to eliminate the injury (section 14(2), CADD).

#### **Public Interest Test**

The Minister takes the public interest into account for certain decisions, including whether to:

- Initiate, suspend, or terminate an investigation (sections 19(3)-(5), 24(1)(b), and 25(2)(c), CADD).
- Impose ADDs (section 23(4), CADD).
- Conduct a review of ADDs (section 26(1), CADD) (see [Review by Minister](#)).

### **Requirements to Apply Countervailing Duties**

The Minister has the discretion to impose CVDs on goods imported into Singapore where:

- A countervailable subsidy is provided for the subject goods.
- The subsidy:
  - causes or threatens to cause material injury to the domestic industry producing like goods; or

- causes material retardation of the establishment of the domestic industry.

(Section 3, CADD A.)

### Countervailable Subsidy

The Minister must determine whether a subsidy exists for purposes of the CAADA and, if so, whether it is countervailable under the CAADA.

A subsidy is defined as either:

- A financial contribution made by a government or public body of the country of export in connection with the production, manufacture, or export of goods which involves either:
  - a direct transfer of funds from a government or public body;
  - a potential direct transfer of funds or liabilities from a government or public body;
  - the forgoing or non-collection of revenue due to a government or public body (excluding an allowable exemption or remission);
  - the provision by a government or public body of goods or services otherwise than in the course of providing normal infrastructure; or
  - the purchase of goods by a government or public body.
- Any form of income or price support referred to in Article XVI of the [General Agreement on Tariffs and Trade 1994](#) that is received from a government or public body.

(Section 2(2), CADD A.)

The CADD R provides the following guidelines for determining whether certain benefits constitute subsidies under the CADD A:

- Government provision of equity capital must not be considered as conferring a benefit unless the investment decision can be regarded as inconsistent with the usual investment practice (including the provision of risk capital) of private investors in the territory of that country.
- A government loan must not be considered as conferring a benefit unless there is a difference between the amount that the loan recipient pays on the government loan and the amount it would pay on a comparable commercial loan that it could actually obtain on the market, in which case the benefit is the difference between these two amounts.
- A loan guarantee by a government must not be considered as conferring a benefit unless there is a difference between the amount that the firm receiving the guarantee pays on the loan and the amount that the firm would pay on a comparable commercial loan absent the government guarantee, in which case the benefit is the difference between these two amounts, adjusted for any differences in fees.
- The provision of goods or services or purchase of goods by a government must not be considered as conferring a benefit unless:



- the provision is made for less than adequate remuneration; or
- the purchase is made for more than adequate remuneration.

Adequate remuneration is determined by the prevailing market conditions for the goods or services in question in the country of provision or purchase.

(Regulations 22(3)-(4), CADDR.)

A subsidy is countervailable if it is either:

- Conferred to a specific enterprise, industry, or group of enterprises or industries in the jurisdiction of the granting authority.
- Contingent on:
  - export performance;
  - the use of domestic over imported goods; or
  - location in a designated geographic region within the jurisdiction of the granting authority.

(Sections 2(2)-(3), CADD.)

The following subsidies are **not** countervailable:

- Assistance for research activities conducted by firms or higher education or research establishments on a contractual basis if the assistance does not cover more than 75% of the costs of industrial research or 50% of the costs of pre-competitive development activity, provided the assistance is limited exclusively to the following:
  - the costs of personnel (researchers, technicians, and other supporting staff employed exclusively in the research activity);
  - the costs of instruments, equipment, land, and buildings used exclusively and permanently (except when disposed of on a commercial basis) for the research activity;
  - the costs of consultancy and equivalent services used exclusively for the research activity, including bought-in research, technical knowledge, and patents;
  - additional overhead costs incurred directly as a result of the research activity; and
  - other running costs (such as for materials and supplies) incurred directly as a result of the research activity.
- Assistance to disadvantaged regions in the territory of a WTO member under a general framework of regional development, provided:
  - the assistance is non-industry specific;
  - each disadvantaged region is a clearly designated contiguous geographical area with a definable economic and administrative identity; and

