

**PETITION FOR REMEDIAL ACTION AGAINST
THE ALLEGED DUMPING/SUBSIDISATION OF**

[product(s)]

manufactured/produced

in

[country/countries of origin]

or exported

from

[country/countries of export]

PETITIONER

Name :

Address : _____

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INTRODUCTION

1. The purpose of this questionnaire is to help industry bring together in a concise and logical form the information needed by the Board on Tariffs and Trade (the Board) to decide whether or not to initiate a formal investigation, and will also serve as a basis for the further investigation.
2. The South African legislation, which puts into effect the provisions of the World Trade Organisation (WTO) dealing with dumped and subsidised exports is contained in section 1 (a) of the Board on Tariffs and Trade Act, 1986 (the BTT Act). The BTT Act authorises the Board to investigate dumping and/or subsidised export in or to the common area of the Southern African Customs Union (SACU), which consists of South Africa, Botswana, Lesotho, Namibia and Swaziland.
3. The provisions of the WTO regarding dumped and subsidised exports are contained in the Agreement on Implementation of Article VI of the General Agreement on Tariffs and Trade 1994 (the Anti-Dumping Agreement) and the Agreement on Subsidies and Countervailing Measures (the SCM Agreement).
4. South Africa is bound by these agreements and the Board is committed to act in accordance with the Anti-Dumping Agreement and the SCM Agreement within the framework of South African law. Before answering the questionnaire those considering to petition the Board for remedial measures can read the Agreements, copies of which are available from the Board and then to decide whether to approach the Board for remedial action with regard to dumping and/or subsidised imports (countervailing investigation).
5. The Director: Trade Remedies Policy offers a public liaison service. If any party has particular problems in answering the questionnaire or requires more information or clarification on policy issues, please feel free to contact Mr. Gustav Brink, 012 428 7817, fax 012 428 7736 or email gustavb@dti.pwv.gov.za.
6. Petitioners should provide full and accurate information and wherever possible provide supporting documentary evidence from commercial or governmental sources, e.g. commercial invoices or offers, official trade and production statistics. Failure to do so could detrimentally affect your case. The Board will not take into consideration unsubstantiated information. All cost related information should be reconcilable to the financial statements or management accounts.

7. If the petition is based in part on confidential material **the petition must contain a non-confidential version of the confidential material together with an explanation of why it is confidential.** It is provided in Article 6.5.1 of the Anti-Dumping Agreement that *"these summaries shall be in sufficient detail to permit a reasonable understanding of the substance of the information submitted in confidence. In exceptional circumstances, such parties may indicate that such information is not susceptible of summary. In such exceptional circumstances, a statement of the reasons why summarization is not possible must be provided."*

Therefore where confidential and non-confidential versions are supplied, parties must:

- (1) indicate where information has been omitted in each instance;
- (2) provide reasons for confidentiality in each instance;
- (3) provide a summary of the confidential information which permits a reasonable understanding of the substance of the confidential information in each instance; and
- (4) where information is not susceptible to a non-confidential summary, and provide reasons to this effect.

The Board will not formally accept a petition until a proper non-confidential version has been submitted in accordance with the above guidelines. Where possible, confidential figures must be provided in an indexed form. If the Board finds that a request for confidentiality is not warranted and if the petitioner is either unwilling to make the information public or to authorise its disclosure in summarised format, the Board may disregard such information.

Please take note that the rules relating to confidential information and the submission of non-confidential versions of submissions applies to ALL correspondence, which unless clearly indicated to be confidential and filed together with a non-confidential version, will be placed on the public file and be made available to other interested parties. If a document is indicated to be confidential but a proper non-confidential document complying with the above-mentioned rules, is not filed, then the document will not be taken into consideration by the Board. The public file is available for inspection at the Board's offices by all interested parties, by appointment.

8. Please take notice further that interested parties are encouraged to inspect the public file regularly. All interested parties are furnished with a non-confidential version of the petition once an investigation has been initiated. A copy of the non-confidential version of the petition as well as non-confidential correspondence will be placed in a public file and will be made available upon request.

