

# Anti-Dumping: Philippine Experience

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# Philippine Legal Framework on Anti-Dumping

- **R.A. 8752 (Anti-Dumping Act of 1999)**
  - Amended Section 301 of the Tariff and Customs Code of the Philippines (TCCP)
  - Agreement on the implementation of Article VI of GATT 1994
  - Provides protection to a domestic industry which is being injured, or is likely to be injured, by the dumping of products imported into, or sold in, the Philippines
- **IRR (Joint Administrative Order No. 01, s. 2000)**
- **Commission Order No. 00-01**
  - Prescribes the internal rules and regulations governing the conduct of formal investigations by the Tariff Commission under Sec. 301 of the TCCP, as amended by R.A. 8752

# Philippine Agencies Tasked to Administer Anti-Dumping Actions

 <p>Department of Trade and Industry – Bureau of Import Services (DTI-BIS) [industrial goods] or Department of Agriculture (DA) [agricultural products]</p>	<ul style="list-style-type: none"> <li>▪ Receives written application and determines whether the application is proper in form and substance and whether documentary requirements are complied with</li> <li>▪ Determines whether or not prima facie case exists to warrant initiation of investigation</li> <li>▪ Conducts preliminary investigation to determine whether or not provisional measures (dumping bond) may be imposed</li> </ul>
 <p>Tariff Commission (TC)</p>	<ul style="list-style-type: none"> <li>▪ Conducts formal investigation and submits report of findings to either the Secretary of the DTI or DA for the issuance of a Department Order imposing the definitive anti-dumping duty (in case of affirmative findings)</li> </ul>
 <p>Bureau of Customs (BOC)</p>	<ul style="list-style-type: none"> <li>▪ Imposes the dumping bond and/or definitive duty upon receipt of the Department Order, through the Secretary of Finance</li> </ul>

# Conditions for Anti-Dumping

- 1) A determination of dumping;
- 2) A determination of injury to the domestic industry; and
- 3) A causal link between dumping and injury.