- the region is considered as disadvantaged based on neutral and objective criteria, indicating that the region's difficulties arise out of more than temporary circumstances.
- Assistance to promote the adaptation of existing facilities to new environmental requirements imposed by laws or regulations which result in greater constraints and financial burdens on firms, provided the assistance:
  - is a one-time non-recurring measure;
  - is limited to 20% of the cost of adaptation;
  - does not cover the cost of replacing and operating the assisted investment, which must be fully borne by the firms receiving the assistance;
  - is directly linked and proportionate to a firm's planned reduction of nuisances and pollution, and does not cover any manufacturing cost savings that may be achieved; and
  - is available to all firms that can adopt the new equipment or production processes.
- Government action notified to the Committee on Subsidies and Countervailing Measures in accordance with Articles 8(3) to 8(5) of the SCM Agreement.
- A domestic support measure for agriculture or the rural community that:
  - is provided through a publicly funded government programme that does not involve transfers from consumers;
  - does not have the effect of providing price support to producers; and
  - meets certain policy criteria.

(Section 2(4), CADD A read with Articles 8.2, 8.3, 8.4, and 8.5, SCM Agreement and Annex 2, [WTO Agreement on Agriculture](#).)

Additionally, the Minister cannot impose CVDs on goods exported from a non-market economy country if the Minister is of the opinion that it is impractical to determine a CVD rate (regulation 34, CADDR).

#### **Calculation of Countervailable Subsidy**

The Minister calculates the total countervailable subsidy received by each enterprise for the subject goods during the designated period of investigation (regulation 22(1), CADDR). In calculating the amount of countervailable subsidy, the Minister:

- Must either calculate the countervailable subsidy from a particular programme received by the enterprise, industry, or exporters as to be provided in a single year or on an annual basis for two or more years, as the Minister thinks appropriate.
- Must allocate the countervailable subsidy to the goods to which the countervailable subsidy is associated.
- Must determine the amount of countervailable subsidy per unit, on an [ad valorem](#) basis, or on any other reasonable basis.
- Can subtract the amount of:

- any application fee, deposit, or similar payment made to qualify for, or receive, the countervailable subsidy; and
  - export taxes, duties, or other charges collected on the export of the goods to Singapore specifically intended to offset the countervailable subsidy received.
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- Can calculate the countervailable subsidy based on the currency that they consider appropriate.
  - Can adopt any other appropriate method of calculation, where necessary.

(Regulation 22(2), CADDR.)

If the number of exporters, producers, importers, or types of subject goods is so large as to make it impracticable to individually examine each interested party or all the subject goods for purposes of establishing an individual countervailing duty rate for each known exporter or producer of the subject goods, the Minister can use a sampling approach (regulation 33(1), CADDR).

### **Injury**

In assessing whether CVDs should be imposed, the Minister must be satisfied that the subsidised goods either:

- Caused or threaten to cause material injury to the domestic industry.
- Caused material retardation of the establishment of the domestic industry.

(Sections 3(1)(b) and 3(3), CADD.)

A finding of injury must be based on positive evidence after an objective examination of the following factors:

- The volume of subsidised imports and the effect of these imports on prices in the domestic market for like goods.
- The consequent impact of these imports on domestic producers of like goods.

(Regulation 15(1), CADDR.)

In determining the impact on the domestic industry, the Minister must assess all relevant economic factors, including:

- The actual and potential decline in output, sales, market share, profits, productivity, return on investments, or utilisation of capacity.
- The factors affecting domestic prices.
- The magnitude of the amount of countervailable subsidy.
- The actual and potential negative effects on cash flow, inventories, employment, wages, growth, or ability to raise capital or investments.
- Where the investigation involves agriculture, whether there has been an increased burden on government support programmes.

(Regulation 15(3), CADDR.)