9. The terms manufacture and manufacturer should be understood to include produce and producer, and *vice versa*.
10. If this petition is in respect of more than one product, a reference to "product", should be considered to be a reference to "products", and the petitioner should respond to the relevant question(s) in respect of all products petitioned for.
11. Information should be submitted in hard copies as well as on 1,44 mb stiffy diskettes The Board's computer system is IBM compatible and utilises dBASE V or Visual DBASE, Excel Version 4.0 (which is compatible with Lotus 1-2-3 and Quattro Pro) and MS Word software. Discs must be labelled clearly indicating:
 1. Petitioner's name;
 2. Product(s) concerned;
 3. Type of information on the disc; and
 4. Software used

The discs must be write protected.

12. The information with regard to dumping covers the twelve months prior to the lodging of the petition and the injury covers the three years prior to the lodging of the petition.
13. The petition and further correspondence must be addressed to

The Director: Trade Remedies Policy
Board on Tariffs and Trade
Private Bag X 753
PRETORIA
0001

Fax: ++27 12 428 7736
Tel: ++27 12 428 7817
4th Floor
SABS Building
1 Dr Lategan Drive
Groenkloof

14. **The Board will verify all information submitted. Should it be found that you have submitted false or misleading evidence the Board may decide not to proceed with the investigation.**

SECTION A PETITIONER

Note: Should the Board accept the petition for a formal investigation it will publish the initiation of the investigation in the Government Gazette and will identify the petitioner/s in the notice. The petition can also be brought by a representative body.

- A1 State the name, postal and street addresses, the telephone and telefax numbers (including codes) and the E-mail address of your company.
- A2 State the names, telephone numbers of and positions held by the company's officers to be contacted.
- A3 Indicate the exact location of your manufacturing site(s).
- A4 Provide a diagramme of your company's group structure and indicate the percentage stockholding and cross-holdings.
- A5 Give a summary of any franchise, manufacturing, licensing, know-how, technology and distribution agreements in respect of inputs, manufacturing and outputs with regard to all products under investigation.

SECTION B DOMESTIC INDUSTRY

B1 If there is a representative organisation submit the following information:

- (a) Names, telephone numbers of and position held by the organisation's officers to be contacted;

- (b) Name the manufacturers in the industry affiliated to the organisation. (Give company names, postal, street and E-mail addresses, telephone and telefax numbers and the names of contact persons).

B2 Name all the manufacturers constituting the Southern African Customs Union (SACU) industry concerned. Give their company names, postal addresses, telephone and telefax numbers, and the names of contact persons.

B3 Article 5.4 of the Anti-Dumping Agreement provides that manufacturers representing at least 50% of the total volume produced by all manufacturers that express an opinion on the investigation must support the petition, and that a minimum of 25% (by production volume) of the total industry must support the petition. Without this support the Board cannot accept a petition for investigation. *Letters of support or opposition must be attached to the petition.*

Indicate the industry support and/or opposition to the petition in the following format:

Industry Standing			
(Total domestic production of like goods for the 12 months preceding the lodging of the petition)			
Manufacturer	Production volume- Support Petition	Production volume- Oppose petition	Production volume- Neutral
Your Company			
Other manufacturers 1. 2. 3.			
Total SACU	A	B	C

SECTION C PRODUCTS

Note: Like product

In terms of Article 2.6 of the Anti-Dumping Agreement "*the term 'like product' ('produit similaire') shall be interpreted to mean a product which identical, i.e. is alike in all respects to the product under consideration, or in the absence of such a product, another product which, although not alike in all respects, has characteristics closely resembling those of the product under consideration.*"

C1 Southern African Customs Union (SACU) product (s)

If more than one product is petitioned, the following information should be submitted separately for each product. In cases where there are numerous product lines that are petitioned, e.g shoes, car tyres or circuit breakers, a sample must be selected for investigation purposes and the basis for determining the sample must be indicated.

