



HOW TO MAKE AN ANTI-DUMPING COMPLAINT

A GUIDE



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I. INTRODUCTION

1. This Guide aims to:
 - provide guidance on how to draft an anti-dumping complaint
 - show what information the European Commission ("the Commission") usually needs to decide whether it can open a formal investigation into allegedly dumped imports which are causing injury to an EU industry.
2. EU legislation implementing the internationally agreed provisions for dealing with dumped imports is set out in Council Regulation (EC) No 2016/1036¹ ("the Basic Regulation").
3. This Guide will:
 - take you step by step through the contents of a complaint
 - clarify questions that usually arise when drafting a complaint
 - provide a structured format to make it easier to prepare a complaint.

Disclaimer

This Guide is not a legally binding document. Its contents are not compulsory.

The information provided by complainants may vary depending on the specific circumstances of the case. This Guide is meant only to provide general advice. There may be circumstances where another approach may be reasonable due to the particular nature of the case. It also follows that no conclusions can be drawn from this Guide on what constitutes standards of acceptability in anti-dumping complaints. Equally, using this Guide does not imply the automatic acceptance of the complaint: Each case is analysed on its own merits.

4. As this guide is intended to help complainants, the Commission welcomes comments on how to improve it. The Commission is at your disposal to answer any queries you may have regarding the lodging of an anti-dumping complaint.

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5. To lodge a complaint to the Complaints Office, please follow the guidelines in Annex 1 of this Guide. The Commission will analyse the complaint and decide whether it contains sufficient evidence that the injury suffered by the EU industry is caused by the dumped imports. If deemed

¹ Published in OJ L 176, 30.6.2016, p. 21.
<http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32016R1036&from=EN>

acceptable, an investigation concerning the alleged dumped imports will be initiated 45 days after the day of lodging of the complaint. The complaint is considered as being lodged on the first working day following the day on which it has been received by the Commission, provided it contains **both** the confidential version and the version open for inspection by interested parties (see Annex 4 of this Guide).

6. The complaint must be signed by the persons who legally represent the companies lodging the complaint, for example the managing directors of the companies lodging the complaint. If a natural or legal person represents the complainants (for example a lawyer or an association), a relevant Power of Attorney is required (see also paragraph 24).

<p><i>Complainant(s) = EU producer(s) lodging an anti-dumping complaint</i></p>

7. Any investigation initiated following the assessment of a duly substantiated complaint requires co-operation by the EU industry including the completion of questionnaires, and visits by Commission officials to the premises of the companies.

II. GENERAL COMMENTS

A. Documentation

8. A complaint must be thoroughly documented and duly substantiated. The complainants must provide the best information available to them, supported by sufficient documentary evidence.
 9. The allegations in the complaint must be supported by sufficient evidence or solid arguments as are reasonably available to the complainant. When assessing the reliability and sufficiency of the information submitted in the complaint, the Commission will take into account all circumstances of the case, such as:
 - product concerned
 - countries involved
 - structure of the EU industry
 - availability of information.
 10. Please show explicitly all calculations and all sources for the data used². Note the period to which the data refers and explain the methodology used.
 11. As a general rule, all information or data contained in the complaint must be copyright free. If you want to use a report, study, market survey, press article etc. covered by a copyright, you should seek the agreement of the copyright holder (for more details, see Annex 4 of this Guide).
 12. In order to be transparent, the Commission will publish an executive summary of the complaint if an investigation will be opened. Therefore, when lodging a complaint, please include an executive summary of the complaint containing the following:
 - Detailed information about the product concerned, including (where applicable) production processes and uses;
 - Summary of the case;
 - List of known parties to the investigation (without contact details).
- When the investigation is opened, the executive summary will be published on the website of the Commission's Directorate-General for Trade.
13. The body of the complaint should only contain figures and tables that are absolutely necessary. More detailed figures and tables must be provided in annexes, but must be referred to in the body of the complaints.
 14. All data and evidence concerning the allegation of dumping (for definitions and more details, see section "DUMPING") must only refer to the export country in question. Data and evidence to support the allegations related to injury (see section "INJURY") must only relate to the European Union (EU)³.
 15. When converting value figures to EURO⁴, please show the exchange rates used and the period to which they apply.

B. Confidentiality

16. If you wish to treat any part of the complaint as confidential, please request this explicitly and
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² If the complaint includes hyperlinks, please include the relevant internet page and the date of access.

³ EU: Austria, Belgium, Bulgaria, Croatia, Denmark, Finland, France, Germany, Greece, Ireland, Italy, Luxembourg, the Netherlands, Portugal, Spain, Sweden, United Kingdom, Cyprus, Czech Republic, Estonia, Hungary, Latvia, Lithuania, Malta, Poland, Romania, Slovakia, Slovenia.

⁴ The exchange rates of some currencies to the EURO can be found at the following internet address: <http://www.ecb.int/stats/eurofxref/>

give reasons for the request⁵. Without a request for confidential treatment and a proper justification, no confidential treatment can be granted.

17. Should any part of the complaint be treated as confidential, please provide a meaningful non-limited version of the complaint. Please be aware that if you fail to provide such a meaningful non-limited version for interested parties, the Commission services may disregard the information provided in confidence⁶.
18. The version “open for inspection by interested parties” (the “non-confidential” version) of the complaint will become part of the open file, and can be consulted by interested parties, after the opening of an investigation.
19. The Commission strictly respects the confidentiality requirements. The complaint or any documents which contain confidential information must be labelled “**Limited**”. Accordingly, the non-confidential version of the complaint or any other documents which do not contain confidential information must be labelled “**Open for inspection by interested parties**”.
20. You may redact or summarise data which contain business secrets in the non-confidential version, but trends and levels need to be clear. The redaction or summary of data must be justified, so please explain why such data is to be considered confidential. For further information on how to prepare the non-confidential version, see Annex 4.
21. As explained in paragraph 5, the complaint must be lodged with both versions of the complaint, the confidential (“limited”) and non-confidential (“open for inspection by interested parties”).
22. Individual complainants may send information that cannot be integrated into the complaint due to its confidentiality directly to the Commission.

⁵ For more details on confidentiality, see Article 19 of the Basic Regulation

⁶ See Article 19(3) of the Basic Regulation

III. HOW TO FILE AN ANTI-DUMPING COMPLAINT

23. An anti-dumping complaint must include the following⁷:

(1) General information:

- the identity of the complainant
- the allegedly dumped product
- the country/ies of origin
- other known parties concerned.

(2) evidence that suggests dumping (see section “DUMPING”)

(3) evidence that suggests injury to the Union industry (see section “INJURY”)

(4) evidence that suggests a causal link between the alleged dumping and injury (see section “CAUSALITY”)

See Annex 2 for an example of a table of contents of a complaint.

(1) General Information

A. Actors in the EU

The complainants

24. The EU industry making a complaint may choose as its representative:

- any natural or legal person
- an association not having legal personality
- an association created to represent individual companies for the purpose of making the complaint.

The representative will collate the necessary information and present it to the Commission. The representative must show that he/she is duly authorised to act on behalf of the industry (see also paragraph 6). Although a European association may be best placed to lodge a case, individual companies may also lodge a case directly with the Commission.

25. Each EU producer that is a complainant or on whose behalf the complaint was lodged (the 'complainant') must provide:

- name
- address
- telephone number
- email address
- the name of a contact person.

This information must be included in an annex and provided in an electronic version, preferably in the form of an electronic spreadsheet such as Microsoft Excel.

26. The complainant must provide the production volume of the product concerned, per individual complainant if applicable, for the most recent one-year period before the lodging of the complaint, that is:

- the last calendar year,
- the last financial year or

⁷ See Article 5(2) of the Basic Regulation

- any other 12 month period,

provided that this period ends no later than 6 months before the date of lodging of the complaint.

Data should not be older than 6 months

27. The complaint must indicate whether the complainants are related to companies manufacturing and/or selling the product concerned in the country/ies concerned by the complaint. If so, the complaint must include information on this relationship and on the companies in question.
28. The complaint must also indicate whether the complainants have purchased the product concerned from other EU producers, from the country/ies concerned by the complaint or from other third countries. The complaint must explain the reason for these purchases and specify the volumes involved and prices.

Other EU producers

29. The complaint must include a list of all known other producers in the EU with:
 - contact details
 - name
 - address
 - telephone
 - email address
 - contact person (if possible).

This information must be included in an annex and provided in an electronic version, preferably in the form of an electronic spreadsheet such as Microsoft Excel.

30. The complaint must include an estimate of the production volume of all known other EU producers for the most recent one-year period before the lodging of the complaint (same period as for the complainants, see paragraph 26). Please also explain the basis for such estimate.
31. The complaint must include this information for all other known EU producers, irrespective of whether or not they support the complaint.

Associations of producers

32. The complaint must include, where relevant, a list of all known associations of producers, at EU and national level with:
 - contact details
 - name
 - address
 - telephone number
 - email address
 - contact person (if possible).

This information must be included in an annex and provided in an electronic version, preferably in the form of an electronic spreadsheet such as Microsoft Excel.

Representativeness of the complainants

33. The complainants must act on behalf of a major proportion of the EU industry. This means in practice that the complainants must represent at least 25% of the total EU production of the product concerned (that is the production physically located in the EU).
34. Please note that the Commission may exclude the production of EU producers who are related to exporters or importers, and the production of EU producers who import the product concerned

from the country/ies allegedly dumping.

35. EU Producers that are not joining the complainants may, however, wish to express their support of the complaint.
36. The complaint may include comments on known EU producers which do not support the complaint, describing, where possible, the reasons why they do not support the complaint.
37. Before the opening of an investigation, the Commission examines whether the supporters represent at least 25% of total EU production, based on the production physically located in the EU, and whether the level of support of the complaint is higher than the level of opposition.
38. To examine the representativeness of the complainant, the Commission will send letters to all known EU producers before opening an investigation. Annex 7 contains an example of such a letter.

Regional cases

39. A special case occurs when there is such a large degree of market isolation in one region of the EU that the producers within the region can be considered as the injured industry. A 'region' can be a country, a part of a country, or several countries together. If exports are concentrated in the region, there may be grounds for a regional anti-dumping case.
40. The conditions for lodging a regional anti-dumping complaint are as follows:
 - (1) The producers of the product concerned sell all or almost all (generally more than 80 %) of their production in that region,
 - (2) the demand in that region is not mainly covered by supplies of producers located elsewhere in the EU (generally less than 20 %),
 - (3) there is a concentration of dumped imports of the product concerned into that region (generally more than 80 %) and
 - (4) these dumped imports cause injury to all or almost all the producers in the region (generally more than 80 %)
41. For further information on regional cases, see Article 4(1)(b) of the Basic Regulation.

B. Product concerned by the complaint

42. The complaint must contain a description of the imported product to be covered by the anti-dumping investigation. The complaint must provide a thorough description, which clarifies any possible misunderstandings concerning the definition of the product.

*product concerned = product which is being imported
into the EU at allegedly dumped prices*

43. This part of the complaint addressing the product concerned is crucial in various respects:
 - for the **complaint**, because all data provided and analysed in the complaint (such as dumping and injury) will only concern the product concerned;
 - for the **investigation**, because it will only cover the product defined in the complaint and
 - for the **anti-dumping measures**, which will only apply to the product concerned.
44. **Short description** – The complaint must include a concise definition of the product concerned, that is the product to be investigated. This may (or may not) be the definition stated in the

relevant Combined Nomenclature ('CN') Code/s⁸.

Please bear in mind that the national Customs Authorities must be able to identify whether an imported product falls under the product description, if and when an investigation results in the imposition of anti-dumping measures, but also from the moment of an investigation is opened.

This means that the definition of the product must be based on its basic physical, technical and chemical characteristics so that it is identifiable at the moment of customs clearance.

Other factors, like use or production processes, should not be used for the product definition unless these factors are linked to its physical, technical and chemical characteristics.

45. **Full description** – The complaint must also include a full description of the product, which must contain:

- Tariff classification of the product concerned (the CN codes under which that product is imported into the EU)⁹
- a summary of the production process, noting if different production processes co-exist in the EU and/or the countries concerned
- the basic physical, technical and chemical characteristics, and other properties of the product concerned
- the uses of the product and its market. Describe the segment of the market the product belongs to and other relevant issues. For example:
 - is quality or price the decisive marketing factor?
 - is the market highly cyclical?
 - what is the price-elasticity of demand?
 - what is the consumer's perception of the product?
 - does the product need to be approved by customers/agencies before being sold?
 - is the product sold on-the-spot or are sales based on contracts?
 - What are the sales channels (how is the product sold)?

46. If there are different types or varieties of the product concerned, clearly explain:

- which main types or varieties are to be included in the scope of the product definition
- why
- whether the different types or varieties can be treated as a single product and be covered by the same investigation.

In assessing the product scope, the Commission may need to address the basic physical, technical and chemical characteristics of the product concerned and their interchangeability for industrial applications/consumers.

47. The complaint must include details of any anti-dumping/anti-subsidy/safeguard measures or on-going investigations involving the same or a similar product in other third countries.