# Procedure for Anti-Dumping Investigations

## Preliminary Determination

- Application
- Initiation
- Notices
- Preliminary Finding
- Provisional measure

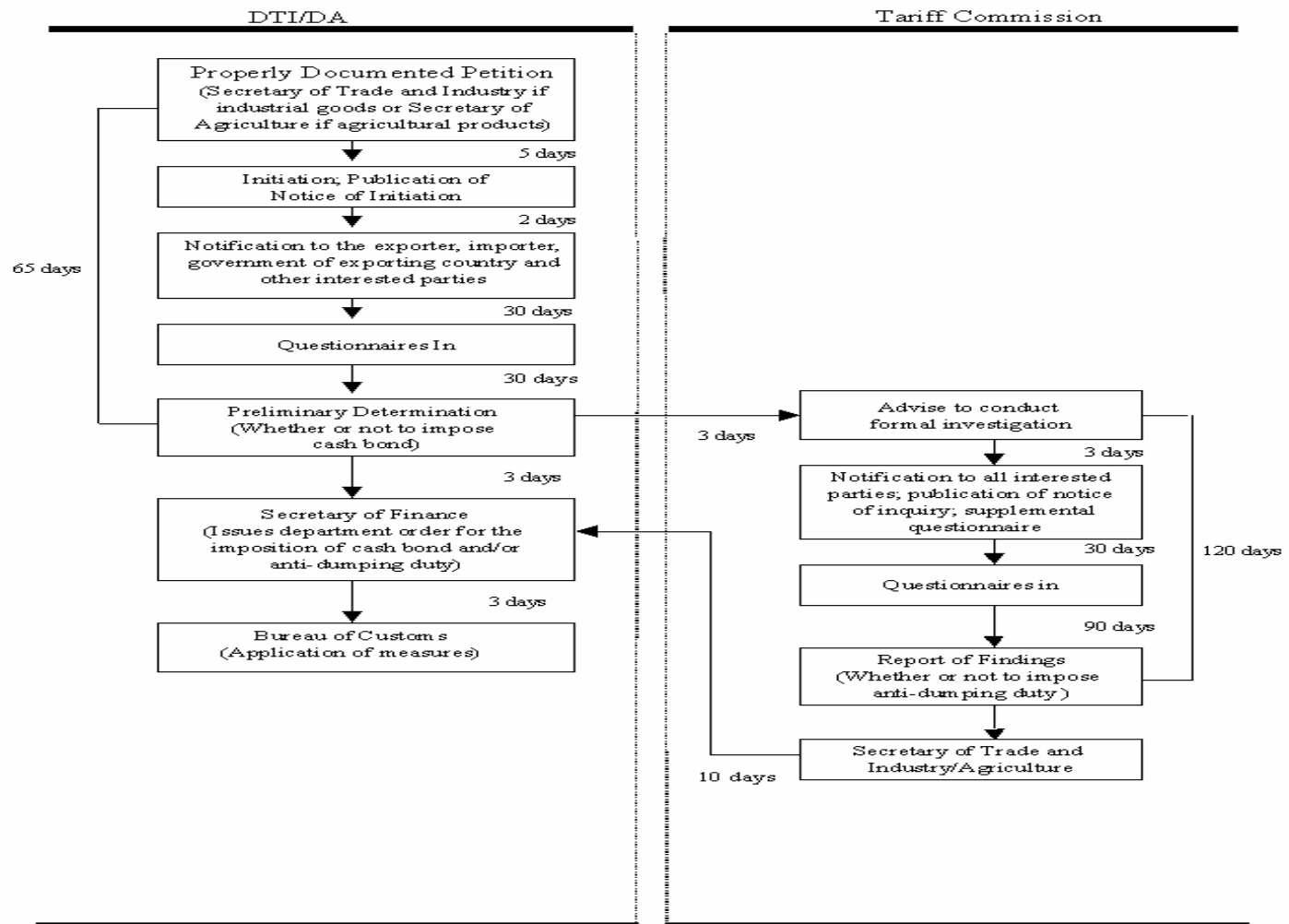
## Final Determination

- Transfer to Tariff Commission
- Notices and Formal Investigation
- Report of findings to the Secretary
- Issuance of measures
- Appeals and reviews

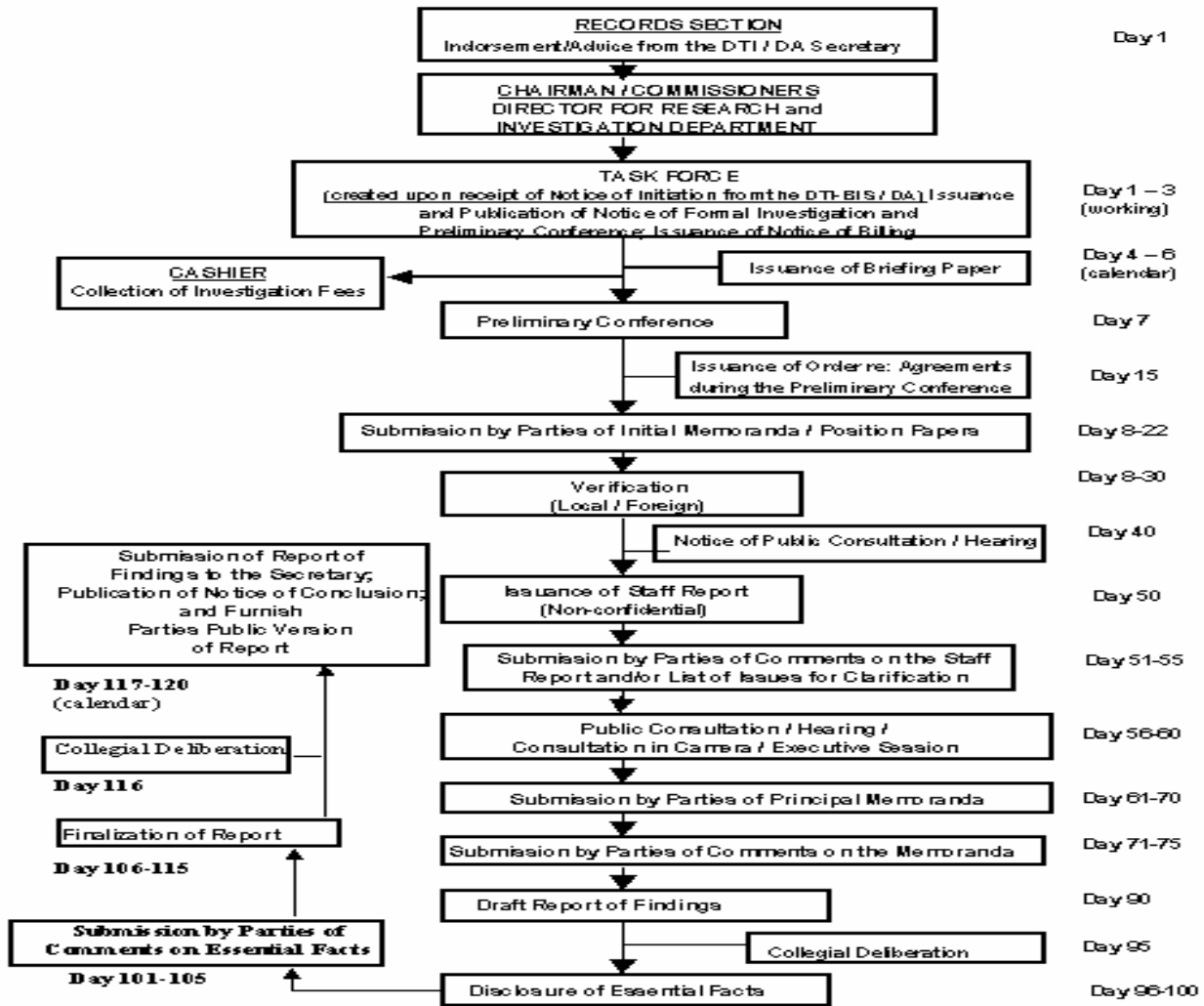
**Preliminary determinations are conducted by DTI/DA.**