In assessing whether there is a threat of material injury to the domestic industry, the Minister must consider the following factors, among others:

- A significant rate of increase of subsidised imports into the domestic market indicating the likelihood of substantially increased imports.
- Sufficient freely disposable, or an imminent substantial increase in, capacity of the exporter indicating the likelihood of substantially increased subsidised exports to the Singapore market, taking into account the availability of other export markets to absorb any additional exports.
- Whether the imported goods are entering at prices that will have a significant depressing or suppressing effect on domestic prices and would likely increase demand for additional imported goods.
- Inventories of the goods investigated.
- The nature of the countervailable subsidy or subsidies and the likely trade effects.

(Regulation 17, CADDR.)

To determine a material retardation of the establishment of the domestic industry, the Minister must determine that:

- A domestic industry producing like goods is in the process of being established.
- A domestic industry is viable.
- The establishment of a domestic industry is imminent.
- The subsidised imports are materially retarding the establishment of a domestic industry.

(Regulation 18, CADDR.)

Where imports of goods from more than one country are subject to a CVD investigation, the Minister can, for the purposes of determining whether injury exists, cumulatively assess the effects of the subsidised imports if the following conditions are met:

- The petitions are filed simultaneously.
- The Minister determines that the amount of countervailable subsidies established for imports from each country is more than *de minimis* and the volume of imports from each country is not negligible. For a discussion of what constitutes *de minimis* countervailable subsidies and negligible imports, see [Anti-Subsidy Investigation Procedures: Termination of Investigation](#).
- The Minister determines that a cumulative assessment of the effects of the imports is appropriate in light of the conditions of competition:
  - between the imported goods; and
  - between the imported goods and like domestic goods.

(Regulation 19, CADDR read with regulations 24 and 25, CADDR.)

### **Causation**

Before the Minister may impose CVDs, the Minister must also find that there is a causal link between the countervailable subsidy and the injury or threat of material injury to the domestic industry or material retardation to the establishment of a domestic industry.

In making this determination, the Minister must consider the following factors, among others:

- Whether there has been a significant increase in subsidised imports in absolute terms or relative to production or consumption in Singapore.
- Whether there has been significant price undercutting by subsidised imports as compared with the price of any like domestic goods.
- Whether the effect of the subsidised imports is such as to depress prices to a significant degree or to prevent price increases that would otherwise have occurred to a significant degree.
- Whether there are factors other than the subsidised imports that are injuring the domestic industry, including:
  - the volume and prices of non-subsidised imports of the goods in question;
  - contraction in demand or changes in the patterns of consumption;
  - trade restrictive practices of and competition between foreign and domestic producers;
  - developments in technology; and
  - the export performance and productivity of the domestic industry.

(Regulation 16, CADDR.)

### **Lesser Duty Rule**

Singapore applies the lesser duty rule when imposing CVDs. Although the amount of CVDs is, generally, equal to the countervailable subsidy provided with respect to the goods in question, the Minister has the discretion to impose a lower CVD if they determine that a lower duty is sufficient to eliminate the injury (section 3(2), CADD).

### **Public Interest Test**

The public interest is taken into consideration in the same way as for ADDs (see [Requirements to Apply Anti-Dumping Duties: Public Interest Test](#)).

The Minister takes the public interest into account for certain CVD decisions, including whether to:

- Initiate, suspend, or terminate an investigation (sections 4(3)(b), 4(4), 10(1)(b), and 11(2)(c), CADD).
- Impose CVDs (section 9(4), CADD).
- Conduct a review of CVDs (section 12(1), CADD) (see [Review by Minister](#)).

## Investigation Procedures

### Anti-Dumping Investigation Procedures

#### Initiation of Investigation

The Minister can start an ADD investigation either:

- On their own initiative, if, in special circumstances, they are satisfied that there is sufficient evidence to impose ADDs (sections 14(1) and 19(6), CADDA).
- On a written petition by any person acting on behalf of the domestic industry producing like goods (section 19(1), CADDA).