Customs duties and other trade measures

48. The complaint must list the customs duties payable for the product from the country/ies

⁸ A product description should normally be one "block" going from the general to the specific, with possible exclusions, and should end with the list of CN codes. For example, (i) the product concerned is certain; (ii) the product concerned does not include ...; (iii) the product concerned is currently falling CN codes....

⁹ If the product in question does not cover a full CN code, please note this by inserting the prefix "ex" before the code. General guidance on classification issues can be found on web page http://ec.europa.eu/taxation_customs/customs/customs_duties/tariff_aspects/index_en.htm or contact your competent customs authorities.

concerned when imported into the EU, as well as any other known tariff regimes applicable to the imports of the product into the EU. This can be quotas, tariff quotas, or – if the product is exported from a developing country – the EU’s General Scheme of Preferences. If you are aware of recent changes in any of these, please specify so¹⁰.

49. Please also list the customs duties payable for the product originating in the EU when imported into the non-EU country/ies concerned by the complaint.

Conclusion concerning the product

50. The complaint must contain a clear statement that the product concerned can be compared with and competes with the product produced and sold in the EU by the EU industry (“like product”). Expressed in technical terms, the imported goods and the EU goods must be “like” products.

like product = product produced in the EU and which is compared to the product concerned

C. Country/ies concerned and exporters

51. An anti-dumping complaint concerns imports of products made in one or more countries¹¹ outside the EU. For each non-EU country, the complaint must include a list of all known producers/exporters of the product concerned, with contact details:

- name
- address
- telephone number
- email address
- contact person (if available).

This information must be included in an annex and provided in an electronic version, preferably in the form of an electronic spreadsheet such as Microsoft Excel. Please provide the same information, if available, for known associations of producers/exporters in the country/ies concerned.

D. Importers in the EU

52. The complaint must include a list of all known importers of the product into the EU, with contact details:

- name
- address
- telephone number
- email address
- contact person (if available).

This information must be included in an annex and provided in an electronic version, preferably in the form of an electronic spreadsheet such as Microsoft Excel. Please provide the same information, if available, for all known associations of importers.

¹⁰ Information can be retrieved from web page http://ec.europa.eu/taxation_customs/dds2/taric/taric_consultation.jsp?Lang=en or contact your national customs authorities.

¹¹ If you would like to lodge a complaint regarding a product and country which was recently investigated and subject to a negative finding, please contact the Commission services for further information.

E. Suppliers, users and consumers in the Union

53. The complaint must include a list of suppliers of EU producers, EU users of the product concerned and consumer associations (where known), with contact details:

- name
- address
- telephone number
- email address
- contact person (if available).

This information must be included in an annex and provided in an electronic version, preferably in the form of an electronic spreadsheet such as Microsoft Excel.

(2) DUMPING

A. Principles

54. Low prices do not necessarily mean that imports are dumped. Rather, the basic definition of dumping is to sell a product in an export market at less than its normal value.

Export price = ex-factory price of goods destined for export

Normal value = value of the product sold on the exporter's domestic market for domestic consumption

Dumping = export price is lower than the normal value

55. The complaint must contain the evidence needed to compare the product's export price and its normal value.

The evidence provided to support the dumping calculation should be spread over a period of 12 months ending no later than 6 months before the date on which the complaint is lodged. This applies to:

- the normal value (see section C)
- the export price (section D)
- any possible adjustment
- the price comparison (section E).

B. Product types

56. In some cases the product concerned is homogeneous and no different forms or types can be identified which significantly affect prices. In these cases, one dumping calculation will be sufficient to reach a conclusion on dumping for the whole product concerned.

57. In other cases, the product concerned is imported into the EU in different forms or types at significantly different prices. Averages can distort price comparability between normal value and export price so different dumping calculations may have to be provided for different types of product imported into the EU. It may then be necessary to choose one or more representative product types so that the conclusion on dumping is reasonable for the product concerned. This can be done, for example, by showing that imports into the EU of the representative types chosen cover a substantial volume of total imports into the EU from the country concerned. If the complaint targets more than one country, then each country concerned may have one or more different representative type(s).

58. Normal value and export price will be compared for every representative product type, resulting in different dumping calculations, which will then be averaged.

C. Normal value

59. The normal value will preferably be based on sales prices on the domestic market of the exporter or alternatively, be constructed (sum of cost of production and a reasonable profit). Special provisions apply for products originating in countries subject to significant distortions affecting free market forces (see below from point 66).
60. In most cases the normal value will be the price charged for the product concerned on the exporter's domestic market. This price must be linked to a domestic transaction intended for domestic consumption, with an independent buyer.
61. Prices should be net ex-factory (incoterm "EXW"¹²) and exclude all internal taxes, such as VAT. If such price is not available (for instance, if incoterms "CIF" and "FOB" apply), the available prices will have to be adjusted to bring them to a net ex-factory level.
62. Prices and potential adjustments must be supported by sufficient documentary evidence, such as invoices, offers, price lists, etc.

An example is given below¹³:

¹² The Incoterms rules or International Commercial Terms are a series of pre-defined commercial terms published by the International Chamber of Commerce (ICC). They are widely used in international commercial transactions or procurement processes. A series of three-letter trade terms related to common contractual sales practices, the Incoterms rules are intended primarily to clearly communicate the tasks, costs, and risks associated with the transportation and delivery of goods. Further details can be found, amongst others, on the webpage of the International Chamber of Commerce <http://www.iccwbo.org> and on the webpages of the competent customs authorities in your country.

¹³ If, because the product is not homogeneous, the analysis is based on a number of representative product types, this will result in different normal values which will be compared individually with the corresponding export prices.

Figure 1. Normal value = Domestic sales price

Example:

The complainants obtained evidence of a retail price of the product in the domestic market of the exporting country (139.15 Units of the currency of the exporting country). From this retail price, an estimate of the net ex-factory price is obtained by deducting the relevant items, which may be, for example, as follows: VAT (10%), retailer's margin (10%), wholesaler's margin and transport and insurance (15%).

Product concerned, type

Retail price	<i>Currency Exporting Country</i>	139.15
minus Value Added Tax = 10%. (Calculation: 139.15/1.10)		
⇒Net sales price		126.5
minus Retailer's margin = 10%. (Calculation: 126.5/1.10)		
⇒Wholesale price		115
minus Wholesaler's margin and transport and insurance = 15% (Calculation: 115/1.15)		
⇒Ex-factory price		100

Exchange rate: 2 Currency Units of Exporting Country = 1 EURO

Normal value EURO 50

Retail price obtained from _____ shown in annex ____.

Margins, transport and insurance costs were obtained from the market survey by _____ (or were estimated based on ...). See annex ____ for a copy of the relevant pages.

Exchange rate is _____. See annex ____ for details.

63. If prices on the exporter's domestic market are either unavailable or unreliable (namely sales are based on transactions between related parties, or made at a loss or they are insignificant)¹⁴, you may use the constructed normal value of the product based on production costs in the country of origin plus selling, general and administrative expenses ('SGA') and profit.

The complaint must indicate the cost structure and explain how costs are calculated: materials (identify the major raw materials used), direct labour; overheads, SGA, excluding transport costs; and reasonable profit margin in the country of origin, as shown below in figure 2.

64. Please also state clearly the sources for every element and include all the relevant evidence in the annexes (see Annex 2), clearly indicating their date. An example is given below in figure 2¹⁵:

¹⁴ Sales on the domestic market are deemed to be insignificant if they do not reach 5% of the country's exports to the EU.

¹⁵ Idem footnote 13

Figure 2. Constructed normal value

Constructed normal value in <i>Exporting Country</i>		
<i>Product concerned, type</i>		
Manufacturing costs		
Raw materials	EURO/tonne	395
- raw material A (300 EURO/tonne)		
- raw material B (25 EURO/tonne)		
- raw material C (70 EURO/tonne)		
Labour	EURO/tonne	50
- Skilled labour (30 EURO/tonne)		
-Unskilled labour (20 EURO/tonne)		
Energy 200 Kwh, EURO 0.05/Kwh	EURO/tonne	10
Other manufacturing costs	EURO/tonne	45
<i>(If possible, please specify: rent, lease, depreciation, maintenance and repair, etc.)</i>		
Subtotal Manufacturing Costs	EURO/tonne	500
Selling, General, Administrative Expenses	EURO/tonne	100
<i>(If possible, please specify: financing, insurance, packaging, administration, selling, advertising, research and development, patents/royalties, technical assistance, warranties, etc.)</i>		
TOTAL COST	EURO/tonne	600
Normal Profit	5% EURO/tonne	30
NORMAL VALUE ex-factory	EURO/tonne	630
Import quantities, raw material and energy costs obtained from the international report on the industry by ___ shown in annex ___.		
Manpower costs are based on International Labour Organization Statistics (see annex ___).		
Other manufacturing costs and SGA costs have been obtained from the market survey by ___ or is an estimate based on _____. See annex ___ for a copy of the relevant pages.		
Normal profit is the minimum amount necessary to account for reinvestment in the industry. See annex ___ for details.		
Exchange rate used: ____ (average for year ____). See annex ___ for details.		

65. In case reliable prices on the exporter's domestic market are unavailable and it is not possible to construct the exporting producer's cost of production, please contact the Commission services.

Countries subject to significant distortions

If prices and costs of the product concerned in the exporting country are unreliable due to the existence of significant distortions, the complaint must include evidence of those distortions with regard to the product concerned.

66. Significant distortions occur when reported prices or costs, including the costs of raw materials and energy, are not the result of free market forces because they are affected by substantial government intervention. The following sources can be used to establish the existence of significant distortions:

1) The Commission report(s) on significant distortions. The Commission may produce and/or update report(s) regarding the existence of significant distortions in a certain country or a certain sector. If such report exists and is considered relevant for the case, the report can be referred to in the complaint and will constitute part of the evidence of the complaint (add link to website when published).

2) If no report exists or in addition to it, other distortions can also be alleged in the complaint. Evidence can be based on **market knowledge and/or publicly available reports**. Any allegations concerning distorted inputs must be structural and supported by evidence.

Once the existence of significant distortions for the product concerned is established, the normal value must be constructed on the basis of costs of production and sale reflecting undistorted prices or benchmarks, including a reasonable amount of SG&A and profit.

67. In order to construct the normal value, the following four steps have to be performed:

I. Use data that concern a representative product, industry & production process

Where the product is produced by a large number of EU producers, data from a representative EU producer or a few representative(s) producers must be used. When the product is not-homogeneous, it may be necessary to choose one or more representative product types. This can be done, for example, by showing that imports into the EU of the representative types chosen cover a substantial volume of total imports into the EU from the exporting country. Ideally the production process is similar or resembles closely the production process in the exporting country. If this is not the case, a representative production process in the Union has to be used.

II. Based on EU producers' data, the complaint must include:

- A breakdown of the **production factors** (or bill of materials, see Annex 8 for details) needed to manufacture the product concerned.
- The **needed quantity** or **the usage** of each production factor and the unit of measurement (kg, m², etc), needed to manufacture the product concerned.
- For each production factor **the unit cost of production**.
- A description of all production factors, including, where relevant, an explanation about quality, grade, concentrations, etc, and, where possible, the corresponding HS Code¹⁶.

III. Undistorted benchmarks

In order to replace the costs that are distorted (see under point IV below), the undistorted benchmarks must be sourced from an appropriate representative country, or, if considered appropriate, from undistorted international prices, costs or benchmarks.

¹⁶ The Harmonized System Code ('HS Code') is an internationally standardized system of names and number to classify traded products. It is used by more than 200 member countries of the World Customs Organization and has 6 digits. Countries often use more detailed codes, but these are not internationally harmonized.

Selection of an appropriate representative country

It is recommended to start the selection process by making a list of all possible representative countries. Please choose the country that **best fits all of the criteria** set out below:

- The country must have a **significant production** of the product concerned. The product should be produced and sold on the domestic market in representative quantities as compared to the export volume from the country allegedly dumping on the EU market (normally 5% is used as a benchmark). A high number of producers and/or the presence of significant imports from third countries show the existence of competition. Production should be compared with that of the exporting country. This means that in the complaint access to and the nature of raw materials and components, production technology, type of process, patterns of specialisation etc. should be considered. Please make appropriate adjustments, when justified, to take account of any substantial differences in those factors. Likewise, the products originating in the exporting country and those produced in the representative country should be identical or similar as far as physical, technical and chemical characteristics and applications are concerned. Appropriate adjustments may be made to account for any differences.
- The country has to be of **similar level of economic development** as the exporting country, which means it must fall within the same income category and having a significant population.¹⁷
- Cost data must be "**readily available**"¹⁸ (see also Annex 8). Countries which are not at the same level of economic development as the exporting country but still at a level of development comparable to the exporting country, should be selected only to the extent that availability of data considerations outweigh the difference in level of economic development.
- The representative country should **not be subject to distortions** (see also Annex 8).
- Where there is more than one such country, the best appropriate representative country will be a country with an **adequate level of social and environmental protection**. This "adequate level of protection" will be based on the core labour rights UN/ILO conventions and conventions related to the environment. An indicative list can be found in Annex VIII of the GSP Regulation (Generalised System of Preferences).¹⁹

International prices, benchmarks or costs

Alternatively, international prices, benchmarks or costs can be used to replace costs that are distorted. This can be done when, for instance, non-distorted costs are not readily available in the representative country, or when an international quotation is deemed to provide a better indication of the level of undistorted costs. In relation to the latter case one may consider, for example, that the quotation at the London Metal Exchange for non-ferrous, ferrous metals and precious metals is a better benchmark than the statistical import data in a given country.