C1.1 Describe the petitioned product (s) that you manufacture (attach photograph):

- (a) Brief physical description
 - ? Scientific name (if any)
 - ? Common name
 - ? Trade name
- (b) Main raw materials/components/inputs used.
- (c) Production/manufacturing process used.
- (d) Technical characteristics.
- (e) Application/use.
- (f) Categories of users.

Substantiate your description with catalogues, brochures and other literature/samples.

C1.2 Statutory or other standards/specifications

Give details of all standards/specifications applicable to the product concerned in the SACU prescribed by law or otherwise.

C2 Imported product

If there is more than one imported product competing directly with the SACU product, information should be submitted separately for each such product.

C2.1 Describe the imported product in the following detail:

- (a) Brief physical description:
 - scientific name.
 - common name and
 - trade name

- (b) Main raw materials/components/inputs used.

- (c) Production/manufacturing process used (if known).

- (d) Technical characteristics (if known).

- (e) Application/use

- (f) Categories of users.

Substantiate your description with catalogues, brochures and other literature/samples.

C2.2 Enumerate in detail any differences between the imported product and the petitioned product

C2.3 Customs classification

Supply the following information:

Tariff subheading	Description	Unit of measurement	Rate of customs duty	Rebate provision item number	Rebate provision description

C3 Like product in the country of export/origin

C3.1 Describe the like product (s) sold in the country of export, in the following detail:

Brief physical description:

- scientific name;
- common name and
- trade name.

Substantiate your description with catalogues, brochures and other literature/samples if available.

C3.2 Enumerate in detail any differences between the imported product and the like product sold in the country of origin and/or export.

SECTION D OTHER PARTIES

Note: As the Board has to contact all the manufacturers, exporters and importers concerned, provide full addresses, including telephone and telefax numbers.

D1 Name the countries of origin and export of the petitioned products being the subject of the petition.

D2 If known give the names, addresses, telephone and telefax numbers of the

- (a) manufacturers (petitioned) of the products exported to SACU;
- (b) exporters to SACU;
- (c) other manufacturers in the countries of export who has not exported to the SACU;
and
- (d) SACU importers from the countries petitioned .

SECTION E DUMPING

Note: Low prices do not necessarily mean that imports are dumped. Dumping is defined in section 1 of the BTT Act, as "*the introduction of goods into the commerce of the Republic or the common customs area of the Southern African Customs Union at an export price which is less than the normal value of the goods.*" Normal value is defined as

- "(a) *the comparable price actually paid or payable in the ordinary course of trade for like goods intended for consumption in the exporting country or country of origin; or***
- (b) *in the absence of a price contemplated in paragraph (a) -***
 - (i) *the highest comparable price at which like goods are being exported to any third country in the ordinary course of trade; or***
 - (ii) *the constructed cost of production of the goods in the country of origin plus a reasonable addition for selling costs and profit:***

Provided that due allowance shall be made in each case for differences in conditions and terms of sale, for differences in taxation, and for other differences affecting price comparability.

The purpose of Section E is, therefore, to provide the information needed for a proper comparison of export price and normal value (exported products domestic selling price). In most cases the normal value is the price charged for the like product on the exporter's domestic market. However, special rules apply in the following cases -

- (a) Where there are no sales of the like product on the exporter's domestic market or where sales do not allow a for proper comparison, e.g. because they are very small (i.e. less than 5 per cent of the volume exported to the SACU market);
- (b) Where sales on the exporter's domestic market are made at a loss over an extended period of time and in substantial quantities; or
- (c) Where sales on the exporter's domestic market are made at prices which are not determined according to free market principles as a result of intervention by Government, excluding by way of subsidies or grants.

Note: All information requested in this Section relates to a period of 12 months immediately prior to lodging this petition.

In all your replies to Section E you must identify the source of your information and substantiate your replies with documentary evidence.

