
Legal defense against unfair trade practices: Dumping and Subsidies

In brief

The opening of Mexico's economy has been accompanied by diverse market adjustments, including those derived from the increased importation of goods; certain increases in imports have resulted from unfair trade practices, the most common of which are dumping and subsidization.

Recently, national production of steel, sugar and apples has been affected by compensatory measures designed to counteract unfair trade practices.

PwC specialists have used their expertise in this area to assist Mexican producers who have been affected by such unfair practices.

In detail

Unfair trade practices, including dumping and subsidization, are prohibited in Mexico not only by Foreign Trade Law but also by a number of World Trade Organization agreements. Such laws provide for countervailing duties as a means to remediate unfair trade practices.

Price discrimination, also known as dumping, consists of: (1) an injury to, the threat of an injury to, or a delay in the establishment of domestic production of, (2) identical or similar merchandise (3) caused by the importation of merchandise (4) whose declared customs value is lower than its normal value.

Countervailing duties are non-tariff regulations imposed by the State to eliminate negative effects produced by unfair trade practices. In dumping cases, the countervailing duties typically are equal to the difference between the normal value of the merchandise and its declared customs value.

Subsidies are financial contributions or benefits granted by a government to support prices within a particular industry or area of its national production. There are three types of subsidies:

- **Prohibited subsidies:** Specific subsidies conditioned on the producer exporting its product or utilizing domestic inputs are not allowed under any circumstances.
- **Non-actionable subsidies:** Subsidies which are not specific – or which if specific, are intended for research or environmental purposes or to assist developing countries – are allowed without penalty.
- **Actionable subsidies:** Subsidies which cause an injury to, the threat of an injury to, or a delay in the establishment of domestic production of, identical or similar merchandise, are actionable.

A countervailing duty may be imposed in an amount up to the amount of the benefit granted by the subsidy.

As dumping and subsidization constitute unfair trade practices and are prohibited by both Mexican and international laws, affected persons may initiate legal proceedings to determine the existence of such practices and of any compensatory measures available.

PwC's specialty areas in Foreign Trade and Tax Controversy & Regulatory Processes have joined forces to provide an improved legal defense to taxpayers affected by unfair trade practices. Our experts have broad knowledge in this area and a high success rate.

Let's talk

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