¹⁷ See for example the income classification of the World Bank: <https://datahelpdesk.worldbank.org/knowledgebase/articles/906519-world-bank-country-and-lending-groups>.

¹⁸ "readily available" does not necessarily mean "for free", but it has to be publicly accessible. Information available for free is however preferable, if available.

¹⁹ Regulation (EU) No 978/2012 of the European Parliament and of the Council of 25 October 2012 applying a scheme of generalised tariff preferences, OJ L 303, 31 October 2012, p. 1.

IV. Replacement of costs:

1) Where possible, the costs of the Union producer, which was taken as a starting point (see under point II above), should be adjusted to reflect the costs in the exporting country subject to distortions.

2) Subsequently, the costs that are distorted should be replaced with the undistorted benchmarks (see under III above) in order to construct the normal value.

An example is given below:

Figure 3. Constructed normal value in case of significant distortions

<i>Product concerned, type</i>			
Manufacturing costs			
Raw materials		EURO/tonne	395
- raw material A (300 EURO/tonne)			
- raw material B (25 EURO/tonne)			
- raw material C (70 EURO/tonne)			
Labour		EURO/tonne	50
- Skilled labour (30 EURO/tonne)			
-Unskilled labour (20 EURO/tonne)			
Energy 200 Kwh, EURO 0.05/Kwh		EURO/tonne	10
Other manufacturing costs		EURO/tonne	45
<i>(If possible, please specify: rent, lease, depreciation, maintenance and repair, etc.)</i>			
Subtotal Manufacturing Costs		EURO/tonne	500
Selling, General, Administrative Expenses		EURO/tonne	100
<i>(If possible, please specify: financing, insurance, packaging, administration, selling, advertising, research and development, patents/royalties, technical assistance, warranties, etc.)</i>			
TOTAL COST		EURO/tonne	600
Normal Profit	5%	EURO/tonne	30
NORMAL VALUE ex-factory		EURO/tonne	630
<p>Raw material A is based on the average import price into the appropriate representative country of imports from all origins except those from the exporting country as these are distorted (imports from the exporting country account for XX% of all imports into the appropriate representative country). Statistics obtained from ___ as shown in annex ____.</p> <p>Energy costs from the national statistics office as shown in annex _____. It is roughly the same as the one obtained from the three cooperating producers in the representative country (see annex ____ with information on their costs and profits).</p> <p>All other costs are based on the average costs and profits of three producers in the representative country that cooperated (see annex ____ with information on their costs).</p> <p>SGA and profit are taken from publicly available accounts of companies in the representative country, producing the product concerned and/or producing in the same segment/sector See annex ____ for the report.</p> <p>Exchange rate used: _____ (average for year ____). See annex ____ for details.</p>			

D. Export price

Export price charged by the exporter to the first independent customer in the EU

68. The export price is the ex-factory price of goods destined for export, paid or payable by the first independent customer in the EU. In most cases, the export price will be based on the price charged by the exporter to the unrelated importer in the EU.
69. Evidence of the export price may be in the form of invoices, price offers, price lists, sales staff reports, or from official statistics for imports from the country concerned. The price has to be brought back to an ex-factory level. The complaint must include evidence for the same period as the one used for normal value (see paragraph 55 above).

Constructed export price

70. In some instances, the export price will have to be constructed on the basis of the price at which the imported products are first resold to an independent buyer. This will be the case, in particular, when:
 - the complainants cannot find out what the export prices are or if
 - the complainants have reasons to believe that the exporter and importer are related (for example, through a parent/subsidiary relationship) or that there is a compensatory arrangement between them or that for other reasons the export price is unreliable. Please explain why.
71. To reconstruct the ex-factory export price, the complainants must provide the resale price charged for the imported product at the first point of resale to an independent buyer in the EU. For example, in case of a price of an importer related to the exporter, for
 - SGA costs of the importer,
 - usual profit of an unrelated importer,
 - transport, insurance, handling, loading and ancillary costs and
 - customs duties
72. All adjustments must be supported by sufficient documentary evidence. An example is given below in figure 4²⁰:

²⁰ If, because the product concerned is not homogeneous, the complaint contains a number of representative product types, this will result in different normal values which will be compared individually with the export prices.

Figure 4. Constructed export price

The complainant has obtained evidence of a price paid by a retailer to a wholesaler/importer, which is related to an exporter (134.5 EURO). From this price, an estimate of the net ex-factory export price must be obtained by deducting the relevant items, which may be, for example, as follows: VAT (10%), wholesaler's SGA costs and profit margin (10%), transport and insurance in the EU (2%), customs duty (5%), transport and insurance from the EU border to the exporter's factory (4%)

<i>Product concerned, brand, type</i>	<u>EURO</u>
Gross wholesale price	134.5
minus Value Added Tax = 10%. (Calculation: 134.5/1.10) ⇒ Net wholesale price	122.3
minus Wholesaler's SGA (5%) and profit from unrelated importer (5%) = 10%; and Transport and insurance in the EU = 2%. (Calculation: 122.3/1.12) ⇒ Price to wholesaler, customs cleared	109.2
minus Customs duty = 5%. (Calculation: 109.2/1.05) ⇒ CIF ²¹ export price	104
minus Insurance, freight to factory = 4%. (Calculation: /1.04) ⇒ Ex-works export price	100

Retail price obtained from average of invoices (or from catalogue, price list, market survey etc.)
Shown in annex ____ or import price from Eurostat figures²² (see annex ____).
All margins, as well as insurance and freight, were obtained from the market survey by _____ or were estimated based on ____ See annex ____ for a copy of the relevant pages.

E. Price comparison

73. To achieve an appropriate price comparison, the export price and the normal value should be comparable as regards the basic physical and chemical characteristics of the product, and the terms and conditions of sale. The comparison should be made at the same level of trade (such as wholesale or retail), at ex-factory level, and as nearly as possible at the same time.
74. When the export price and normal value are not on a comparable basis, allowances should be made for any differences to the best of the complainants' knowledge.

For all adjustments made, you must provide:

- (1) details of the differences that result in an adjustment,
 - (2) an estimate of the allowances to be made for the differences and
 - (3) supporting evidence concerning these differences.
75. As a result, the normal value (not the export prices) may need to be adjusted if the product used for determining normal value is not identical to the imported product due to different basic physical and/or chemical characteristics. In this case, please clearly explain how the two products differ; and how those differences affect the market value or the cost of production plus profit.

²¹ CIF (Cost, Insurance and Freight) is a trade term requiring the seller to contract for and pay the costs and freight necessary to bring the goods to the named port of destination. See also footnote 12.

²² EUROSTAT import statistics are publicly available on Internet. See section (6) 'USEFUL LINKS' below.

76. It may also be necessary to adjust the normal value (not the export prices) if the price comparability between the product sold on the domestic market of the exporter and that exported to the EU is affected by different levels of trade²³ and / or import charges and indirect taxes.
77. Moreover, both the normal value and the export prices must be adjusted to take account of differences in terms of:
- discounts
 - rebates and quantities
 - transport, insurance, handling, etc.,
 - packing,
 - credit,
 - after sales costs,
 - commissions,
 - currency conversions; and
 - other factors which affect price and price comparability.

F. Dumping margin

78. The dumping margin is usually calculated as follows:
- (1) Price comparison: Calculate the difference between the normal value (net ex-factory) and the export prices (net ex-factory) after allowance has been made for any differences affecting price comparability.
 - (2) Express this difference as a percentage of CIF export price.

An example is given below in figure 5:

Figure 5. Dumping margin calculation (all figures in EURO)

a. Ex-factory normal value		100
b. Ex-factory export price		<u>(80)</u>
c. Dumping margin	<i>a-b</i>	20
d. CIF value		90
e. Dumping margin as % of CIF value	$\frac{c}{d} * 100$	$\frac{20}{90} = 22\%$

79. If different product types were chosen, this will result in different dumping margins. These margins can be averaged to obtain one dumping margin for the full product concerned, but the complaint must include all calculations.
80. If the complaint concerns more than one country, the dumping margin must be calculated for all countries concerned individually.

G. Level of measures in cases of raw material distortions in the exporting country

81. WTO and EU rules provide that the level of an anti-dumping duty can never be higher than the dumping margin, but it may be lower, if a lower duty is sufficient to remedy the injury caused by the dumped imports. This is the so-called 'lesser duty rule' ('LDR'). So the LDR applies in case

²³ This refers to the difference between selling at retail or through distributors.

the injury margin (see paragraph (142)) is lower than the dumping margin (see paragraph (78)).

82. When assessing whether a duty lower than the margin of dumping would be sufficient to remove injury, the Commission will consider whether there are distortions on raw materials with regard to the product concerned.
83. In case the complainants believe there are such raw material distortions and wish that the Commission investigates these distortions, it is recommended to include in the complaint sufficient evidence that such distortions exist (see the list of distortions the Commission can investigate below) and that the price of that raw material in the exporting country is significantly lower as compared to prices in representative international markets. This will allow the Commission to investigate these distortions and, if justified, to impose a duty at the level of the dumping margin. The Commission will also at its own initiative, to the extent evidence is available to it, examine if such distortions exist.

If the Commission does not have sufficient evidence of such distortions before initiating a case, either based on the complaint or collected by the Commission at its own initiative, the notice of initiation and hence the scope of the investigation will not include the examination of such distortions. If distortions have not been established in an investigation, the injury margin cannot be set at the level of the dumping margin as a result of raw material distortions. This could have a significant impact on the duty level.

Example

An anti-dumping investigation establishes, for a given producer in the exporting country, a dumping margin of 50% and an injury margin of 15%. **Normally** the rate of the anti-dumping **duty** would be set at **15%**, **but if the investigation establishes the existence of raw material distortions**, the Commission may, provided it is in the Union interest, set the rate of anti-dumping **duty** for that producer at **50%** (the level of the dumping margin).

84. Only raw materials that account for at least 17% of the cost of production of the product concerned will be considered. Therefore, the cost breakdown in the complaint must show that the distorted raw material is likely to meet the 17% threshold.
85. Production data of the complainants will normally be reasonably close to those of producers in the exporting country but may not mirror these exactly. This means that, for example, if there is evidence of a dual pricing scheme regarding electricity in the exporting country but electricity only accounts for 15% of the cost of production, evidence regarding this distortion may still be investigated by the Commission. On the other hand, if there is evidence of an export tariff quota in a raw material but this material only constitutes 3% of the costs of production, this evidence may be added, but it is unlikely that this will meet the threshold of 17% in the exporting country. In case complainants are aware of differences in production methods with producers in the exporting country (for example because of vertical integration), this must be included in the complaint.
86. The distortions the Commission can investigate are:
 - dual pricing schemes,
 - export taxes,
 - export surtax,
 - export quota,
 - export prohibition,
 - fiscal tax on exports,
 - licensing requirement,
 - minimum export price,
 - VAT tax refund reduction or withdrawal,
 - restriction on customs clearance point for exporters,

- qualified exporters list,
 - domestic market obligation,
 - captive mining
87. The evidence to be provided has to be sufficient. Allegations without supporting evidence cannot be taken into consideration. For example, if complainants argue that there are distortions in a raw material in the exporting country due to an export quota, the complaint must include the piece of legislation establishing that quota and making clear that it is in force.
88. See below some sources that may offer useful information regarding possible raw material distortions. Most of these sources use the Harmonised System classification to define raw materials, so it is recommended to provide the harmonised system codes for the raw materials used:
- The list of distortions that the Commission can investigate is similar to the list published by the OECD and used in its Inventory on export restrictions on Industrial Raw Materials:
http://qdd.oecd.org/subject.aspx?Subject=ExportRestrictions_IndustrialRawMaterials.
 - WTO Trade Policy Review published by the WTO:
https://www.wto.org/english/tratop_e/tpr_e/tpr_e.htm
 - Country specific reports
 - Professional industry analysts such as IHS Market, Metal Bulletin and Bloomberg.
 - "Doing Business" website of the World Bank Group:
<http://www.doingbusiness.org/data> Select Country in heading "Economy Snapshots", then "Trading across Borders"
 - IMF database : <http://www.imf.org/external/np/res/commod/index.aspx>
 - Other sources on utilities prices, such as International Energy Agency and National Waterworks Authorities.