(If the product/s are sold on the exporters domestic market, invoices, price lists and advertisements containing prices can be used to establish normal value. In the case of a cost build-up all the main inputs must be substantiated by the necessary documentation such as international commodity prices, publication and internet information.)

E1 **Normal value:** although there are 3 methods (page 10) for establishing normal value method (a) is the preferred method to be and only when it is impossible to obtain (a) that one of the other (b) & (c) be applied. If the petition is however brought against a non- market economy a third country or surrogate must be nominated see E1.4).

E1.1 Furnish the price charged on the exporter's domestic market. Ideally this should be the net ex-factory selling price exclusive of all internal taxes. If this is not available submit the price available to you(e.g. a retail invoice, a retail advertisement etc) on which the allegation of dumping is based and indicate which costs should be deducted to bring it to a net ex-factory level.

- E1.2 (a) Where there are no domestic sales give the reason why you believe that there are no sales of the like product in the exporter's domestic market.
- (b) Where domestic sales do not allow for a proper comparison with the exports to South Africa, give the reasons why you believe that the sales in the exporter's domestic market do not allow for such comparison, e.g. it is insignificant in comparison with total output.
- (c) Where you believe that domestic sales are made at a loss, submit evidence to support your view.

Note: Paragraph 2.2.1 of the Anti-Dumping Agreement reads as follows: "*Sales of the like product in the domestic market of the exporting country or sales to a third country at prices below per unit (fixed and variable) costs of production plus administrative, selling and general costs may be treated as not being in the ordinary course of trade by reason of price and may be disregarded in determining the normal value only if the authorities determine that such sales are made within an extended period of time in substantial quantities and are at prices which do not allow for the recovery of all costs within a reasonable period of time.*"

Footnote 4 of the Anti-Dumping Agreement indicates that "*the extended period of time should normally be one year but shall in no case be less than six months*", while footnote 5 indicates that "*sales below per unit costs are made in substantial quantities when the authorities establish that the weighted average selling price of the transactions under consideration for the determination of the normal value is*

below the weighted average per unit costs, or that the volume of sales below per unit costs represents not less than 20 per cent of the volume sold in transactions under consideration for the determination of the normal value."

- E1.3 In any one of the situations referred to in E1 or E1.2 provide information on only **one** of the following options as the basis for normal value -
- (a) the price charged by the supplier concerned for exports to a third country market; or
 - (b) the constructed value of the like product, exported to South Africa based on production costs in the country of origin, as far as possible in the format and detail indicated on the next page. The cost build-up format is only a guideline to indicate the level of detail required by the Board. Each cost element must be based on substantiated evidence and not merely on presumptions relating to your own cost information.

Cost and price build-up of the exported product (the cost build -up is only an example of a cost build-up and other formats can be used) The cost must be substantiated with documentary proof.

	COST PER UNIT	TOTAL COST
1. DIRECT COST: Materials * Waste recovery * Components * Direct labour & related costs Re-tooling * Power & fuel Royalties, etc Variable overheads * Other *		
2. FIXED OVERHEAD COST: Indirect labour Utilities * Repair & maintenance Rates & insurance R & D Plant depreciation Other *		
3. TOTAL PRODUCTION COST: (1 & 2) 4. Operating profit		
5. IN-STORE COST: (3 & 4) 6. SELLING & ADMINISTRATIVE EXPENSES: Administrative expenses - salaries & wages - rent - rates & insurance - depreciation - other * Selling expenses - salespersons salaries - advertising - warranties & guarantees - warehousing - other * Other costs *		
7. TOTAL COST: (5 & 6) 8. PROFIT, ETC:		

	PETITION	
Subsidies		
Selling profit		
9. SELLING (LIST) PRICE (7 & 8)		
10. DISCOUNTS, ETC:		
Discounts		
Settlements discounts		
Rebates		
11. NET EX-FACTORY PRICE (9 & 10)		

Provide a detailed breakdown of the basis of allocation in each case where an allocation has been made.
 * - Supply a detailed breakdown of the items and provide proof of how you arrived at the different cost elements.

