

The Kenya Trade Remedies Agency (KETRA) has been established by the Section 3(1) of the [Kenya Trade Remedies Act \(2017\)](#), entered into force on 16th August 2017, with the purposes of investigating and evaluating allegations of dumping and subsidisation of imported products in Kenya; investigating and evaluating requests for application of safeguard measures on any product imported in Kenya and advising the Cabinet Secretary responsible for Trade on the results and recommendations of its investigations. Other functions of KETRA include the conduct of public awareness and training activities on its functions and on trade remedies to the benefit of stakeholders, as well as the publication and dissemination of manuals, codes, guidelines, and decisions relating to its functions. KETRA will also perform other specific functions that the Cabinet Secretary in charge of Trade may assign to it. The new government agency will start soon its operations, as the [Kenyan Ministry of Industry, Trade and Cooperatives](#) is finalising the procedure for the appointment of the members of its Board.

Trade remedies are defense instruments that allow governments to take remedial action against imports causing a material injury to local producers because of alleged price dumping, foreign subsidies or because of abnormal increases in import volumes able to cause a serious injury to (i.e. a significant overall impairment in the position of) certain categories of producers in the importing country. They are adopted following the completion of a detailed investigative process (that on average takes about one year), where all relevant economic factors having a negative impact on the domestic industry are evaluated. Investigations include reasonable public notice to all interested parties and public hearings or other appropriate means in which importers, exporters and other interested parties can present evidence and their views.

Trade remedies are divided broadly into anti-dumping, countervailing, and safeguard measures:

- **anti-dumping measures** target dumped exports, i.e. products exported by a foreign company at a price lower than the one which it normally charged on its own home market. They usually consist in the application of an **anti-dumping duty** (an alternative solution is a "

**price undertaking**

", an engagement where the exporter agrees to export the product under investigation above a certain price limit, that is, at non-dumped or non-subsidised prices. When the export prices are above this price limit, the company's products are exempt from duties that would otherwise be charged when they are imported in the concerned country);

- **anti-subsidy measures**, that target subsidised exports, i.e. products exported by an enterprise, industry or group of enterprises or industries who have benefited from financial contribution by the government or any public body in the exporting country, which has caused adverse effects to the interests of the importing country (which implies the need to prove the existence of a causal link between the subsidised export and the alleged injury in the importing country). They usually culminate in the application of a **countervailing duty** (also in this case, a “price undertaking” can be adopted as an alternative solution);

- **safeguard measures**, targeting sudden increases in imports. Differently from anti-dumping and anti-subsidy measures, which are imposed only with regard to the country (or the countries) from which the allegedly dumped/subsidised products originate, or even with regard to the specific company/companies who committed the dumping, safeguard measures are applied to the products causing or threatening to cause serious injury to the domestic industry, irrespective of where they originate.

The detailed procedures for investigations and the rules for the application of trade remedies are contained in the Article VI GATT, the [Agreement on Implementation of Article VI GATT](#), the [Agreement on Subsidies and Countervailing Measures](#)

(for dumping and subsidised exports) and the [Agreement on Safeguards](#)

(for safeguard measures). Such rules are mainly aimed to guarantee that investigations are commenced based on sufficient evidence, and that trade remedies remain in force only as long as and to the extent necessary to counteract actions that are causing injury to the domestic industry (which means that trade remedies cannot be retained after the conditions for their levy have been eliminated). All the countries in the world who are members of the WTO have incorporated such rules in their domestic legislation (in the case of the EU, for instance, the basic antidumping regulation is contained in the [Regulation \(EU\) 2016/1036](#)

of the European Parliament and of the Council of 8 June 2016 on protection against dumped imports from countries not members of the European Union).

The Kenya Trade Remedies Act (2017), in particular, gives the Cabinet Secretary in charge of Trade the power to impose anti-dumping and countervailing duties, while the imposition of safeguard measures relies on the Cabinet Secretary in charge of Finance (Sec. 23(2)), on request of the Cabinet Secretary in charge of Trade. The procedure for investigation and evaluation of alleged dumping or subsidised exports in Kenya is described in detail in the Second Schedule annexed to the Act.