Additional Union interest test in case of raw material distortions

89. The purpose of this test is to determine whether it is in the Union interest to apply a measure at the level of the dumping margin. To carry out such test, the Commission must actively seek information from interested parties, including from complainants. The Commission has to assess elements like spare capacities in the exporting country, competition for raw materials and the effect on supply chains for Union companies, as well as any other relevant elements.
90. In order to allow the Commission to gather sufficient information to determine whether it is in the Union interest to apply a measure at the level of the dumping margin in case of raw material distortions, the complainants are invited to include in the complaint all pertinent information (supported by evidence) by answering to questions such as:
- a) Are there significant spare capacities for the product concerned/raw materials concerned in the exporting country? If possible, provide an estimate of the production capacity, annual production and domestic consumption of the product concerned in the exporting country. Indicate the source of the information.
 - b) What are the global conditions of competition for the main raw materials of the product concerned? Is our industry facing a problem of access and/or costs regarding these raw materials? Are the EU producers highly dependent on imports of strategically important raw materials? Can this dependence be critical in view of their economic value and high supply risks? What about substitutability of major raw material with other materials?
 - c) What would be the effect of the application of the measure at the level of the dumping margin on the downstream market and on the supply chain as a whole?

This list of questions is not exhaustive. Depending on the product and the market, including additional information may be relevant.

(3) INJURY

A. Principles

91. In order to be able to determine if sufficient evidence exists for the initiation of an anti-dumping proceeding, the Commission needs to be in possession of certain data relating to the alleged injurious effects of the dumped imports.
92. Those data concern,
 - (1) the volume and value of the dumped products and their price level and
 - (2) their impact on the EU industry.
93. The main factors to analyse injury, which will be explained in detail below, are the following:
 - Consumption in the EU
 - Volume and market share of dumped imports
 - Unit price of the dumped imports (for example price per tonne)
 - Price undercutting suffered by the complainants
 - Production²⁴, capacity and utilisation of capacity of the Union industry and of the complainants
 - EU sales in volume and market share of the EU industry and of the complainants
 - EU sales in value at ex works level²⁵ and volume of exports of the complainants
 - EU unit sales price of the complainants at ex works level
 - Cost of goods sold in the EU by the complainants
 - Profitability of the complainants in the EU
 - Employment of the EU industry and of the complainants
 - Investment of the complainants
 - Opening and closing stocks for each period of the complainants
94. It is not necessary that all elements relating to the EU industry show an actual negative trend. For example, despite growing sales in absolute terms, an industry may consider that it has lost considerable turnover due to lower prices in the market resulting from downwards price pressure due to the dumped imports.
95. The complaint may also include information relating to indicators other than those listed in paragraph 83 which may point to injury.
96. Furthermore, a threat of injury or an impediment to establishing an EU industry may be taken into account when describing the situation of the EU industry (see below).
97. Annex 5 contains an example of a table you may use in order to collect individual company data and another one to summarise the data on injury described in this section.
98. In supplying the relevant data and figures, please take into account the following:

²⁴ Including production that is transferred or sold internally within a company or to a related company for further processing (captive use or captive sales).

²⁵ Excluding captive use or captive sales (products transferred or sold internally within a company or to a related company for further processing). Products destined for captive use or captive sales should be identified separately.

Geographical area

99. All above indicators relate to the whole of the EU.

Product

100. The assessment of the injury must be based only on the product in question, so all the data and figures you provide should apply only to this product. Only in cases where it is impossible to supply data limited to the product in question may you provide data for a larger group of products, which includes the product in question. This could, for example, be the case for import statistics where a customs heading includes more products than the product in question (see next paragraph). If this is the case, the volume of the imports of the product concerned must be estimated. Please explain and justify extrapolations or adjustments made to the volume figures.

Tariff headings

101. Sometimes, tariff headings or CN codes do not allow the isolation of the product in question because it is mixed-up with other products, which do not concern the complaint (the so-called “ex codes”, see footnote 9). In these circumstances, on the basis of market data or other sources, the import volumes for the product concerned must be estimated. Statistics from the exporting country might also be helpful²⁶.

Information on product types

102. If the product in question consists of many different types or varieties, the information for certain injury factors may be limited to certain representative types (see also paragraph 57 above) if:

- some injury indicators cannot be provided globally for all types

or

- the evolution of global figures (such as cost of production, sales price, profitability) is not considered to be meaningful

Please document the basis for the choice of particular types.

Period considered

103. For the price undercutting and underselling calculations, the period should ideally cover 12 months ending no later than 6 months before the date on which the complaint is lodged (the same period as the one used for dumping calculation, see paragraph 55 above).

104. For the injury factors on which trends are drawn (such as EU imports and EU sales of EU producers in volume and price evolutions), the period must cover 4 years, the last one ideally coinciding with the period used for the dumping and undercutting calculations.

²⁶ The majority of countries in the world use the Harmonised System (HS) nomenclature of the World Customs Organization (WCO) for tariff classification and statistical purposes. The HS goes up to six digits codes, and WCO members can then establish further subdivisions (like the 8-digit CN codes of the EU). This means that up to six digits the tariff nomenclature of WCO members (including the EU), is the same. However if you use statistics from the exporting country you need to use their tariff nomenclature, taking into account their subdivisions further than 6-digit level.

You may find the websites of the statistical offices of WTO Members on https://www.wto.org/english/res_e/statis_e/natl_e.pdf

B. Injury Factors

Preliminary remarks

105. The so-called ‘macro indicators’ must be provided for the whole EU industry (that is for complainants as well as other known producers). The macro-indicators are:

- production,
- capacity,
- sales in volume,
- market share and
- employment

When precise figures concerning non-complaining EU producers are unknown, an estimate based on a reasonable and explicit methodology must be provided in the complaint.

106. The so-called micro-indicators, like sales in value, sales prices, cost of production, profitability as well as the undercutting calculations, concern the complainants only.

107. The complaint must include figures for each company as well as the totals.

108. The complaints must include explanations for each of the injury indicators, see below for details.

Consumption in the EU (see also table A of Annex 6, section I)

109. The evolution of the volume of sales in the EU must be compared with the consumption in the EU. Consumption figures may be based on market surveys, statistical data etc., but may also be calculated by using one of the following two methods:

Method I

	Year	1	2	3	4
a)	Total EU production by all producers in the EU (complainants and others)				
b)	Total imports from non-EU countries*				
c)	Total exports (sales to non-EU countries) *				
d)	Apparent EU consumption (a+b-c)				
e)	Total variation of stocks in the EU				
f)	Actual consumption of the EU (d-e)				

* Possible source: import-export statistics of the EU (EUROSTAT) – specify unit of measurement (tons, kg, etc)

- **Total EU production by all producers in the EU** is the production of the complainants plus the production of other producers in the EU (including EU producers that are related and/or importing it themselves). It may have to be partly estimated. If a part of production is intended for captive use or captive sales²⁷, please specify how much.
- **Total imports from non-EU countries** are the sum of all imports of the product into the EU, including allegedly dumped imports. The figure is available through EUROSTAT statistics²⁸. If the CN Code does not isolate the product concerned, these figures must be estimated.

²⁷ See for the definitions of captive use and captive sales footnote 20.

²⁸ EUROSTAT import statistics are publicly available on Internet. Please see section (6) ‘USEFUL LINKS’ below.

- **Total exports (to non-EU countries)** are the amount of exports of the product to non-EU countries, which can be found in EUROSTAT under the heading “extra-EU”. If the CN Code does not isolate the product concerned, these figures must be estimated.
- **Total variation of stocks in the EU** is the difference between the opening and the closing stocks built up by all EU producers (complainants, and non-complainants). Depending on the product and the number of non-complainants, estimations may be needed.

Method II

	Year	1	2	3	4
a)	Total EU sales volume of EU production by all EU producers (complainants and others)				
b)	Total imports from non-EU countries*				
c)	Actual consumption of the EU (a+b)				

* Possible source: import-export statistics of the EU (EUROSTAT)

- **Total EU sales volume of EU production by all EU producers** is the sales of the complainants plus the sales of the other producers in the EU (including EU producers that are related and/or importing it themselves). Depending on the cooperation of the EU producers, estimations may be needed. If a part of production is intended for captive use or captive sales, please specify this volume.
- **Total imports from non-EU countries** are the sum of all imports of the product into the EU, including dumped imports. This figure is available through EUROSTAT statistics. If the CN Code does not isolate the product concerned, these figures must be estimated.

Volume and market share of the allegedly dumped imports (see table B of Annex 6, section I)

110. This volume concerns only the dumped product originating in the country/ies concerned by the complaint, expressed in the same unit as consumption (tonnes, pieces, square metres, etc.).
111. The market share is calculated as a percentage of the consumption in the EU and for each country concerned separately:

$$\frac{\text{Volume of dumped imports from country 'A'}}{\text{Consumption in the EU}} \times 100$$

Price of the allegedly dumped imports (see also table C of Annex 6, section I)

112. The evolution of import prices may be an indicator of price pressure exerted by dumped imports.
113. According to the nature of the information available, we suggest three alternative methods for presenting the price evolution of dumped imports. These suggestions do not exclude other methods to demonstrate price trends for imported products. Whichever method is used, the complaint must include the relevant supporting evidence.
- 1) Usually, EUROSTAT indicates the average CIF price per unit. This price does not include customs duties.
 - 2) It is also possible to assess the evolution of sales prices on the EU market by looking at specific representative product types. This method may be more useful where the product is sold in different types or varieties.
 - 3) Other sources such as public or private studies, market surveys, sales reports, or export statistics from the country/ies concerned may be used to demonstrate the prices of dumped imports. The evolution of resale prices in the EU is only indicative of import prices if costs

and profits of re-sales have not varied.

Price undercutting suffered by the complainants (see also table A of Annex 6, section II)

114. To determine if price undercutting has taken place and/or whether the prices of the dumped imports are depressing or negatively affecting prices in the EU, it is essential to compare the sales prices of the dumped imports with the sales prices of the complainants for a similar type of product on the EU market, supported by sufficient evidence.
115. This comparison normally needs to be made only for a recent period of time: 12 months ending no later than 6 months before the date on which the complaint was submitted – the same period as the one used for the dumping calculation (see paragraph 55 above).
116. Any comparison must concern, to the extent possible, the same or similar products types and must be made at the same level of trade (e.g. retail level), at the same time (reasonably spread over the 12 months period) and on the same market in order to fairly conclude that an imported product has been sold on the EU market at a lower price than the product being sold by the EU industry. In addition, the complaint must include the comparison for each representative product type (i.e. for the same product types as the ones used for the dumping calculation, see paragraph 57 above).
117. Should the product types sold by the complainants be different from those sold in the EU by the producers/exporters of the country concerned but still be competing with each other, it must be clearly explained how and why these product types compete and make relevant adjustments if necessary. These adjustments should be supported by sufficient documentary evidence.
118. Two ways to present evidence are suggested below, but others may be used :
 - If representative types of the product concerned were used for the dumping calculation, the same representative types must be used for the undercutting calculation. The evidence on export prices is the same as the one that supports the dumping calculation, but now adjusted to take account of post-importation costs. The evidence regarding EU industry prices for sales on the EU market will normally be in the form of EU producers' invoices for customers in the EU (adjusted, if necessary, to bring the price to ex-factory level).

or

- A comparison can also be based on import statistics, using a landed weighted average CIF EU frontier price and the ex-factory price of the complainants. Post-importation costs must be added to the landed prices; i.e. customs duties (if any), customs clearance fees and handling costs. This average can be compared with the average ex-works price of the complainants as provided for the analysis of injury indicators (see paragraphs 123 to 126 below). This option may not be accurate if the product concerned is covered by a CN code that also covers other products or if there are many different product types sold at different prices.

119. The undercutting margin is expressed as a percentage of the EU selling price of the complainants on the EU market and is normally calculated as follows:

$$\frac{\text{Ex-factory sales price of complainant} - \text{landed sales price of dumped imports}}{\text{Ex-factory sales price of complainant}} \times 100$$

Production, capacity and utilisation of capacity of the complainants and of other known EU producers (see also table D of Annex 6, section II)

120. Production is the total volume produced in sites physically located in the EU, expressed in units (tonnes, pieces, square metres...) in a given period (usually 12 months). It must include the production for captive use or captive sales, clearly stating the volumes involved. Captive use or captive sales concern cases where products are transferred or sold internally within a company or to a related company for further processing.

$$\text{captive use/sales} = \text{consumption for internal manufacturing, no free competition with allegedly dumped imports}$$

121. Capacity is the volume that can be produced in a given period (usually 12 months) in production sites located in the EU by using the current resources, expressed in units (tonnes, pieces, square metres,...). Possible maintenance periods where no production can take place must be taken into account.

122. Utilisation of capacity is calculated by dividing production by capacity, and is expressed in %.

123. The complaint must contain production, capacity and utilisation of capacity as explained above for the complainants (individually and as a grand total), without prejudice to the requirements of paragraph 96.

124. The complaint must indicate if any of the complainants are related to companies manufacturing and/or selling the product concerned in the country/ies concerned by the complaint, and provide information on this relationship and on the companies in question. Similarly, it must indicate if any of the complainants have bought the product (and are therefore partly acting as traders) from other EU producers, from country/ies concerned by the complaint or from other third countries. If so, the volumes and prices involved must be specified, and reasons given (see paragraph 27 above).