E1.4 If you are of the opinion that the **normal value** of the goods concerned is, **not determined** in the exporting country or country of origin **according to free market principles** as a result of government intervention (such as China, the Russian Federation, Ukraine etc) , provide the following information:

- (a) Nominate a surrogate country and a manufacturer of the like product in that country for the purpose of determination of a normal value for the product allegedly being dumped. The third country should have an industry which is at a similar level of development as that in the exporting country. If more than one country is petitioned and one of these countries is a free market economy this country can be used as a surrogate country.
- (b) When no third country is petitioned for anti-dumping action, the petitioner must obtain the cooperation from a manufacturer in a third country and submit a letter from that manufacturer confirm that it is willing to cooperate with the investigation. Provide that manufacturer's address, telephone and telefax numbers, and indicate the contact person.
- (d) Provide the reasons for your nomination.

E2 Export price

Note: Export price is defined in section 1 of the BTT Act, as "*the price paid or actually payable for goods sold for export net of all taxes, discounts and rebates actually granted and directly related to the sale under consideration*". To enable proper comparison with the normal value, the export price should be at the ex-factory level.

E2.1 Give the export prices to the SACU of the products being the subject of the petition.(the official export statistics can also be used to determine an export price).

E2.2 If you are of the opinion that any of the exporters and the importers are associated or that there is a compensatory arrangement between them, that imports take place through an agent or that, for other

reasons, the export price is unreliable, give reasons and supply the following information:

Calculated export price

	COST PER UNIT
Resale price of imported product to independent buyer <u>Less</u> adjustments	
Transport (factory to harbour)	
Sea freight	
Insurance	
Customs duty	
Clearance costs	
Agent's commission	
Transport to importer	
Importer's costs	
- Administration	
- Selling	
Distribution	
Profit	
Calculated ex-factory export price	

* - Supply a detailed breakdown of the items and provide supporting notes/evidence on the calculation.

This calculated export price can also be used if no other export price can be obtained.

E3 Price comparison

Note: For the price comparison to be fair, the export price and the normal value should be on a similar basis and level as regards the physical characteristics of the product, the quantities sold, and the terms and conditions of sale. The comparison should be made at the same level of trade, preferably the ex-factory level. However, if the export price and normal value are not on a comparable basis, allowance should be made for any differences. If the export price and normal value are not on a comparable basis, give the following information.

E3.1 **Differences in physical characteristics.** If the product used for determining normal value is not identical to the exported product (refer to question C3.2), list the differences.

E3.2 **Differences in terms of trade.** If the product is exported to the SACU at different terms of trade (payment terms, delivery terms, warranties, guarantees, etc.), -

- (a) indicate the terms of trade for the product exported to the SACU;
- (b) indicate the terms of trade for domestic sales in the exporting country; and
- (c) quantify the effect of the difference in the terms of trade on the normal value of the product and submit details of your calculations.

E3.3 **Differences in the levels of trade.** The level of trade refers to whether the product is sold to a wholesaler, retailer, end-user, through an agent, differences in the volumes sold, etc. If the level of trade

of the product exported to the SACU is different to the level at which the like product is sold in the domestic market of the exporter,

- (a) indicate the level of trade pertaining to the exported product;
- (b) indicate the level of trade pertaining to the like product sold in the domestic market of the exporter; and
- (c) quantify the effect of the difference in the levels of trade and submit details of your calculations.

E3.4 Other differences. If you are aware of any other differences affecting price comparability, including stockholding, marketing and sales expenses, credit insurance, etc, provide

- (a) details of the differences; and
- (b) a substantiated estimate of the allowances to be made for each of the differences.

E4 Dumping margin

E4 The dumping margin is the difference between the normal value and the export price after allowance has been made for any differences affecting price comparability. Give the margin of dumping (in the currency of the exporter) and your calculation thereof as follows:

Normal value Less adjustments	
Adjusted normal value Export price	
Margin of dumping	
Margin of dumping expressed as a percentage of the export price	

Note1:If more than one product is petitioned a dumping margin for each product should be calculate d
Note2:If the calculated in of dumping is less than two per cent the Board will not initiate an investigation as a dumping margin of less than 2% is regarded as de minimus in terms of the Anti-Dumping Agreement.