A written petition to the Minister must include:

- The name and address of the petitioner.
- A description of the volume and value of domestic production of like goods.
- The identity of the domestic industry on behalf of which the petition is submitted, including:
  - the names and addresses of producers of like goods in the domestic industry (or associations of domestic producers of like goods); and
  - a description of the volume and value of domestic production of like goods accounted for by these producers.
- A complete description of the goods that defines the requested scope of the investigation, including technical characteristics and uses of the goods and the current applicable Singapore tariff classifications.
- The name of the country in which the goods are produced and, if the goods are imported from another country, the name of the intermediate country.
- The name and address of each party the petitioner knows is producing the goods for export or is exporting to Singapore, and is selling the goods at prices below the normal value.
- Any factual information, particularly documentary evidence, relevant to the alleged dumping, including:
  - information on prices at which the goods in question are sold when destined for consumption in the domestic market of the country of origin or export or, where appropriate, information on the prices at which the goods are sold from the country of origin or export to a third country or on the constructed value of the goods;
  - information on export prices to Singapore or, where appropriate, on the prices at which the goods are first resold to an independent buyer in Singapore; and
  - if the exporting country is a non-market economy country, factual information relevant to the calculation of normal value in those circumstances as required by the CADDR (see [Requirements to Apply Anti-Dumping Duties: Establishing the Dumping Margin](#)).

- The volume and value of the goods imported into Singapore during the most recent three-year period and any other recent period that the petitioner believes to be more representative.
- The name and address of each party the petitioner knows to be importing or, if there were no imports, is likely to import the goods.
- Information on the effect of the goods on prices of like goods in the domestic market and the consequent impact of the goods on the domestic industry.
- Factual information regarding injury to the domestic industry (that is, material injury, threat of material injury, or material retardation to the establishment of the domestic industry).
- Any other factual information on which the petitioner relies.

(Regulation 3(1), CADDR.)

The Minister must review the petition and other available information within 30 days from the date of receipt of the petition to assess whether:

- There is sufficient evidence to warrant an investigation.
- An investigation is in the public interest.

(Section 19(3), CADD; regulation 6, CADDR.)

The CADD does not define "sufficient evidence" and "public interest." In any case, the Minister cannot initiate an investigation unless they determine that there is sufficient support by domestic producers of like goods (section 19(8), CADD).

If the Minister decides to start an investigation, they must notify interested parties and publish a notice of initiation of investigation (section 19(5), CADD).

If the Minister discovers practices that appear to be dumping during the investigation, but which were not included in the petition, they can investigate those practices if there is sufficient time (section 38(1), CADD).

Except in special circumstances, ADD investigations must be concluded within one year from initiation, and must not, in any case, last more than 18 months from initiation (section 20, CADD).

### **Participation by Interested Parties**

Interested parties can participate in a dumping investigation in a variety of ways, including by:

- Providing information they consider relevant to the investigation.
- Reviewing non-confidential information submitted by other parties.
- Meeting parties with adverse interests so that opposing views can be presented and rebuttal arguments offered.

(Section 34, CADD and regulations 41 and 45, CADDR.)

Interested parties can also provide comments if the Minister decides to conduct a review under sections 12(1) or 26(1) of the CADD (regulation 41, CADDR) (see [Review by Minister](#)).

Interested parties include the following:

- A producer, exporter, or importer of the subject goods.
- A trade or business association a majority of the members of which are producers, exporters, or importers of the subject goods.
- The government of the exporting country or country of production.
- A producer of the like goods in Singapore.
- A trade or business association a majority of the members of which produce like goods in Singapore.

(Section 2(1), CADD A.)

#### **Questionnaires and Requests for Information**

The Minister can issue questionnaires to any party relevant to an ADD investigation within a reasonable period from the date of publication of the notice of initiation of investigation (regulation 9(1), CADDR). The recipient must be given at least 30 days from receipt to reply (regulation 9(2), CADDR).

The Minister can make a preliminary or final determination (see [Anti-Dumping Investigation Procedures: Preliminary Determination](#) and [Final Determination](#)) on the basis of the facts available (which can include those contained in the domestic industry's petition for an investigation) where an interested party:

- Refuses access to or does not otherwise provide necessary information within a reasonable period.
- Significantly impedes an investigation or review (such as by refusing to allow verification of relevant information (see [Anti-Dumping Investigation Procedures: Verification of Information](#))).