125. The complaint must also include:

- an estimation of the production and capacity of other known EU producers (as a whole and, if possible, individually, see also paragraph 109)
- an explanation of the methodology used (see also above, paragraphs 28 to 30)
- available information, if any, on their captive sales, their relationship with producers in the country/ies concerned by the complaint and on purchases of volumes of the product concerned from other EU producers, from country/ies concerned by the complaint or from other third countries.

Sales in the EU, market share and exports of the complainants and of other known EU producers (see also table E of Annex 6, section II)

126. Sales in the EU by volume is the quantity (expressed in the same units used for EU production and capacity figures) invoiced by EU producers when selling to EU customers in a given period (usually 12 months).

127. Sales in the EU by value is the amount in EUR (ex-factory) of the volumes invoiced by EU producers when selling to EU customers. Please indicate the level of trade (e.g. retail) at which

the products are usually sold.

128. Captive use or captive sales (whether invoiced or not) should be reported separately.
129. Market share results from dividing the sales by volume by the consumption, and is expressed in %. When calculating consumption in the EU, the complaint must include figures for each company and include a grand total for all.
130. On this basis, the complaint must include the sales in the EU by volume and the market share of the complainants and of all EU producers (based on best estimate) and sales by value of the complainants.
131. Export sales in volume and value (ex-factory), i.e. sales outside the EU, are also relevant because they might show how competitive the EU industry is in other markets where normal competition conditions prevail. If there are no or negligible purchases and stocks, EU production should normally be similar to EU sales plus exports. Please explain any deviations.

EU sales price of the complainants (see also table D of Annex 6, section II)

132. The sales price is the average unit price at which the product produced by the complainants is sold on the EU market. This price should be expressed “ex-factory”; i.e. after deduction of possible transport costs, rebates and commissions.
133. In the case of a homogeneous product, or where the sales volumes of different types do not vary, an average price could be calculated as follows:

$\frac{\text{EU net turnover of the product concerned (ex-factory)}}{\text{EU sales of the product concerned (in volume)}}$

134. In cases where the product concerned has many variations or types with different price levels and different sales volumes, it may be preferable to show the price evolution of certain product types which best represent the product concerned as a whole.

If possible, the same product types as the ones used for the dumping and price undercutting calculations should be used.
135. Market survey statistics of the representative associations or other reports may also be a useful source of information.

Cost of goods sold in the EU by the complainants (see also table E of Annex 6, section II)

136. The cost of goods sold is the sum of fixed and variable manufacturing costs (including depreciation) as well as financial and SGA expenses linked to the production and sale of the product concerned in the EU (all cost before income taxes), on an ex-factory basis i.e. without any costs related to the transportation to the customers.
137. In addition, the complaint must include the cost of goods sold for each representative product type (i.e. for the same product types as the ones used for the dumping and undercutting calculations, see paragraph 57 above).
138. The costs must be presented in a manner that resembles as much as possible the one used in the individual complainant’s own financial accounting system, providing details of the calculations.

Profitability of the complainants related to the product concerned sold in the EU (see also table F of Annex 6, section II)

139. Profitability is usually established by expressing the pre-tax net profit of the sales of the product concerned to unrelated EU customers, by the complainants, as a percentage of the turnover of such sales.
140. Should the profit over the period considered be affected by exceptional market circumstances or

events, these circumstances and their respective impact should be quantified.

141. The following method is usually used to express the average profitability of the complainants related to the product concerned. However another method may be used if appropriate.

$$\frac{\text{Profit (or loss) on EU sales of product concerned to unrelated customers before income taxes}}{\text{Turnover (ex-works) in EU of product concerned to unrelated customers}} \times 100$$

142. The profit margin required guaranteeing long-term viability of the EU industry must also be given and justified, also called normal profit margin or “target profit”.

This is normally the profit margin achieved in normal market circumstances before the dumping practices occurred, provided that:

- such a profit can be reasonably expected in the sector in question for the industry concerned
- it cannot be attributed to exceptional market circumstances.

This profit margin, when added to the cost of goods sold per unit, leads to the EU target price, being the price the EU industry could reasonably expect to charge in the EU market in the absence of dumped imports.

The underselling or injury margin is then calculated by comparing the target price of the complainants to the landed EU frontier price of the dumped imports (including post-importation costs, see also paragraph 108) and is expressed as a percentage of the CIF price of the dumped imports (in order to allow a proper comparison with the dumping margin for the purposes of applying the lesser duty rule):

$$\frac{\text{Target price of complainant - landed Union frontier price of dumped imports}}{\text{CIF price of dumped imports}} \times 100$$

Number of people employed by the complainants and other known EU producers (see also table F of Annex 6, section I and table G Annex 6, section II)

143. The number of people employed is the average number of full-time employees (or estimates thereof) attributable to the production, selling, administration and distribution of the product in question for a given period (usually 12 months). Temporary workers should also be included.
144. On this basis, the complaint must include the number of people employed by the complainants and all other known EU producers (based on best estimate).

The complainants’ investment (see also table H of Annex 6, section II)

145. Investment is the amount of capital expenses spent on property, plant and equipment relating directly or indirectly to the product concerned with an estimated useful life of over one year.

Stocks (see also table I of Annex 6, section II)

146. Stocks refer to the volume of the product in question held for sale, captive use or captive sales.
147. The volume of stocks of the product in question for the complainants at the beginning and at the end of each 12 months period must be provided. Please indicate whether the product follows any seasonal patterns.

Other injury elements

148. Other relevant factors of injury such as the return on investment, cash-flow, the inability to raise capital, etc. may also be indicative of the injury suffered by the complainants due to dumped imports. If so, these factors should be mentioned and commented upon.

Threat of further injury

149. Another element that may be included in the complaint is potential further injury, which the EU industry may suffer in the future as a result of the alleged dumped imports.
150. The determination of a threat of further material injury has to be based on facts and not merely on allegations. If clearly foreseeable and imminent further injury can be quantified, please do so. Examples of circumstances in which future injury can be predicted are the following:
- Rate of increase of dumped imports
A rising trend in imports of dumped products could indicate the probability that these imports will keep on increasing in the future.
 - Capacity of production of exporters
It is important to point out the potential in terms of production capacity of the exporting country in order to make clear that aggressive trade behaviour could continue. The information can usually be obtained from studies, specialised newspaper articles or other sources.
 - Changes in the export market structure
Structural changes in the exporters' domestic market (fall in demand, investments, technical development, banking reform, opening of the market to foreign products, etc.) can contribute to increasing exports to the EU at dumped prices.
 - Obstacles for exports to other third countries
Exporters could target the EU market. This expectation may be based on the individual export strategy of the companies, but also on the fact that high import tariffs or other import barriers (such as anti-dumping measures, technical standards etc.) exist in third countries.
 - Stocks in the country/ies concerned
An accumulation in exporters' inventories could indicate a likelihood that exports of the product will substantially increase in the future.
151. Normally allegations of this nature supplement those of injury already suffered, but it is possible to base a complaint solely on the threat of injury, provided it is supported by sufficient evidence that on an initial examination would support a case.

Impediments to production and development

152. Dumped imports may have discouraged potentially interested EU firms from producing the product concerned, impeding them from setting up as producers. If this is the case, please explain how this has happened, appropriately documenting the allegations.
153. Normally allegations of this nature supplement those on injury, but it is possible to base a complaint solely on the setbacks it is causing to the establishment of an EU industry, provided it is supported by sufficient evidence.

(4) CAUSALITY

A. Effects of the dumped imports

154. Apart from the data representing injury, it needs to be demonstrated that material injury has been caused by the dumped imports, i.e. that there is a causal link. This does not mean, however, that the dumped imports have to be the sole reason for any injury suffered. Causality can be shown by increasing imports at decreasing prices that coincide in time with the complainants' deteriorating situation as shown by the development of the injury indicators.

B. Effects of other factors (see also Annex 6 under “Causality”)

155. It is also necessary to consider whether factors other than the dumped imports may have influenced the deterioration the EU industry’s situation. Such factors might include:

- volumes and prices of the product from other third countries
- falls in demand and changes in consumption patterns
- restrictive trade practices of EU producers
- strong competition from producers in the EU
- poor export performance of the EU industry
- low productivity of the EU industry
- wrong assessment of market developments e.g. poor investment policy
- poor marketing performance
- low product quality or product range
- exchange rate fluctuations
- the EU industry’s own imports originating in the country concerned

If applicable, the complaint must include an assessment of those factors or any other relevant factors to show to which degree these factors have affected the injury situation of the EU industry during the period covered by the complaint (see paragraph 92).

(5) CONCLUSION

156. The conclusion of the complaint may restate, in the form of an executive summary, why the evidence submitted demonstrate the existence of dumping, injury, and a causal link, is considered sufficient to open an anti-dumping investigation.

157. In the conclusion it must be requested that the European Commission opens an anti-dumping proceeding to investigate the allegations in the complaint.

158. Please send the complaint to the European Commission (see Annex 1 and paragraph 4 for more details) together with a dated cover letter signed by a person authorised by the complainants to act on their behalf.

159. For this purpose, the following formula may be used:

“Please find attached an anti-dumping complaint on imports of (product) originating in (country/ies). The undersigned legally certifies that the information provided is complete and accurate, to the best of his/her knowledge, and that he has been authorised to represent the complainant/s (name of complainant/s)

Name, signature, address, email and phone number.”

(6) USEFUL LINKS

160. Official statistics are available via the links below. Please also provide the raw data as extracted and tables with aggregated data that were used for the calculations in a separate annex.

If the nomenclature of official statistics does not coincide with the product concerned (“ex-CN codes” for instance, i.e. codes that concern a wider range of products), available official statistics could still be useful provided the complainants are able to reprocess the data using a reasonable methodology supported by sufficient evidence. Other reliable sources can also be used, supported by sufficient evidence.

Tariff and statistical nomenclature:

- Commission Implementing Regulation (EU) 2016/1821 of 6 October 2016 amending Annex I to Council Regulation (EEC) No 2658/87 on the tariff and statistical nomenclature and on the Common Customs Tariff (please bear in mind that a new version is published each year):

<http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=OJ:L:2016:294:FULL&from=EN>

- Combined Nomenclature Codes (search tool):

http://ec.europa.eu/taxation_customs/dds2/taric/taric_consultation.jsp?Lang=en

EUROSTAT import/export statistics (COMEXT):

<http://epp.eurostat.ec.europa.eu/newxtweb/>

EUROSTAT production statistics (PRODCOM):

<http://epp.eurostat.ec.europa.eu/portal/page/portal/prodcom/data>

(7) NEXT STEPS

161. Following receipt of the complaint, the Commission will send an acknowledgement of receipt.
162. Based on the information in the complaint, within 45 days of the lodging of the complaint the Commission will decide whether to open an investigation or to reject the complaint.
163. If the complaint contains sufficient evidence, the Commission will perform a standing examination before taking a final decision whether to open a formal investigation (see also paragraph 29 to 34).

The Commission will contact all known EU producers of the product concerned to ask for their position concerning the possible initiation of an investigation. The Commission will also contact known EU and national associations.

On the basis of the replies, the Commission will conclude whether the EU producers presenting the complaint are sufficiently representative (see annex 7 for an example of a standing letter).

On the basis of the replies, if warranted, the Commission will also select a provisional sample of EU producers to be investigated during the investigation.

In the Notice of Initiation, parties will be invited to comment before any decision about the final sample is taken.

164. The complaint must be supported by at least half of the producers having expressed a view on the complaint, representing at least a quarter of total EU production. In the absence of such support and representation, the Commission will not open an investigation.
165. Once the Commission decides to open an anti-dumping investigation, a Notice of Initiation is published in the Official Journal of the European Union. The Commission will send questionnaires to:
 - EU producers
 - exporters
 - related and unrelated importers
 - suppliers and users

166. Those parties will normally be granted 30-37 days to reply to the questionnaire. The questionnaires for EU producers will contain detailed questions on all of the above injury factors, in particular on the sales price and the cost of production for the product in question.
167. The Commission will then carry out an on-the-spot investigation to verify the accuracy of the replies. In addition, the Commission will assess whether the potential imposition of measures would be in the EU's overall interest. The Commission may impose provisional measures within latest eight months after initiation and must take a definitive decision within 14 months after initiation.
168. If the complaint does not contain sufficient evidence that on initial examination suggests dumping, injury and causal link, the grounds for rejection will be thoroughly reasoned and will be disclosed to the complainants for comments before any final decision is taken. A formal rejection of a complaint takes the form of a Commission Decision.
169. The complaint can be withdrawn at any time before the final decision is taken on whether to open a case or not. If a complaint is withdrawn, it shall be considered not to have been lodged.

IV. ANNEXES

<u>Annex 1</u>	Guidelines on how to lodge a complaint
<u>Annex 2</u>	Part A: Example of a standard table of contents in a complaint Part B: Generic anti-dumping complaint (descriptive part)
<u>Annex 3</u>	Examples of standard annexes to the complaint
<u>Annex 4</u>	Guidelines for the non-confidential version of the complaint
<u>Annex 5</u>	Form for data collection
<u>Annex 6</u>	Example of tables summarising injury information
<u>Annex 7</u>	Standing form
<u>Annex 8</u>	Countries subject to significant distortions

Annex 1

Guidelines on how to lodge a complaint

In all cases, the complaint must include both a limited version and a version open for inspection of interested parties. A so-called 'open version' means a version of the complaint which does not contain confidential information.