**Formal Investigations are conducted by the TC then submitted to the DTI/DA for final decision.**

## FLOWCHART ON ANTI-DUMPING INVESTIGATION Republic Act No. 8752

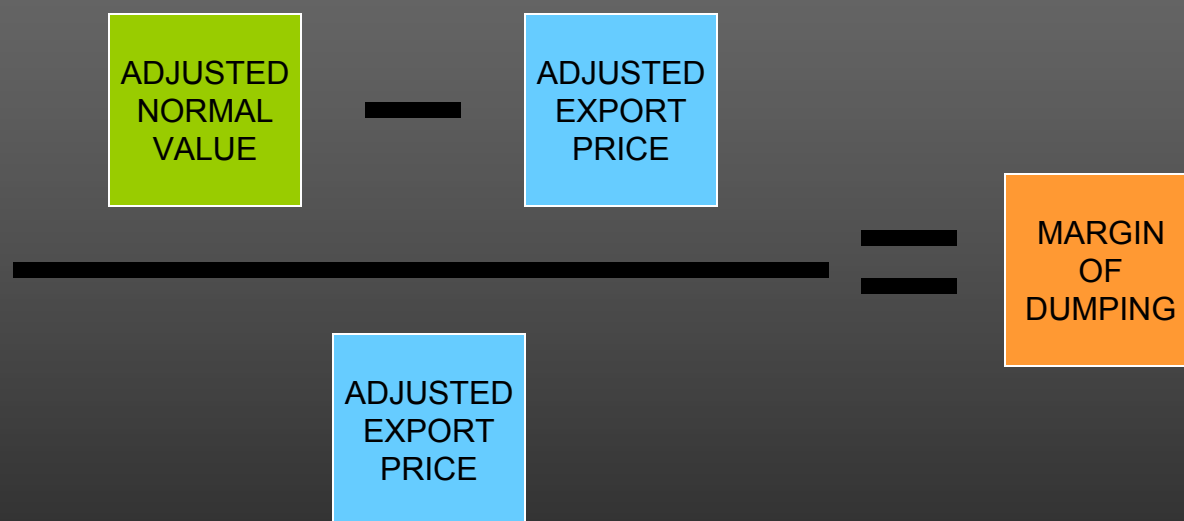


**Flowchart of Procedures of the Tariff Commission's Formal Investigation under Section 301, as amended by RA 8752 (Number of Days: 120 Days)**



# Calculating the Margin of Dumping

- In calculating the margin of dumping, the Philippines\* adheres to Section 11 of R.A. 8752\*\*



\* The Philippines is a free market economy.