(Section 37, CADD A; regulation 44, CADDR.)

There are no provisions on oral hearings. Oral submissions of information by interested parties under regulation 41 of the CADDR must be reduced to writing to be taken into account (regulation 41(2), CADDR).

#### **Requests for Confidential Treatment of Information**

A party submitting information can apply to the Minister to treat the information as confidential if either:

- Its disclosure would be of significant competitive advantage to a competitor.
- Its disclosure would have a significant adverse effect on the party supplying the information or on a party from whom the information was acquired.
- Other good cause is shown.

(Regulation 41(8), CADDR.)

The party requesting confidential treatment must provide a non-confidential summary that permits a reasonable understanding of the substance of the confidential information (Section 35(5), CADD A and regulation 41(3), CADDR). If the party believes



that the information is not susceptible of a non-confidential summary, they must state why summarisation is not possible (section 35(6), CADD A). The Minister can disregard information presented if they find that either:

- A request for confidentiality is not warranted and the supplier of the information is unwilling to make the information public.
- The non-confidential summaries are not sufficiently detailed.
- The reasons given for not providing non-confidential summaries are inadequate and the supplier of the information refuses to provide non-confidential summaries. (Section 35(7), CADD A.)

### **Verification of Information**

The Minister can conduct an on-site verification to assess the accuracy and completeness of any factual information submitted during an investigation. The Minister must notify the interested foreign government that the Minister's authorised representatives will visit the interested foreign government, interested parties, or any other party deemed relevant to the verification. In conducting the verification, the Minister can request access to all files, records, and personnel that they consider relevant to the investigation.

Where there are a large number of parties under investigation, the Minister can decide to verify relevant factual information from a sample of parties if, in the Minister's view, it is impracticable to verify information for each party.

(Regulation 43, CADDR.)

### **Meeting of Parties**

The Minister must, on a written request, provide a timely opportunity for all interested parties to meet parties with adverse interests so that opposing views may be presented and rebuttal arguments offered. There is no obligation on any party to attend a meeting, and failure to attend does not prejudice their case.

(Section 34, CADD A; regulation 45, CADDR.)

### **Secrecy Obligations**

Persons who have access to any statement, accounts, record, correspondence, document, information, or material obtained under the CADD A must not disclose them unless authorised by the Minister or the CADD A (section 45(1), CADD A). Failure to comply with this obligation is an offence subject to a fine of SGD5,000 or a term of imprisonment not exceeding one year, or both (section 45(2), CADD A).

### **Preliminary Determination**

The Minister must make a preliminary determination on whether there is dumping and injury (including causation) within 90 days from the date of publication of the notice of initiation of investigation. The Minister can extend this period for another 90 days in special circumstances. (Regulation 10, CADDR.)

At this stage, the Minister can terminate the investigation if they consider that there is insufficient evidence of dumping or injury (including causation) after publishing a notice of termination (section 21(2), CADD A).

Alternatively, if the Minister deems that there is sufficient evidence, they must continue with the investigation after publishing a notice of the preliminary determination (section 21(3), CADD A).

### Provisional Measures

If the Minister proceeds with the investigation, they must apply provisional measures to the subject goods if they determine that such measures are necessary to prevent injury to the domestic industry during the period of investigation (section 22(1), CADD A).

Provisional measures can take the form of:

- A provisional duty.
- A security equal to the estimated dumping margin found in the preliminary determination.

(Section 2(1), CADD A.)

Provisional measures must not be imposed sooner than 60 days from the date of initiation of the investigation (section 22(2), CADD A). The application of provisional measures must not exceed either:

- Six months.
- Nine months at the request of exporters representing a significant percentage of the trade involved, subject to the Minister's discretion.

(Regulation 12(2), CADDR.)

### Undertakings

An undertaking in an ADD investigation is an agreement by the exporter to:

- Revise their prices to a level which the Minister is satisfied will eliminate the injurious effect of the dumping; or
- Cease exports to Singapore at dumping prices so that the Minister is satisfied it will eliminate the injurious effect of the dumping.