If the complaint does not contain any confidential information, one version will suffice.

The Commission prefers receiving the complaint in an electronic version only, according to the following guidelines:

- The names of each file forming part of the complaint must comprise the following elements: “Complaint body” or “Annex”, a sequential number, an indication of the content and the label “LIMITED” or “OPEN” as shown in the examples below:

Section of the LIMITED version of the complaint	Electronic file
Body/ narrative part	Complaint_body_LIMITED.pdf
Annex 1 (complainants)	Annex 1_complainants_LIMITED.xlsx
Annex 2 (other EU producers)	Annex 2_other EU producers_LIMITED.xlsx
...	...

Section of the OPEN version of the complaint	Electronic file
Body/ narrative part	Complaint_body_OPEN.pdf
Annex 1 (complainants)	Annex 1_complainants_OPEN.pdf
Annex 2 (other EU producers)	Annex 2_other EU producers_OPEN.pdf
...	...

Add the above tables of contents as a separate index file to the complaint.

- As a rule, the Commission sends open versions of complaints in portable document file format ('pdf') to interested parties – producers, exporters, importers, suppliers and users. As the Commission is not in the position to assume responsibility for the integrity of data when converting various source formats, submit all electronic files contained in the open version in pdf format.
- Maximum permitted file size: 10 MB.
- For technical reasons, the length of the path must not exceed 256 characters once registered on the Commission's drives. Therefore, please do not use complex sub-folder structures causing excessively long folder/document names.
- The list and contact details (including e-mail addresses) of all known EU producers, importers, exporters from the country/ies concerned, users/consumers, and calculations must be submitted in form of an electronic spreadsheet such as Microsoft Excel.
- We recommend including in the annexes the mini-questionnaires filled in by individual companies in the form of an electronic spreadsheet such as Microsoft Excel.

The complaint can be sent:

- by e-mail as explained above or alternatively,
- on a portable data storage device (for example in a CD or DVD or pen drive) or
- in paper form

to the addresses provided in paragraph 4.

If you have any technical questions, please contact the Commission before submitting the complaint.

Annex 2

Part A **Example of a standard table of contents in a complaint**

1. Introduction

2. General Information

A. Complainants

1. *The complainants*
2. *Representativeness*
3. *Other known producers in the EU*

B. Product concerned

1. *Product definition*
2. *Product description*
3. *Customs duties and other trade measures*

C. Country/ies concerned by the complaint

D. Known exporters/producers in the country/ies concerned

E. Known importers in the EU

F. Suppliers, users and consumers in the EU

3. Dumping

A. Product types

B. Normal value

1. *Choice of analogue country (if a non-market economy or economies in transition are concerned)*
2. *Normal value calculation*

C. Export Price

Export price calculation

D. Price comparison

E. Dumping margin

4. Injury

A. Consumption in the EU

B. Volume and market share of dumped imports

C. Price of dumped imports

D. Price undercutting

E. Trends in injury factors

5. Causality

A. Effects of the dumped imports

B. Effects of other factors

6. Conclusion

Part B

EXAMPLE: Generic anti-dumping complaint (descriptive part)

The electronic version of this template can be downloaded here: <http://trade.ec.europa.eu/doclib/XXXXXX.docx>

Limited / (Open)

ANTIDUMPING COMPLAINT

Concerning imports of Product Concerned

Originating in Country Concerned

Pursuant to Article 5 of Council Regulation (EC)
no 1225/2009

Lodged by [or association/list of companies] on
DATE

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1. General Information

1.1 Complainant

The present complaint is lodged by association / list of companies

Address, Postal Code, City, Country:

Tel:

Fax:

Email:

The complainant requests the initiation of an investigation pursuant to Article 5 of Regulation (EC) No 1225/2009 ("the Basic Regulation") concerning Product concerned originating in Country concerned.

In the framework of this complaint, the complainant is acting on behalf of a major proportion of the Union producers of the product concerned. The complainant represents more than 25% of the total union production in 201X, the reference year, and is located in [EU Member State where production plants of the product concerned are located].

Annex D contains a list of known importers and users in the Union.

1.2 Product Concerned

The product concerned is Product Concerned Definition.

It falls under CN code (s) [list of CN codes at 8 digits – include "ex": if other products other than the product concerned are to be declared under the same 8 digit code]. [IF RELEVANT] It includes Examples of Products Included. It excludes Examples of Products Excluded.

The Common Customs Tariff schedules for the CN codes are listed in Annex A.

The production process has been characterised by [describe production process].

The product concerned is used in List Applications/Uses [e.g. which sector it is most commonly used in, whether there are different standards in different EU countries, whether the product produced outside the EU has to be approved for import, history of the product/invention/application if relevant etc.]

The market for the product concerned is characterised by normal/cyclical conditions, the sales channels are [explain whether the sales are usually done on the basis of contracts negotiated yearly/spot price etc.].

1.3 Like Product and Country Concerned

The country concerned by the present complaint is Country concerned. A list of known exporters from this country into the European Union is included in Annex B.

The dumped products imported from the Country concerned have the same basic physical and technical characteristics, as well as end uses as the products produced in the Union and are therefore to be considered as a like product.

2. Dumping

We have identified three product types which are considered representative for the product concerned because they account for the majority of imports from the Country concerned into the EU. The products are TYPE A, TYPE B, and TYPE C [describe the types].

2.1 Normal value

2.1.1 Normal Value based on the appropriate Analogue country

Since the Country concerned is a non-market economy country, and production only takes place there and in COUNTRY X, the analogue country chosen is COUNTRY X.

- The product manufactured and sold in COUNTRY X shares the same characteristics as the product exported from the Country concerned to the Union and is therefore deemed a like product.
- The production process in COUNTRY X is similar to the production process in the Country concerned.
- Country X produces representative types A, B, C.

2.1.1.B. Constructed Normal Value

The normal value is based on the ex-factory price in the analogue country.

The normal value is based on evidence presented in Annex c.

Table . Normal Value. Product concerned. Reference Year 201x.

Example

		TYPE A	TYPE B	TYPE C
NORMAL VALUE ex-factory	€/tonne	50	100	70

The normal values [per tonne] established in Country X are the following:

REPRESENTATIVE TYPE A: CONSTRUCTED NORMAL VALUE A

REPRESENTATIVE TYPE B: CONSTRUCTED NORMAL VALUE B

REPRESENTATIVE TYPE C: CONSTRUCTED NORMAL VALUE C

2.2 Export Price

Annex D contains evidence on the Export price to independent buyers and the adjustments made (where necessary).

Table. Export Price. Product concerned. Representative types. Reference Year 201x.

Example (depending on the type of evidence)

EXPORT PRICE		TYPE A	TYPE B	TYPE C
Gross wholesale price	€/tonne	54		
VAT = 10%	€/tonne			
Net wholesale price	€/tonne	49		
Wholesaler's SGA=5%	€/tonne			
Profit from unrelated importer=5%	€/tonne			
Transport and insurance in the EU = 2%	€/tonne			
Price to wholesaler, customs cleared	€/tonne	44	86	
Customs duty = 5%	€/tonne			
CIF export price	€/tonne	42	82	65
Insurance, freight to factory = 4%	€/tonne			
Ex-works export price	€/tonne	40	80	63

The export prices ex-works [per tonne] established are the following:

REPRESENTATIVE TYPE A: EXPORT PRICE A

REPRESENTATIVE TYPE B: EXPORT PRICE B

REPRESENTATIVE TYPE C: EXPORT PRICE C

2.3 Dumping Margin

Given the normal value and export price for each of the representative product types, the dumping margins are as follows:

Table. Dumping Margins. Country Concerned. Reference Year 201x.

Example

Product Type	Normal Value ex-works € (a)	Export Price ex-works € (b)	Exports € (CIF) (c)	Dumping Margin (%) [(a-b)/c]*100
TYPE A	50	40	42	(50-40)/42= 23.8%
TYPE B	100	80	82	(100-80)/82= 24.4%
TYPE C	70	63	65	(70-63)/65= 10.8%

[If necessary] Additional information on the dumping calculations is provided in Annex E.

3. Injury

3.1 Consumption in the EU28

Total consumption of the product concerned in the EU28, for the reference year (201x) and the three years before is:

Table . Total Consumption in the EU28

CONSUMPTION (TONNES)	201x-3	201x-2	201x-1	201x
(a) PRODUCTION IN THE EU28*				
(b) IMPORTS**				
(c) EXPORTS**				
(d) Stocks (if relevant)				
APPARENT CONSUMPTION IN EU28= (a + b - c)(+/-d)				

Sources: * Complainant/Association/Prodcom, **Eurostat (Comext)

3.2 Imports in the EU28

The following table shows in detail imports from the Country concerned over the same period of reference and the total imports from non EU28 countries in tonnes.

Table. Total Imports in the EU28

Example

IMPORT (TONNES)	201x-3	201x-2	201x-1	201x
Country Concerned				
REST OF THE WORLD				

Sources: Eurostat (Comext).

As shown in table 6, imports from the country concerned have increased by % for the country concerned.

[NB: If the the product concerned is under a CN code which also contains other products, please estimate what percentage of that code is product concerned. This estimate has to be supported by evidence such as market sources. Statistics from other countries might also be helpful].

3.3 Average Prices from the Country concerned

These average prices are CIF prices computed from Market Intelligence (See Annex F). [NB: If the CN code contains other products, import volumes and values will need to be adjusted to reflect the product concerned]

Table. Average Prices to the EU28

Example

Average Price per Tonne	201x-3	201x-2	201x-1	201x
Country Concerned				

Sources: Eurostat (Comext).

In terms of average prices, the country concerned shows a decreasing trend of %.

3.4 Market Shares

The following table shows market shares of the country concerned with respect to total imports into the EU28. The country concerned represents at least 3% of total imports into the EU and its exports to the EU are above 1% of the total EU consumption.

Table. EU Market Shares

Example

EU Market Share (% of EU Consumption)	201x-3	201x-2	201x-1	201x
EU Producers*				
Country Concerned**				
REST OF THE WORLD**				

Sources: *Sales in volume from Complainant / Association; **Import volumes from Eurostat (Comext).

The table shows that the country concerned has increased their market share by %.

This has happened in a general context of stable/increasing/decreasing total consumption in the EU28.

3.5 Injury Factors for the EU28 industry

Table. Injury Factors for the European Industry as a whole

Example

INJURY FACTORS for the Union Industry		201x-3	201x-2	201x-1	201x
1	Production in the EU (tonnes)*				
2	Capacity in the EU (tonnes)*				
3	Sales in the EU (tonnes)*				
4	Employment in the EU*				

* Total for complainant and other EU producers.

Source: Complainant (and Association) data

The Union industry is materially injured as shown in the indicators above. [explain]

Table. Injury Factors for the Complainants

Example

INJURY FACTORS for the Complainants		201x-3	201x-2	201x-1	201x
A	Production in the EU (tonnes)*				
B	Capacity in the EU (tonnes)*				
C	Sales in the EU (tonnes)*				
D	Employment in the EU*				
E	Sales outside the EU (tonnes)				
F	Ex-works price for sales in the EU (euro)				
G	Full costs for sales in the EU (euro)				
H	Profits for sales in the EU (euro)				
I	Stocks year end volume in the EU (tonnes)				

Source: Complainant's data

The situation of the complainant is [explain]. The injury indicators per individual complainant producer are shown in Annex G.

3.6 Undercutting and Underselling Calculations

The analysis of prices for the main representative types is shown in the table below. Evidence on the Union industry selling prices in the EU is contained in Annex C.

Table. Undercutting, Reference Year 201x

Example with Customs clearance of 0.5% [if Customs duties apply, must also be added]

TYPE	Country Concerned			
	Union Industry Prices (a)	Export Price Country concerned after Customs clearance (b)	Undercutting (c = a-b)	% (d=c/a)
A	46	42 + 0.5% = 42.2	3.8	8%
B	95	82 + 0.5% = 82.4	12.6	13%
C	70	65 + 0.5% = 65.3	4.7	7%

Undercutting is between % and %. The product types are fully comparable and there are no disparities in terms of physical or other characteristics that could explain such a price difference. The comparison is made at the same level of trade.

The complainant is currently [loss making/making low profits on sales in the EU], while normal profit should be at [target profit] %.

Underselling margins are therefore:

Table 12. Underselling, Reference Year 201x

Example with target profit of 5%

TYPE	Country Concerned				
	Union Industry Prices (a)	Export Price Country concerned after Customs clearance (b)	Underselling (c = a-b)	Export Price CIF * (e)	% (d =c/e)
A	46+5%=48	42 + 0.5% = 42.2	5.8	42	14%
B	95+5%=100	82 + 0.5% = 82.4	17.6	82	21%
C	70+5%=74	65 + 0.5% = 65.3	8.7	65	13%

*same as in dumping calculation

4. Causality

[For each of the other possible factors, as the ones listed as examples below, explain why they do not break the causal link between dumping from the country concerned and the injury suffered by the EU industry]

- Union consumption
- Other Imports
- Energy Costs
- Raw Material Prices
- Other [for example: exchange rates]

No other factor appears to break the causal link between injury and dumped imports from the country concerned. (See Annex H for evidence on the factors explained above).