\*\* The Philippines does not use zeroing methodology in the calculation of the margin of dumping.

# Judicial Review

- Any interested party, adversely affected by a final ruling in connection with the imposition of an anti-dumping duty, may file a Petition for Review with the Court of Tax Appeals.
- The filing of the petition for review shall not, in any way, stop, suspend, or hold the imposition or collection of the anti-dumping duty on the imported product, commodity or article.

# Public Interest and Anti-Circumvention

- Section 2 of the Anti-Dumping Act states that it shall be the “declared policy of the State to protect domestic enterprises against unfair foreign competition and trade practices”.
- Section 4 of the same Act provides for sanctions in cases of circumvention of anti-dumping orders, to wit:
  - (1) Government Officials
    - Dismissal from office; and
    - Sanctions provided in the Revised Penal Code and the Anti-Graft and Corrupt Practices Act.
  - (2) Importer
    - Revocation of license or charter to do business;
    - Disqualification of officers from holding official positions in corporations of other business entities in the Philippines; and
    - Imposition of a fine equal to twice the definitive anti-dumping duty.

# Philippine Anti-Dumping Investigations TCCP Sec. 301 / Prior to R.A. 7843 (1989-1994)

	Product	Country	Year Filed	Outcome
1.	Safety Matches	Indonesia	1989	Duties Imposed
2.	Dull Coated Book Paper	Singapore	1990	Amicably Settled
3.	PVC Resin	Korea	1990	Amicably Settled
4.	Galvanized Malleable Coated Fittings and Zinc Coated Fittings	China	1993	Duties Imposed
5.	Magnesite Chrome Basic Refractory Bricks	Thailand	1993	Duties Imposed
6.	Newsprint	Finland	1993	Duties Imposed
7.	PVC Resin	Korea	1993	Duties Imposed
8.	Aluminum Foils	Korea	1994	Withdrawn by protestant
9.	Bond Paper	Malaysia	1994	Dismissed: lack of evidence
10.	PVC Resin	Indonesia	1994	Dismissed: technicality, lack of evidence
11.	Terry Toweling	Hong Kong / China	1994	Duties Imposed
12.	Calcium Carbide	PROC	1994	Dismissed: no injury
13.	Carbon Black	Taiwan	1994	Dismissed
14.	Monosodium Glutamate (MSG)	Indonesia / Taiwan	1994	Dismissed: no injury
15.	PVC Floor Covering	Thailand	1995	Dismissed: no injury
16.	Fluorescent Ballast	China	1995	Dismissed: lack of evidence

# Philippine Anti-Dumping Investigations Under R.A. 7843 (1996-1999)

	Product	Country	Year Filed	Outcome
1.	Figured glass	Thailand	1996	Not investigated: lack of evidence
2.	Refractory bricks	Germany	1996	Duties Imposed
3.	Silico manganese	PROC	1997	Not investigated: lack of interest
4.	Sodium tripolyphosphate	PROC	1997	Duties imposed
5.	Tinplates	Korea	1997	Dismissed: lack of merit
6.	Prime steel wire rods	Russia	1997	Dismissed: insufficient evidence
7.	Clear float glass	Thailand	1998	Not investigated: lack of evidence
8.	Cold rolled steel coils and sheets	CIS/Ukraine	1998	Dismissed: lack of merit
9.	Cold rolled steel coils and sheets	Russia	1998	Suspended imposition: Protestant not operating
10.	Cold rolled coils and sheets (1 <sup>st</sup> case)	Taiwan	1998	Dismissed: no material injury
11.	Hot rolled coils and sheets	Russia	1998	Dismissed: no material injury
12.	Hot rolled coils and sheets	CIS/Ukraine	1999	Dismissed: negligible volume
13.	Steel billets	Ukraine	1999	Not investigated: negligible volume
14.	Steel billets	Russia	1999	Suspended imposition: Protestant not operating
15.	Polypropylene resins	Korea	1999	Dumping duty imposed but subsequently lifted
16.	Clear float glass	Malaysia	1999	Duties imposed
17.	Clear float glass	Indonesia	1999	Duties imposed
18.	Tinted float glass	Indonesia	1999	Dismissed: no material injury
19.	Cold rolled coils and sheets (2 <sup>nd</sup> case)	Taiwan	1999	Dismissed: no material injury
20.	Cold rolled coils and sheets	Malaysia	1999	Suspended imposition: Protestant not operating
21.	PVC Floor Covering	Thailand	2000	Dumping duty imposed but subsequently lifted