(Regulation 14(2)(b), CADDR.)

The Minister can accept an undertaking and suspend the investigation if they determine that the undertaking:

- Would eliminate the dumping margin or injury.
- Can be monitored effectively.
- Is in the public interest.

(Section 25(2), CADD A.)

An undertaking must not be offered later than 60 days before the Minister's final determination (regulation 14(3), CADDR). The Minister can only accept an undertaking after they have made an affirmative preliminary determination (section 25(3), CADD A).

Even if an undertaking is accepted, the investigation must be completed at the discretion of the Minister or on a written request of the exporters of the subject goods that is submitted by the interested foreign government (section 25(4), CADD A).

### Final Determination

The Minister must make a final determination regarding the dumping margin and injury to the domestic industry (including causation) within either:

- 180 days from the date of publication of the notice of preliminary determination.
- 270 days from the date of publication of the notice of preliminary determination if provisional measures were imposed for a nine-month period (see [Anti-Dumping Investigation Procedures: Provisional Measures](#)).

(Regulation 13(2), CADDR.)

The notice of final determination must include:

- The names of the exporters and producers of the subject goods or, where this is impracticable, the name of the country in which the subject goods are produced or of any intermediate country involved.
- A description of the subject goods that is sufficient for customs purposes, including the current Singapore tariff classifications.
- The amount of the margin of dumping and the basis for that determination.
- Factors that have led to the injury determination, including information on factors other than dumped imports that were taken into account.
- Any other reasons leading to the final determination.
- The ADDs to be imposed.
- The reason why ADDs should be collected on the subject goods for which provisional measures were applied.
- The reason for any retroactive imposition of ADDs under section 23(8) of the CADD, such as where:
  - there is a history of dumping that caused injury; and
  - the injury is caused by massive dumped imports in a relatively short period of time, which, in light of the timing and volume of the imports and other circumstances, is likely to seriously undermine the remedial effect of the ADD to be imposed.

(Regulation 13(3), CADDR.)

### Termination of Investigation

An investigation must be terminated immediately if:

- The margin of dumping is *de minimis*.
- The volume of imports of the subject goods, actual or potential, or the injury, is negligible.

(Section 24(2), CADD.)

For this purpose:

- The margin of dumping is *de minimis* if it is less than 2% of the export price.
- The volume of imports is negligible if the volume from a particular country is less than 3% of imports of like goods into Singapore **unless** (in the case of imports from more than one country) the goods from countries which individually account for less than 3% of imports of like goods into Singapore collectively account for more than 7% of such imports into Singapore.

(Section 24(3), CADDA.)

An investigation can also be terminated if either:

- The petitioner withdraws the petition.
- The Minister determines that termination is in the public interest.

(Section 24(1), CADDA.)

If termination occurs after provisional measures are imposed, the Minister must refund the provisional duties paid or release any security provided and publish a notice stating the reasons for termination (section 24(5), CADDA).

## Anti-Subsidy Investigation Procedures

The procedures for anti-subsidy investigations, also referred to as CVD investigations, broadly mirror those for ADD investigations (see [Anti-Dumping Investigation Procedures](#)). Key procedural elements that are specific to anti-subsidy investigations are described below.

### Initiation of Investigation

A written petition submitted to the Minister to initiate a CVD investigation should include the elements required for ADD petitions (see [Anti-Dumping Investigation Procedures: Initiation of Investigation](#)), tailored to the subsidy context, including the following information:

- The name and address of each party the petitioner knows is producing the goods for export or is exporting to Singapore and is receiving a countervailable subsidy.
- Factual information, particularly documentary evidence, relevant to the allegations regarding the countervailable subsidy, including:
  - the authority that provided the countervailable subsidy;
  - the manner in which the countervailable subsidy is provided; and
  - an estimate of the value of the countervailable subsidy to producers or exporters of the goods.

(Regulation 3, CADDR.)

Before initiating a CVD investigation, the Minister must provide any interested foreign government with an opportunity for consultation to clarify matters relevant to the investigation, so that parties can reach a mutually agreed solution (section 5, CADDA).

