MINISTRY PAPER NO.: _____

PERFORMANCE OF THE ANTI-DUMPING AND SUBSIDIES COMMISSION FOR FINANCIAL YEAR 2006/2007 AND FOCUS FOR FINANCIAL YEAR 2007/2008

1.0 Purpose of Ministry Paper

The purpose of this Ministry Paper is to inform Parliament and the public about the performance of the Anti-dumping and Subsidies Commission for the Financial Year 2006/2007 and its strategic focus for the Financial Year 2007/2008.

2.0 Mission

- To foster fair competition and equity in Jamaica's international trading environment by vigorous and efficient enforcement of Jamaica's trade remedies legislation (Anti-dumping, Subsidies Countervail and Safeguards)
- To provide advice regarding international trade negotiating policy issues
- To promote public awareness of, and facility with, Jamaica's international trade remedies regime.

3.0 Vision

The Vision of the Anti-dumping and Subsidies Commission (ADSC) is to be the vanguard regional trade remedies body and a centre of excellence implementing Jamaica's antidumping, subsidies and safeguards legislation in a fair, transparent and expeditious manner, providing accurate information and sound advice, and conducting its work with due diligence, maintaining the highest standards of integrity.

4.0 Background

The survival of domestic industry under the pressures of globalisation and the related risks of unfair competition from illicit imports provide the Anti-dumping and Subsidies Commission with its core mandate: the investigation of unfair international trade practices and where warranted, the determination of measures to remedy these.

The Commission's mandate is derived from the Customs Duties (Dumping and Subsidies) Act of 1999 (CDDSA) and the Safeguards Act of 2001.

5.0 Role and Functions

The Commission exists to enhance the competitiveness of Jamaican businesses in the international trading environment, through its administration of the trade remedy regime which is geared toward fostering fair and competitive trade between Jamaican businesses and their international trading partners.

Specific primary functions of the Commission are:

i. **To conduct investigations of cases:** Domestic industry suffering material or serious injury or threat of injury as a result of imports, fair or unfair, into the domestic market, may apply to have a dumping, subsidy and safeguard investigation conducted by the Commission. If appropriate conditions exist, the determination of an anti-dumping or countervailing duty, or a safeguard measure, will result

ii. **To assist the development of a coherent international trade policy:** The Commission facilitates trade policy development by research and analysis, conducts such inquiries as are within its competence and offers recommendations to assist in the continuing development of trade policy. It provides advice to other arms of Government, such as the legislative drafting authority (Chief Parliamentary Counsel) and the Ministry of Foreign Affairs and Foreign Trade, to help accomplish the goals of coherence, usability and completeness in trade remedy legislation and the international trade policy regime

iii. **To promote awareness of Jamaica's international trade remedies regime:** In addition to promoting awareness of the trade remedies regime, the ADSC seeks to foster an appreciation of the context in which the regime operates. Hence in that regard the Commission encourages use of its services by developing and implementing mechanisms to educate the private sector and the general public about trade remedies, mechanisms for their use, and the roles of importers, local producers, exporters and other stakeholders under the regime

iv. **To encourage use of its facilities/services by local industry:** This is with a view to enhancing the competitiveness of domestic enterprises, both in the Jamaican market, and as exporters to foreign markets. The ADSC also strives to be available to the Government to play as expansive a role as required, as the international trading regime and the domestic economy evolve in matters such as evaluation of bound tariff changes and the defence of service industries in a manner compatible with Jamaica's World Trade Organization (WTO) obligations

6.0 Performance for Financial Year 2006/2007

6.1 Highlights

- Fifteen (15) public education seminars were hosted between September 2006, October and November 2006, and February and March 2007.

- The Commission placed emphasis on increasing its capacity to assist industry. Activities toward this end included commencement of an organisational design consultancy and a strategic retreat by the board of directors in March 2007

6.2 Legislative Analysis and Amendments

In order for trade remedy matters brought before the Commission to proceed seamlessly through all its government agency partners for collection and enforcement, completion of the pending legislative amendments is essential. The Commission planned in Financial Year 2006/2007 to:

- Complete drafting instructions for the Regulations to the CDDSA;
- Complete drafting instructions for the Safeguard Act and Regulations.

As a result of the Commission's review of the Customs Duties (Dumping and Subsidies) Act 1999 (CDDASA) and drafting instructions completed and forwarded in the prior year, a new draft Bill was deemed necessary. A Draft Customs Duties (Dumping and Subsidies) Bill 2006 was subsequently received from the Chief Parliamentary Counsel and the Commission undertook the review of the draft bill.