SECTION F: COUNTERVAILING/SUBSIDISED IMPORT

This section should only be completed if the Board is to be requested to initiate an investigation with regard to subsidised imports. A countervailing investigation is separate from a dumping investigation, but can be done concurrently.

Note: Products exported to South Africa are regarded as being subsidised if the government of the country of origin or export or any other country, provides any form of financial aid or other assistance in respect of these products, including assistance in respect of the production, transport, financing or export thereof.

Countervailing action may only be taken if the assistance in question meets certain criteria, that is, the scheme in question must be a "specific" subsidy and it must satisfy the definition of the term "subsidy" in the Subsidies Agreement. The relevant part of the Subsidies Agreement states:

"A subsidy shall be deemed to exist if:

- (a)(1) *there is a financial contribution by a government or any public body within the territory of a Member (referred to in this Agreement as "government"), i.e. where*
- (i) *a government practice involves a direct transfer of funds (e.g. grants, loans, and equity infusion), potential direct transfers of funds or liabilities (e.g. loan guarantees);*
 - (ii) *government revenue that is otherwise due is foregone or not collected (e.g. fiscal incentives such as tax credits);*
 - (iii) *a government provides goods or services other than general infrastructure, or purchases goods;*
 - (iv) *a government makes payments to a funding mechanism or entrusts or directs a private body to carry out one or more of the type of functions illustrated in (i) to (iii) above which would normally be vested in the government and the practice, in no real sense, differs from practices normally followed by governments;*
- and*
- (b) *a benefit is thereby conferred."*

Specific subsidies include those that are limited to an enterprise or industry or group of enterprises or industries, subsidies limited to certain enterprises located within a designated geographical region, and subsidies contingent upon export performance or a local content requirement.

Some subsidy schemes are excluded from any countervailing action, such as assistance for research activities meeting certain criteria, certain assistance provided for the development of disadvantaged regions, and assistance offsetting costs imposed by environmental regulations.

It must be noted that countries classified by the WTO as developing countries may confer certain benefits and subsidies without them being actionable. In these cases it would be advisable if the Directorate: Dumping Investigation was contacted before the petition is lodged.

The following information is needed to enable the Board to consider your petition for countervailing action:

- F1 Name the country in which the government provides the financial aid or other assistance.
- F2 Name the product/s that benefit from the assistance.
- F3 Give details of the financial aid or other assistance scheme. Substantiate your reply with documentation, e.g. government publications or international literature. Attach certified English translations where applicable.

Indicate the following:

- (a) title and description of the subsidy programmes;
- (b) conditions for granting the subsidy;
- (c) the statutory body or authority under which the subsidy is provided;
- (d) list the producers/exporters of the like product;
- (e) the manner in which the subsidy is conveyed; and
- (f) the estimated value of the subsidy when received and used by producers or sellers of the like goods with details of calculations

- F4 Submit details of the financial aid or other assistance scheme regarding any inputs of the product under investigation in the same detail as requested under question F3.

SECTION G MATERIAL INJURY

Note: Before the Board can initiate an investigation into an alleged unfair trade practice it must have sufficient evidence to reach a reasonable conclusion that the alleged unfair trade practice is causing or threatening to cause material injury to a South African industry. The term industry refers to the domestic procedures as a whole of the like products or to those of them whose collective output of the products constitute a major proportion of the total domestic production of these products.

In terms of Article 3.1 of the Anti-Dumping Agreement a "determination of injury for purposes of Article VI of GATT 1994¹ shall be based on positive evidence and involve an objective examination of both (a) the volume of the dumped imports and the effect of the dumped imports on the domestic market for like products, and (b) the consequent impact of these imports on the domestic producers of such products."