## Philippine Anti-Dumping Cases Initiated / Measures by Sector Under R.A. 8752 (2000-2007)

Date Initiation	Product	Petitioner	Country / Respondent	Remarks
22 Jan. 1997	Sodium Tripolyphosphate	Chemphil Albright & Wilson Corp. (CAWC)	PROC	Affirmative definitive findings. Imposition was extended for a period of 3 more years. On 28 June 2007, DTI issued an Order terminating the anti-dumping duty.
27 June 2000	Cement	CEMAP (PHILCEMCOR)	Taiwan	Petition was withdrawn by PHILCEMCOR on 30 Jan. 2001
27 July 2000	Clear Figured Glass	Asahi Glass (AGC) Flat Glass Phil. Inc.	China	Dismissed due to the failure of the petitioner to prove material injury
4 Dec. 2002	Corrugating Medium (Water-Based)	Philippine Industrial Paper Packaging Industry	Thailand	Dismissed for lack of merit
13 Jan. 2003	Sulfuric Acid-Technical Grade (TG)	LMG Chemicals Corp.	Japan	Dismissed for lack of merit

Source: Manila 2009, Bureau of Import Services-DTI

## List of Anti-Dumping Cases Filed Against the Philippines

	Product	Country Imposing the Measure	Year Filed	Outcome
1	Stainless steel butt-weld pipe fittings	United States	1999	Duties imposed in 2001, still in effect
2	3.5" micro magnetic disks	European Community	1995	Dismissed in 1996 for lack of evidence
3	Gas-fuelled, non-refillable flint lighters	European Community	1994	Duties imposed from 1997-2002
4	Portland Cement and Clinker	Taiwan	1998	Duties imposed in 2001
5	Clear float glass 3-12 mm	Australia	1992 (imposed)	Duties reviewed and adjusted several times until revoked in 2002
6	Replacement automotive lead-acid batteries	Australia	1991 (imposed)	Duties imposed

# List of Anti-Dumping WTO Cases: Philippines as Complainant

	Product	Country	Year Filed	Outcome
1	Desiccated Coconut	Brazil	1995	The report of the Panel concluded that the provisions of the agreements relied on by the claimant were inapplicable to the dispute.
2	Shrimp and Shrimp Products	United States	1995	On 25 Oct. 1996, the Philippines requested consultations with the US in respect of its complaint regarding a ban on the importation of certain shrimp and shrimp products from the Philippines imposed by the US under Section 609 of US Public Law 101-62. Violations of Articles I, II, III, VIII, XI and XIII of GATT 1994 and Article 2 of the TBT Agreement are alleged.
3	Importation of Fresh Fruit and Vegetables	Australia	2002	On 18 Oct. 2002, the Philippines requested consultations with Australia on certain measures affecting the importation into Australia of fresh fruit and vegetables, including bananas.
4	Customs and Fiscal Measures on Cigarettes from the Philippines	Thailand	2008	On 17 Nov. 2008, the DSB established a panel and Australia, the European Communities, Chinese Taipei and the United States reserved their third-party rights. Subsequently, China and India reserved their third-party rights.

# List of Anti-Dumping WTO Cases: Philippines as Respondent

	Product	Country	Year Filed	Outcome
1	Pork and Poultry	United States	1997 (request for consultations)	Mutually agreed solution to their dispute
2	Motor Vehicles	United States	2000	Panels established by DSB
3	Polypropylene Resins	Korea	2000	Consultations requested





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**THANK YOU!**