### **Preliminary Determination**

The Minister must make a preliminary determination regarding the countervailable subsidy and the alleged injury (including causation). As in ADD investigations, this determination must be made within 90 days from the date of publication of the notice of initiation of investigation but can be extended for an additional 90 days in special circumstances. (Section 7, CADDA; regulation 10 CADDR.)

### **Provisional Measures**

As in ADD investigations, the Minister must apply provisional measures if they are necessary to prevent injury during the period of investigation, but no sooner than 60 days from the date of initiation of the investigation (section 8(1), CADDA).

Provisional measures must take the form of a provisional duty or a security equal to the amount of the estimated countervailable subsidy in the preliminary determination (section 8(3), CADDA).

The duration of provisional measures must be as short a period as possible and must not exceed four months (section 8(4), CADDA and regulation 12(2), CADDR).

### **Undertakings**

An undertaking in a CVD investigation is an agreement by:

- The government of the exporting country to eliminate or limit the countervailable subsidy or take other measures which the Minister is satisfied will eliminate the injurious effect of the countervailable subsidy.
- The exporter to revise their prices to a level which the Minister is satisfied will eliminate the injurious effect of the countervailable subsidy.

(Regulation 14(2)(a), CADDR.)

The Minister can accept an undertaking and suspend the investigation if they determine that the undertaking:

- Would eliminate the countervailable subsidy or the injury.
- Can be monitored effectively.
- Is in the public interest.

(Section 11(2), CADDR.)

The periods in which an undertaking may be submitted by a party and accepted by the Minister in a CVD investigation are the same as those in an ADD investigation.

### **Final Determination**

The Minister must make a final determination within 120 days from the date of publication of the notice of preliminary determination (regulation 13(1), CADDR).

### Termination of Investigation

The Minister must terminate an investigation immediately if they determine that the amount of countervailable subsidy is *de minimis* or that the volume of subsidised imports, actual or potential, or the injury, is negligible (section 10(2), CADD A).

A countervailable subsidy is *de minimis* if, when expressed as an *ad valorem* percentage, it is either:

- Less than 1%.
- Not more than 3% where the country of export is a developing country (WTO member) that:
  - has eliminated export subsidies before 1 January 2003; or
  - is referred to in Annex VII to the SCM Agreement, which lists least-developed countries (currently 35 countries).
- Not more than 2% where the country of export is a developing country that does not meet the above criteria.

(Regulation 24, CADDR.)

The volume of subsidised imports from a country of export is negligible if it accounts for less than either:

- 3% of the total volume of imports of like goods into Singapore **unless** (in the case of imports from more than one country) subsidised imports from countries which individually account for less than 3% of the total imports of like goods into Singapore collectively account for more than 7% of such imports into Singapore.
- 4% the total volume of imports of like goods into Singapore where the exporting country is a developing country **unless** (in the case of imports from more than one developing country) subsidised imports from developing countries which individually account for less than 4% of the total imports of like goods into Singapore collectively account for more than 9% of such imports into Singapore.

(Regulation 25, CADDR.)

## Post-Investigation Procedures

### Review by Minister

Interested parties can seek the Minister's review by providing information showing that either:

- The dumping margin or the amount of countervailable subsidy has changed substantially.
- A refund of an ADD or CVD is appropriate.
- The imposition of an ADD or CVD is no longer necessary.
- An undertaking is no longer necessary or should be modified.
- An undertaking, ADD, or CVD that must be terminated post preliminary determination should be maintained.

- An expedited review is required for exporters or producers who did not export the subject goods to Singapore during the period of investigation.

(Sections 12 and 26, CADDA.)

The Minister must conduct the review if they determine that a review is in the public interest or is required under the WTO agreements on trade remedies (section 12(1), CADDA). Reviews must generally be undertaken not earlier than one year after the date of publication of the determination or decision of which the review is sought (regulation 36(1), CADDR). Reviews must be completed within 180 days from the date of publication of the initiation of the review (regulation 36(2), CADDR).