The complainant has analysed and demonstrated that the current situation in the EU28 is a direct result of the surge in dumped imports from the country concerned.

5. Conclusion

The evidence contained in this complaint shows that the dumped exports from the country concerned are causing injury to the EU producers.

This complaint has brought evidence showing that:

- The export prices of the country concerned to the EU28 are below the normal value.
- Export volumes of the country concerned to the EU28 have increased.
- Export prices of the country concerned to the EU28 have been decreasing.
- These unfair trade practices have caused injury to the EU28 industry producing the product concerned.

The Complainant hereby requests the Commission to initiate an investigation in accordance with Article 5 of the basic Anti-dumping regulation (EC 1225/2009).

The undersigned legally certifies that the information provided is complete and accurate, to the best of his knowledge, and that he has been authorised to represent the complainant (name of complainant)

Name, signature, address, phone, e-mail address and fax number

6. List of Annexes

- A. Combined Nomenclature Schedules, additional information and evidence on the product
- B. List of known Exporters in the Country concerned
- C. Evidence on Normal Value
- D. Evidence on Export Prices
- E. Dumping Calculations
- F. Average Prices
- G. Injury
- H. Other Factors (Energy Prices, Raw Material prices, Other)

Annex 3

Example of standard annexes to the complaint

Example Annex 1.A. EU industry and representativeness of complainant²⁹

- EU production in volume for the last calendar year and/or (preferably) for a 12 month period ending no later than 6 months before the date of the submission. Support these calculations by stating the source of the data, attaching the relevant copies of the source, if applicable, and detailing the methodology used.
- List of complainants with contacts details (name, address, telephone and fax numbers, email address, contact person) and production volume of each complainant and of all complainants as a whole, for the last calendar year and for a 12 month period ending no later than 6 months before the date of the submission.
- List of other known producers in the EU with contact details (name, address, telephone number, email address and, if possible, contact person), with an estimate of their production volume for the one year period mentioned above. Please specify whether these other known producers are supporting the complainant or if they are opposing or neutral, if you know their position.

NB: please provide an electronic version of all contact details, preferably an Excel table.

Example Annex 1.B. Product concerned

- Documents (such as European standards), brochures, production processes, different types and photographs of the product in question that is produced in the EU.
- Idem for the allegedly dumped foreign product that is imported into the EU.
- Idem for the foreign product sold in the foreign domestic market.

Example Annex 1.C. Exporting companies

- List (by country) of known producers/exporters of the product in question with contact details: names, addresses, phone number and email address and contact person (if available).
- List of known associations of producers/exporters by country/ies concerned by the complaint, with the same contact details.

NB: please provide an electronic version, preferably an Excel table.

Example Annex 1.D. Importers

- List (by country) of known importers with names, addresses, phone number and email address and contact person (if available).
- List of known associations of importers, with the same contact details.

NB: please provide an electronic version, preferably an Excel table.

Example Annex 1.E. Suppliers, users and consumers

- List of known main suppliers, users and consumers and their associations with names, addresses, phone number and email address and contact person (if available).

NB: please provide an electronic version, preferably an Excel table.

²⁹ In the case of an industry composed of a large number of small and medium-sized enterprises, please contact the Commission for further guidance.

Example Annex 2.A. Representative product types

- Technical and statistical information about these product types.

Example Annex 2.B. Normal value

Choice of analogue country (if a non-market economy country is concerned)

- Any information supporting the choice of the analogue country. For example:
 - Concerning the competition in the market (e.g. players in the market, official statistics for imports of the product concerned in the proposed analogue country, etc.)
 - the size of the market in terms of volume (e.g. figures from a market survey)
 - the production process (information from surveys, articles etc.).

If domestic price can be used:

- Invoices, offers, surveys, advertisements, statistics etc. indicating domestic price.
- Evidence for any adjustments (from market surveys or other reliable sources).

Useful information can be obtained through EU Delegations and/or embassies of EU Member States in countries outside the EU.

Otherwise:

- Source of data for constructed value (e.g. market surveys, statistics), or
- Evidence of price charged by supplier to a third country (e.g. invoices, offers, statistics, etc.).

Example Annex 2.C. Export price

- Invoices/written offers and/or Eurostat data and/or other (sales staff reports, price lists).
- Source of figures for adjustments or the basis for its estimation to bring price back to ex-factory level, notably transport costs.

Example Annex 2.D. Price comparison

- Evidence or basis for estimate supporting adjustments to be made.

Example Annex 3.A. Injury

- Evidence on injury factors, in particular prices of EU producers and profitability.

Annex 4

Guidelines for the version open for inspection by interested parties

When compiling the version open for inspection by interested parties, you should bear in mind that all interested parties; i.e. producers, exporters, importers, suppliers and users will have access to it, contrary to the limited version. The version open for inspection by interested parties should, however, be sufficiently detailed to permit a **reasonable understanding** of the substance of the information submitted in the limited version without disclosing confidential data.

In order to assist you in preparing a version open for inspection by interested parties of the complaint, we advise you to act as follows:

1. Use the limited version of the complaint and annexes as a basis.
2. Identify all information in the "*Limited*" complaint which you consider is not limited, and leave it in the version open for inspection by interested parties.
3. For **each item** you have not disclosed (in the "body" of the complaint as well as in annexes), you should
 - explain why it is confidential (mainly because of business secrets or because you are dealing with documents whose disclosure would cause harm to the persons supplying it or involved therein)³⁰.
 - summarise the confidential information in non-confidential version. The summary must be meaningful, i.e. it must be precise enough to allow a reasonable understanding of the substance (number of documents, title, date / period covered, description of the content etc.). Indicate in the non-confidential version the sources of information used, just as in the confidential version, or mention why the source cannot be disclosed.
4. If, in exceptional circumstances, it is not possible even to summarise the confidential information, give reasons why a summary is not possible. Always indicate explicitly where confidential data has been deleted. Redacted text has to be identified as [*redacted*].

Examples on how to summarise confidential information:

- * When the information concerns numbers for various years you can use indices:

Example of confidential information:

200x (year-2)	200x (year-1)	200x
20.000 Euro	30.000 Euro	40.000 Euro

The non-confidential summary could be as follows:

200x (year-2)	200x (year-1)	200x
100	150	200

- * When the information concerns single number you can apply ranges:

³⁰ Information or a document can be considered confidential "by nature" (business secrets, documents whose disclosure would cause harm to the persons supplying it or involved therein). For business secrets, the justification could be for instance: "*this information is by nature confidential because its disclosure would be of significant competitive advantage to a competitor*". For information disclosure of which would cause harm to someone, the justification could be for instance: "*this information is by nature confidential because its disclosure would have a significantly adverse effect upon a person supplying the information or upon a person from whom that person acquired the information*". If possible, the competitive advantages and/or harmful aspects should be described. In exceptional cases, information or a document that is not confidential by nature can be treated as confidential, when it is provided to the Commission on a confidential basis together with a duly justified request for confidential treatment.

Example of limited figure:

"The sales price is 215 Euros per tonne."

The summary open for inspection by interested parties could be as follows:

"The sales price is [200-240] Euros per tonne."

In general, ranges are more meaningful than indices, even for the depiction of trends. If you use indices please bear in mind that this has to be justified.

- * When the limited information concerns text, you can either summarise it or eliminate the names of parties by indicating their function:

Example of limited text:

"TRADING COMPANY Ltd. told me that the import prices were 20% lower."

The summary open for inspection by interested parties could be as follows:

"[one of my customers] told me that the import prices were 20% lower."

- * As regards dumping and injury calculations, the non-confidential version must show the methodology used and the limited information must be summarised in a meaningful way (for instance by using ranges and indexes for limited / sensitive data and real figures).

Information subject to third party copyright

As a general rule, all information or data contained in the complaint should be copyright free (both in the limited version and in the version open for inspection by interested parties).

If you still consider it necessary to rely on a report, study, market survey, press article, European standard, etc. covered by a copyright, you should try to get the agreement of the copyright holder to allow interested parties to consult the document, or the relevant data from the document, in the version open for inspection by interested parties. Please state in writing whether you have got this agreement and describe its scope and conditions, if any.

If you have not got the agreement, you must submit a meaningful non-confidential summary so other interested parties are able to exercise their rights of defence when consulting the version of the complaint open for inspection. The summary must contain basic information such as the name of the author, the full title of the document and the specific pages provided, if relevant, and a description of the content, with indexes or ranges instead of actual data used.

If you prefer to contact the copyright holder after the investigation has begun, please submit and sign following commitment in the complaint:

'I, Mr/Ms.... , declare that I am submitting to the Commission information and/or data which is subject to third party copyrights for which I will request specific permission from the copyright holder/s (name/s of the company/ies) explicitly allowing

i) the Commission to use the information and data for the purpose of this trade defence proceeding and

ii) to provide the information and/or data to interested parties to this investigation.

In the meantime, I provide a meaningful summary of the copyrighted information. I also declare that all the other information and data submitted for the purpose of this investigation are free from copyrights.'

As mentioned in this statement, you must provide meaningful non-confidential summaries (with indexes or ranges, depending on the subject) declaring the source of the information.

Please contact the Commission for any doubts about the handling of copyrighted information.

Annex 5

FORM FOR DATA COLLECTION

Boxes to be filled in by entity compiling the complaint

Boxes to be filled in by individual companies

ANTI-DUMPING COMPLAINT CONCERNING IMPORTS OF					
(product)..... ORIGINATING IN (country(ies)).....					
Limited¹					
<p>Please fill in the table and answer the questions below following these instructions:</p> <p>1. The responses must relate exclusively to “.....”(fill in name of the product concerned), i.e. ....(give a short description of the product concerned) normally declared within CN code(s) .....(fill in codes).</p> <p>2. All the information provided must refer to your own production in the EU¹ only, (i.e., it should <u>not</u> include sales of products produced by other EU firms or sales of imported goods).</p> <p>1 Table</p>					
		200x (year-3)*	200x (year- 2)*	200x (year- 1)*	200x (year 0)*
1	Production by your company in the EU ¹ (in units ²) ³				
2	Capacity by your company in the EU ¹ (in units ²) ³				
3	Sales by your company in the EU ¹ (in units ²) ³				
4	Sales by your company in the EU ¹ (in € ³)				
5	Employment by your company in the EU ¹ (number of employees) ³				
6	Sales by your company outside the EU ¹ (in units ²) ³				
7	Ex works price for sales by your company in the EU ¹ (in €unit ²) ³				
8	Full costs ⁴ for sales by your company in the EU ¹ (€unit ²) ³				
9	Profits for sales by your company in the EU ¹ (in € ³)				
10	Stocks year end volume by your company in the EU ¹ (in units ²) ³				
11	Investments product concerned by your company in the EU ¹ (in € ³)				
12	Capacity utilisation by your company in the EU ¹ (in %) ³				
2	<p>Is your company related⁵, directly or indirectly, to any <u>producer or exporter of the product concerned, from the country/ies allegedly dumping?</u></p> <p style="text-align: right;">yes : <input type="text"/> no : <input type="text"/></p> <p style="text-align: center;">.....</p> <p>If yes, please specify the country(ies) <input type="text"/></p>				

3 *Is your company related⁵, directly or indirectly, to any other non-EU producer or exporter of the product concerned?*

yes : no :

If yes, please specify the country(ies)

.....

4 *Does your company import the product concerned into the EU¹ from the country(ies) allegedly dumping?*

yes : no :

In units ²	200x (year-1)	200x (year 0)
Imported from (country allegedly dumping)		

5 *Does your company import the product concerned into the EU¹ from any other non-EU country ?*

yes : no :

If yes, please specify the country(ies)

.....

6 *The sources of the information provided in this document are (for example, audited accounts):*

.....

Please sign your response and also stamp the document with the official company seal.

7 Company name:

.....

Company address:

.....

Phone and fax number:

.....

e-mail:

.....

Hereby the company stated in point 7 above supports the above complaint as a complainant and authorizes
 to act on its behalf in all matters concerning the anti-dumping proceeding.

Date

Signature of authorised official

Name and title of authorised official

¹ This document is for internal use only. It is protected pursuant to Article 4 of Regulation (EC) No1049/2001 of the European Parliament and of the Council (OJ L 145, 31.5.2001, p.43). It is a confidential document pursuant to Article 19 of Council Regulation (EC) No1225/2009 (OJ L 343, 22.12.2009, p. 51) and Article 6 of the WTO Agreement on Implementation of Article VI of the GATT 1994 (Anti-dumping Agreement) / pursuant to Article 29 of Council Regulation (EC) No597/2009 (OJ L 188, 18.07.2009, p.93) and Article 12 of the WTO Agreement on Subsidies and Countervailing Measures.