Completion of these activities is still pending as a direct result of the reduction of staff complement.

6.3 Case-Related Activity

No new investigations were opened over the 2006–2007 Financial Year.

Guidance was provided to industries with potential grounds for filing petitions, with a view to assisting to identify potential trade remedy cases, or to determine conclusively whether there was scope for action. This effort was pursued throughout the review year with the mounting of a sustained and extensive public education campaign. However, no completed filings were received for action by the Commission during the year.

The Commission attributes the dearth of industry filings to the following factors:

- Need for greater awareness and deeper understanding of the role of trade remedies to assist businesses;
- Lack of in-house technical expertise
- Perceived lack of local expertise
- Cost of expertise required to file and sustain a case
- Fragmentation; need for membership in proactive industry associations

The Commission responded to questions and concerns raised by representatives from domestic firms in six (6) productive sectors. Representatives from four (4) of these sectors had approached the Commission for information on previous occasions.

Services Research

An application filed with the Commission by a service provider in the previous year highlighted a potential gap in the trade remedies arsenal. The Commission undertook research into the potential for a regime for disciplines on trade in services sectors. Disciplines on services worldwide, unlike those on trade in goods, are not in place. The Commission has found that increasingly, it is faced with queries about the potential for defence of services industries by instruments such as contingent trade remedy disciplines in the goods arena. This research is ongoing.

Case Administration Systems

The ADSC continued to pursue a solution for improving the systems for case administration. Discussions continued with STATIN and Fiscal Services - which house data on which the Commission relies in conducting investigations and analyses - with a view to increasing cooperation between these entities and the Commission, toward more efficient data-gathering by the Commission. The possibility of legislative amendment(s) to permit the Commission online access to the data of these agencies, such as has been afforded the Trade Board Limited, continued to be explored.

Staff and Commissioner Development

In September 2006, under a technical assistance grant from the Inter-American Development Bank (IDB) pursuant to the Free Trade Area of the Americas (FTAA) Hemispheric Cooperation Programme (HCP), refresher training was facilitated for the commissioners in their capacity as adjudicators in the investigation process. Investigative staff and consultants also attended the training. In addition, as part of this training exercise, a session was hosted to include other Government officers from agencies which must facilitate the work of the Commission, such as Customs and the Ministry of Foreign Affairs and Foreign Trade.

6.4 Capacity Building and Seminars

Public Education

The Commission continued to pursue the development of its public education programme as knowledge of the trade remedy regime, its usefulness and how to avoid its potentially deleterious effects on Jamaican businesses is critical. This thrust, along with supporting trade policy activity, including negotiations, is a major area of concentration when there are no open cases.

PSDP- Funded Projects – 2006/-2007

On January 24, 2006 the Commission signed two (2) contracts with the Private Sector Development Programme (PSDP) to complete two (2) projects which ran to the end of the Financial Year under review. Funding was provided by the Government of Jamaica and the European Union (EU), with the Commission bearing twenty five percent (25%) of the eligible costs under the projects

One project was for capacity building support for the Commission. It included provision for Phase I of an organisational design consultancy for assessment of the Commission's processes and preliminary assessment of its structures for delivery of services, together with related recommendations.

The other project was for consortia business development services which permitted the Commission to host seminars to help improve the competitiveness of its micro, small and medium-sized enterprise clients. Between October 2006 and March 2007, the Commission succeeded in producing fifteen (15) seminars across the island under this project.

The first set of seminars was held in four (4) locations to cover as large a segment of the island's business population as possible and represented the most ambitious industry and public training enterprise in the history of the Commission. The three-day seminars styled "The Nuts and Bolts of Trade Remedies" were presented in Mandeville, Port Antonio, Montego Bay and Kingston. Those held outside the corporate Area proved particularly useful for persons from surrounding communities.

In February 2007, a special media luncheon seminar entitled "Another Look at the Anti-dumping and Subsidies Commission" was held to inform news media personnel about the Commission's mandate. In March 2007, two (2) one-day seminars were held targeting manufacturing industries which the Commission believed might benefit from a filing with the Commission.

Trade Gateway Newsletter: Two issues of the newsletter, Trade Gateway, were published. The first was in April 2006, highlighting matters related to the CARICOM

Single Market, and the second, containing a contribution from the Minister of Foreign Affairs and Foreign Trade, was published December 2006.

Other Publications: Review of the Commission's training materials was undertaken in preparation for seminars and for general distribution. The review sought to improve content and presentation, and thus increase their effectiveness.