#### **Extension Review**

Generally, ADDs and CVDs must not be collected on imports after five years from the date of publication of the final determination, and undertakings related to countervailable subsidies and dumping margins lapse five years from the notice of suspension of an investigation (sections 12(7) and 26(7), CADDA). However, the Minister can determine in a review that ADDs or CVDs should be extended (sections 12(7) and 26(7), CADDA). These reviews are commonly referred to as extension reviews.

Before initiating an extension review, the Minister must publish a notice of impending termination of ADDs or CVDs at least six months before the end of the five-year period, specifying the period in which any interested parties can present their views on the termination (regulations 39(1)-(2), CADDR). The Minister must publish a notice of initiation of an extension review where interested parties can provide evidence that termination of the duties would likely lead to continuation or recurrence of dumping or subsidies and injury (regulations 39(3), CADDR).

Extension reviews must normally be completed within 180 days from the date of publication of the notice of initiation of the review and must not last more than one year from the publication of that notice (regulation 39(4), CADDR). The imposition of ADDs and CVDs continues pending the outcome of the review (regulation 39(5), CADDR).

#### **Refund Review**

Importers can initiate a refund review if they have sufficient and complete evidence that ADDs or CVDs paid by the importer during the 12-month period after the final determination of the ADD or CVD investigation, or any subsequent 12-month period, exceed the margin of dumping or the countervailable subsidy (sections 12(1)(b) and 26(1)(b), CADDA and regulation 40(1), CADDR). An importer must notify both the Director-General of Customs and Excise and the Minister of their intention to request a refund review before the entry of the goods concerned into Singapore (regulation 40(2), CADDR). A request for a refund review must:

- Be made in writing and contain a list of all the subject goods imported into Singapore by the importer for which the refund is requested.
- Be filed with the Minister, with all relevant evidence, within 90 days after the end of the 12-month period in respect of which the refund is requested.

(Regulation 40(3), CADDR.)

Refund reviews must usually be conducted within 180 days from the date of publication of the notice of initiation of the review and must not last more than one year from the publication of that notice (regulation 40(5), CADDR). If the dumping margin or countervailable subsidy is found to be less than the ADDs or CVDs paid by the importer, the difference must be refunded to them (regulation 40(7), CADDR).

### **Expedited Review**

The Minister must conduct an expedited review:

- Where CVDs have been imposed on goods exported by an exporter who was not actually investigated for reasons other than a refusal to cooperate. The Minister must complete the review within six months of the date of publication of the notice of initiation of the review (regulation 37, CADDR).
- To determine individual dumping margins for new exporters, that is, exporters who have not exported the goods to Singapore during the period of investigation. The Minister must complete the review within nine months of the date of publication of the notice of initiation of the review (regulation 38, CADDR). No ADDs may be levied on imports from these companies while the review is being conducted (regulation 38(4), CADDR).

## **Challenging Trade Remedy Decisions**

The procedures to appeal decisions relating to CVD and ADD investigations are similar. Interested parties have a right of review by the Anti-Dumping Tribunal (Tribunal) against any:

- Affirmative or negative final CVD and ADD determinations by the Minister.
- Final determinations of CVD and ADD reviews conducted by the Minister.

(Sections 13 and 27, CADDA.)

An application for review by the Tribunal must be filed, as applicable, within 30 days of:

- The date of the notice of the final determination in the CVD or ADD investigation.
- The date of the final determination in the review.

(Sections 13(2) and 27(2), CADDA.)

The Tribunal can affirm the determination or remit the matter to the Minister for reconsideration (sections 13(3) and 27(3), CADDA). The Minister must implement any decision of the Tribunal (sections 13(4) and 27(4), CADDA).

The decision of the Tribunal is subject to judicial review by the Singapore High Court. The grounds for judicial review are limited, and include illegality, irrationality, and procedural impropriety. An aggrieved person can file an application with the High Court after obtaining leave of the court. If it considers that the grounds are made out, the High Court can quash or uphold the decision of the Minister, as applicable.

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