² Member States of the EU are: Austria, Belgium, Bulgaria, Croatia, Czech Republic, Cyprus, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Ireland, Italy, Latvia, Lithuania, Luxemburg, Malta, the Netherlands, Poland, Portugal, Romania, Slovakia, Slovenia, Spain, Sweden and the United Kingdom.

³ The type of unit differs per product. For example, for shoes you would have pairs, for steel you would have tons, for bicycles you would have units, for drinks you would have liters. Please mention the type of unit which applies to your product. Please specify the unit used.

⁴ Figures should refer to all 28 Member States (see footnote 2), even for periods prior to 1 July 2013.

⁵ "Full costs" include all manufacturing costs (including depreciation), as well as selling, general, financial and administrative expenses incurred in the production and sale of the products. 'Full cost' is the cost before income taxes.

⁶ Producers shall be considered to be related to exporters only if (a) one of them directly or indirectly controls the other; or (b) both of them are directly or indirectly controlled by a third person; or (c) together they directly or indirectly control a third person. One shall be deemed to control another when the former is legally or operationally in a position to exercise restraint or direction over the latter.

* The latest information should normally not be older than 6 months from the date of lodging of the complaint. For example, if you are preparing a complaint to be lodged in December 200x, the last column should cover at least the first half of 200x.

Annex 6

EXAMPLE OF TABLES SUMMARISING INJURY INFORMATION

I. Macro indicators: they refer to the EU industry as a whole

Please fill in the tables relating to the following indicators for all European Union producers, whereby year 0 is a 12 months period before the lodging of the complaint of which the end date should be not older than 6 months before the date of lodging of the complaint:

A				
CONSUMPTION				
Year	200x (year-3)*	200x (year-2)*	200x (year-1)*	200x (year 0)*
Consumption in the EU				
Index	100	...	...	...

Ba				
VOLUME OF DUMPED IMPORTS				
Year	200x (year-3)*	200x (year-2)*	200x (year-1)*	200x (year 0)*
Country concerned				
Index	100	...	...	...
Country concerned				
Index	100	...	...	...
(as necessary)				
Total volume of dumped imports				
Index	100	...	...	...
Bb				
MARKET SHARE OF DUMPED IMPORTS				
Year	200x (year-3)*	200x (year-2)*	200x (year-1)*	200x (year 0)*
Country concerned	%	%	%	%
Country concerned	%	%	%	%
(as necessary)	%	%	%	%
Total market share of dumped imports	%	%	%	0 %

C				
PRICE OF DUMPED IMPORTS (per unit)				
Year	200x (year-3)*	200x (year-2)*	200x (year-1)*	200x (year 0)*
Country concerned				
Indexes	100			
Country concerned				
Indexes	100			
(as necessary)				

D				
PRODUCTION, CAPACITY AND UTILISATION OF THE EU INDUSTRY				
Year	200x (year-3)*	200x (year-2)*	200x (year-1)*	200x (year 0)*
Total Production				
Index	100	...	...	...
Production capacity				
Index	100	...	...	...
Utilisation of capacity (Total Production/ Production capacity)	%	%	%	%

Ea				
SALES VOLUME IN THE EU BY THE EU INDUSTRY				
Year	200x (year-3)*	200x (year-2)*	200x (year-1)*	200x (year 0)*
Total EU sales (volume)				
Index	100			
Eb				
VOLUME AND PRICES OF EXPORTS OF EU INDUSTRY				
	200x (year-3)*	200x (year-2)*	200x (year-1)*	200x (year 0)*
Volume				
Index	100			
Value (€)				
Index	100			

F				
EMPLOYMENT IN THE EU INDUSTRY				
Year	200x (year-3)*	200x (year-2)*	200x (year-1)*	200x (year 0)*
Employment				
Index	100	...	...	...

II. Micro indicators: they refer to the complainants only

Please fill in the tables relating to the following indicators for every complainant individually as well as on an aggregated basis (for all complainants)

A				
PRICE UNDERCUTTING SUFFERED BY THE COMPLAINANTS				
Year	200x (year-3)*	200x (year-2)*	200x (year-1)*	200x (year 0)*
Country concerned	NO DATA NECESSARY BUT NOT EXCLUDED IF RELEVANT			%
Country concerned				%
(if necessary)				%
				%

B				
PRODUCTION, CAPACITY AND UTILISATION				
Year	200x (year-3)*	200x (year-2)*	200x (year-1)*	200x (year 0)*
Total Production				
Index	100	....	....	....
Production capacity				
Index	100	....	....	....
Utilisation of capacity (Total Production/ Production capacity)	%	%	%	%

Ca				
EU SALES VOLUME AND VALUE				
Year	200x (year-3)*	200x (year-2)*	200x (year-1)*	200x (year 0)*
Total EU sales (volume)				
Index				
Total EU sales (ex-factory) in €				
Index	100	....	....	....
Cb				
EU MARKET SHARE OF THE COMPLAINANTS AND OF OTHER EU PRODUCERS				
Year	200x (year-3)*	200x (year-2)*	200x (year-1)*	200x (year 0)*
EU market share	%	%	%	%
Index	100	....	....	....
Cc				
VOLUME AND PRICES OF EXPORTS				
Year	200x (year-3)*	200x (year-2)*	200x (year-1)*	200x (year 0)*
Total non-EU sales (volume)				
Index	100	....	....	....
Total non-EU sales (ex-factory) in €				
Index	100	....	....	....

D				
EU SALES PRICE TO UNRELATED CUSTOMERS				
Year	200x (year-3)*	200x (year-2)*	200x (year-1)*	200x (year-0)*
EU Sales price				
Index	100	...	...	...

E				
COST OF GOODS SOLD FOR SALES TO UNRELATED CUSTOMERS IN THE EU				
Year	200x (year-3)*	200x (year-2)*	200x (year-1)*	200x (year-0)*
Average unit cost of goods sold				
Index	100	...	...	...

F				
PROFITABILITY OF THE COMPLAINANTS (% of profit before tax)				
Year	200x (year-3)*	200x (year-2)*	200x (year-1)*	200x (year-0)*
Profitability				
Index	100	...	...	...

G				
EMPLOYMENT				
Year	200x (year-3)*	200x (year-2)*	200x (year-1)*	200x (year-0)*
Employment				
Index	100	...	...	...

H				
INVESTMENTS				
Year	200x (year-3)*	200x (year-2)*	200x (year-1)*	200x (year-0)*
Investment				
Index	100	...	...	...

I				
STOCK VARIATIONS				
	Stock of own produced product concerned		Stock of purchased product concerned (if relevant)	
Beginning of year 1				
End of year 1				
Beginning of year 2				
End of year 2				
Beginning of year 3				
End of year 3				
Beginning of year 4				
End of year				

CAUSALITY

VOLUMES AND PRICES OF IMPORTS FROM OTHER THIRD COUNTRIES				
Volumes / Year	1	2	3	4
Exporting country "X"				
Index	100	....	....	....
Exporting country "Y"				
Index	100	....	....	....
Etc.				
Other countries				
Index	100	....	....	....
Total volume of other countries				
Index	100	....	....	....
Prices / Year	1	2	3	4
Exporting country "X"				
Index	100	....	....	....
Etc.				
Other countries				
Index	100	....	....	....
Average prices of other imports				
Index	100	....	....	....

Annex 7
STANDING FORM

Limited

SECTION A

1. Does your company currently produce the product concerned in the EU?

yes no

2. What is your company’s position regarding the possible initiation of an anti-dumping investigation concerning imports of the product concerned, originating in ...?

in favour against neutral

Please explain why you take this position:

.....

3. Please fill in the table below. Figures should refer to all Member States

The information below refers to the product concerned and your company only	(12 month period)
Total volume of production in the EU (tonnes)	
Of which for captive use³¹	
Volume of sales in the EU (tonnes) produced by your company in the EU	
Value of sales in the EU (in €) produced by your company in the EU	
Production capacity in the EU (tonnes)	
Employment in the EU (number of persons)	

³¹ Production for captive use is either transferred or sold captively, i.e. without entering the free market. Captive transfers are internal transfers of the product, which do not enter the free market, because the product is used by an integrated producer for further processing, transformation or assembly by different units of the same legal entity. These internal transfers are characterised by the fact that no commercial invoices are issued. Captive sales are sales which do not enter the free market, because the product is used for further processing, transformation or assembly by a separate legal entity which is a related company and at least one of the following is true: (i) the sales are not made at market prices or (ii) the buyer does not have a free choice of supplier.

4. Is your company related³², directly or indirectly, to any producer or exporter of the product concerned from ...?

yes

no

5. Please provide the names and precise activities of all related companies involved in the production and/or sales of the like product (produced in the Union).

.....
.....
.....
.....

6. Has your company sold the product concerned in the EU which is imported from ...?

yes

no

7. Is your company a Small or Medium sized Enterprise (SME)³³?

yes

no

8. To your knowledge, who are the producers and associations of producers of the product concerned in the EU, aside from those mentioned in Attachment III? Please provide us with the address, telephone number, email address of the producers you list below.

.....
.....
.....
.....
.....
.....
.....

³² For the definition of “related” party under Article 4(2) of the basic anti-dumping Regulation, see Attachment II.

³³ According to the Commission Recommendation of 6 May 2003 concerning the definition of micro, small and medium-sized enterprises (OJ L 124, 20.5.2003, p.36), a company qualifies as an SME if 1) it employs less than 250 persons (including managers, etc.) and 2) it has an annual turnover not exceeding 50 million EURO and/or its annual balance sheet does not exceed 43 million EURO. Please note that the previously mentioned figures (employees, turnover and balance sheet) refer to the consolidated data of the company in question and its partners and/or linked companies proportionally aggregated to the percentage interest in the capital or voting rights, and are not limited to the product concerned. For further explanations please consult the new SME user guide in http://ec.europa.eu/enterprise/policies/sme/files/sme_definition/sme_user_guide_en.pdf

Annex 8

COUNTRIES SUBJECT TO SIGNIFICANT DISTORTIONS

Article 2(6a) of the basic Regulation stipulates that when the product is produced in a country where it is not appropriate to use prices and costs due to the **existence of significant distortions**, the normal value shall be **constructed exclusively** on the basis of **costs of production and sale reflecting undistorted prices or benchmarks**.

In order to construct the normal value, a list of **production factors** (or bill of materials) needed to manufacture the product concerned must be included in the complaint. The list of production factors is divided into direct costs, indirect costs, SG&A and profit:

- **Direct costs**
 - Direct raw materials
 - Energy and utilities (can be included in the factory overheads ('FOH') if insignificant)
 - Direct and indirect labour (but indirect labour may be re-classified into FOH)
 - By-products/co-products (including scrap) – "Product offsets"
 - ✓ Sold
 - ✓ Re-introduced into production
 - Packaging:
 - ✓ Packing material
 - ✓ Packing labour
- **Indirect costs** (factory overheads "FOH")
 - Depreciation
 - Maintenance
 - Indirect labour, if not included in direct costs
 - Can include energy and utilities (if insignificant)

Cost data from an appropriate representative third country should be "readily available". Information can be obtained from:

- Available financial statements (SG&A, profit, and factory overheads) from major producer(s) in the representative third country of the product under investigation will be needed. The selected producer(s) must be profitable, should preferably not have strong links with producers of the product under investigation in the exporting country and should not receive subsidies. If data available, preference should be given to data coming from several different producers from the same representative country.
- Statistical data on import prices for input materials and energy. Databases that can be used are national statistics databases of the specific representative country, Global Trade Atlas (GTA)³⁴, containing imports/exports statistics from numerous countries worldwide, etc;
- Information on the cost of utilities (such as water and electricity often not imported in significant quantities) contained in the specific country's National Statistics Data, the International Energy Agency³⁵ or elsewhere (for example Bloomberg database);
- Available Statistics for labour cost (International Labour Organisation (ILO)³⁶ and the specific country's National Statistics Data or elsewhere (for example Bloomberg database).

³⁴ <https://www.gtis.com/gta/>

³⁵ <http://www.iea.org/>.

Countries subject to distortions cannot serve as appropriate representative third countries. This means that:

- It should not be listed in the OECD List of Export restrictions on Industrial Raw Materials ("the OECD List")³⁷ regarding any of the inputs to be benchmarked.
- It should not contain distorted values such as imports of raw materials of the product concerned from countries where the Commission has established in previous anti-dumping or anti-subsidy Regulations the existence of dumping or subsidies for the input materials concerned. In such cases distorted values have to be removed.

Undistorted costs should comply with the following criteria:

- These costs should be contemporaneous and ideally fully match the IP that should be spread over a period of 12 months ending no later than 6 months before the date on which the complaint is lodged.
- These costs must be duly adjusted in order to be used at the same level of trade as the actual costs incurred.

³⁶ <http://www.ilo.org/inform/online-information-resources/databases/stats/lang--en/index.htm>

³⁷ [http://qdd.oecd.org/subject.aspx?Subject=ExportRestrictions_IndustrialRawMaterials.](http://qdd.oecd.org/subject.aspx?Subject=ExportRestrictions_IndustrialRawMaterials)