Trade Policy Support

Research, Analysis, Papers and Meeting Participation

The Commission sought to carry out research and analysis, produce papers and provide comments on issues related to international trade, assisting Jamaica's participation in framing policy at the WTO Negotiating Group on Rules as well as in the European Partnership Agreement negotiation which proceeded apace during the review year.

Addressing Constraints.

A limitation which the Commission recognizes is that industry continues to experience difficulty in using its services. The challenge faced by industry in filing complaints that result in the initiation of cases continue to be evident. In particular, industries with small, under-resourced stakeholders lacking the financial ability to hire expertise to assist in the preparation of submissions have been unable to file with the Commission. There is also a lack of capacity in such industries, to perform the data compilation required to file successful applications for trade remedies.

The Commission provides explanations to industry about the process for filing submissions. However, it is constrained in its ability to provide assistance beyond the point at which there may be or appear to be conflict with the personnel carrying out investigative duties. The Commission had previously begun to design and implement a model by which assistance could be given to industries by persons external to it, at costs substantially lower than can be accomplished otherwise. The Commission continues to seek a workable resolution to this challenge.

7.0 Focus for Financial Year 2007/2008

7.1 Legislation

Customs Duties (Dumping and Subsidies) Bill: The Commission is working on the completion if its current review and will also review successive drafts or amendments to the bill. The ADSC will continue to observe closely, developments at the WTO as well as in Jamaica's other trading arrangements, including the CSM and EU EPA negotiations and participate in the process of legislative amendment

that is needed for having Jamaica's trade remedy legislative framework conform to its international obligations.

The Commission expects to complete its current written review of the most recent draft bill for the CDDASA in June 2007 and of the regulations in the next (second) quarter, and will continue to provide support to facilitate passage of the bill in the third quarter of the Financial Year 2007/2008.

7.2 Cases

The Commission remains capable, as it has been for some time now, to handle as many as four (4) new cases simultaneously if filed in Financial Year 2007/2008.

7.3 Trade Negotiation and Policy Support

The Commission will continue to submit its comments to the WTO Negotiating Group on Rules and pursue avenues for funding to permit full participation in the Rules Negotiations held in Geneva, Switzerland.

Services Study: As a result of the changing characteristics of the economy, with greater emphasis on services, the Commission will continue to identify and examine potential mechanisms, if any, for defence of the relevant service industries, analogous to trade remedies in the case of goods and will accordingly, tender recommendations to the portfolio Minister.

8.0 Budgetary Allocation

Approved Budget from Consolidated Fund; The approved budget for Financial Year 2006/2007 was $31.3 M, which was supplemented for adjustments to salaries up to an available amount of $40 M.

Supplemental Funding – Grant-Funded Projects: The Commission's budgetary allocation in Financial Year 2006/2007 was supplemented by grant funding from the Private Sector Development Programme (PSDP), a project jointly supported by the Government of Jamaica and the European Union.

Budget – Financial Year 2007/2008

The budget for Financial Year 2007/2008 is $36.3 M.

ANTI-DUMPING AND SUBSIDIES COMMISSION BUDGET (FROM CONSOLIDATED FUND)	
Financial Year	**Budget (Million)**
2005-2006	$26.25
2006 – 2007	$31.30
2007 – 2008	**$36.30**

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Phillip Paulwell
Minister
Ministry of Industry, Technology, Energy and Commerce
May 30, 2007

Appendix

Cases Concluded by The Commission To Date

To date, the Commission has concluded five (5) trade remedy investigations, four (4) of which addressed allegations of dumping. In all cases, the Commission found that anti-dumping duties were warranted. Three (3) of the matters concerned the dumping of cement from Thailand, Indonesia and China, respectively. The other dumping matter concerned fertiliser from the Dominican Republic. The fifth case concluded was a Safeguard matter. In this matter, it was found that imports of cement from a number of countries had increased significantly and caused injury to the domestic cement producer. The recommendation in that case was for the imposition of a safeguard duty. A safeguard duty was not imposed, as the international burdens occasioned by such a measure could be avoided and a comparable level of coverage for the domestic industry could be reached by increasing the level of the applied tariff rate in line with the amount recommended as a safeguard duty.

Anti-dumping Final Determinations reached by Jamaica since the inception of the Commission

Country/Customs Territory	Product	Date of Final Determination	Duty (%)
China, People's Republic	Ordinary Portland Grey Cement	20 July 2004	89.79
Dominica Republic	Inorganic Fertiliser	4 May 2002	15.61
Indonesia	Ordinary Portland Grey Cement	2 July 2002	9.98
Thailand	Ordinary Portland Grey Cement	11 June 2001	87.91