(a) Volume of the dumped imports and the effect thereof on the domestic market for like products

Article 3.2 of the Anti-Dumping Agreement provides as follows: "*With regard to the volume of imports, the investigating authorities shall consider whether there has been a significant increase in dumped imports, either in absolute terms or relative to production or consumption in the importing Member. With regard to the effect of the dumped imports on prices, the investigating authorities shall consider whether there has been a significant price undercutting by the dumped imports as compared with the price of a like product of the importing Member, or whether the effect of such imports is otherwise to depress prices to a significant degree or prevent price increases, which would otherwise have occurred, to a significant degree. No one or several of these factors can necessarily give decisive guidance.*"

(b) Consequent impact of these imports on the domestic producers of such products

Article 3.4 of the Anti-Dumping Agreement provides as follows: "*The examination of the impact of the dumped imports on the domestic industry concerned shall include an evaluation of all relevant economic factors and indices having a bearing on the state of the industry, including actual and potential decline in sales, profit, output, market share, productivity, return on investment, or utilization of capacity; factors affecting domestic prices; the magnitude of the margin of dumping; actual and potential negative effects on cash flow, inventories, employment, wages, growth, ability to raise capital or investments.*"

The information requested must relate only to the affected Southern African Customs Union (SACU) product which is comparable to the product(s) being imported under the alleged unfair trade practice. Where the available data does not allow separate identification of the product in question, the information given must relate to the narrowest identifiable product group which includes the SACU product(s) comparable to the product(s) being the subject of the petition.

Paragraph 7 of the introduction is applicable to this section and parties must ensure that if information is to be regarded as confidential that proper non-confidential versions are provided. While the Board recognises that this information is generally confidential, complete omission of this information from the non-confidential version of

¹Article VI of GATT 1994 deals with dumping and subsidisation.

the petition is not acceptable. The Board requires at the very least the use of indexing as a non-confidential summary of the figures, that is, the use of a base value in the first period for which information is submitted with deviations from the base value indicate for subsequent periods.

When a Petitioner manufactures more than one product and the petition is brought on only one of its products the injury information must relate only to that product or the products petitioned for and must therefore not include information relating to the products not petitioned.

Each manufacturer in the South African industry must provide the following information

G1 GENERAL INFORMATION

- G1.1 Provide a flow chart of your marketing/distribution channels for the product(s) concerned in the petition and indicate the percentage off-take for each channel.
- G1.2 Provide full details of your terms and conditions of sale and selling price to each class of customer, e.g. wholesaler, retailer, downstream manufacturer, etc.
- G1.3 Give the reasons and basis for your categorisation of customers.
- G1.4 Enumerate major changes over the past three years in your answers to the above questions.

G2 FINANCIAL INFORMATION

- G2.1 Indicate your normal accounting period.
- G2.2 Provide copies of your audited financial statements, including detailed manufacturing, trading and profit and loss statements for the most recent three financial years. (If your statutory statements do not include detailed accounts/schedules, please provide same separately.)
- G2.3 Provide copies of your year-to-date management accounts, including detailed manufacturing, trading and profit and loss accounts for the period between the last financial year end and the most recent month end. (Provide ancillary schedules if not part of published accounts.)
- G2.4 Provide a separate scheduled sales and profit (before tax) contribution analysis of all the product line items manufactured by your company, including a percentage analysis.
- G2.5 The requested income statements should be analysed in a departmental or divisionalised format detailing the product concerned as a separate activity. The analysis should also be in respect of three prior financial years and the most recent year-to-date management accounts period. **If the requested**

information is not available from your financial data base, please discuss alternatives with the Board.

Note: All financial information should be in a reconciled format. If such requested information is not readily available in the same format or needs adjustment or re-apportionment please qualify by way of explanatory notes or discuss the merits of the situation with the Board.

G3 IMPORTS

Note: Your attention is drawn to the requirements posed in Articles 3.3 and 5.8 of the Anti-Dumping Agreement which read as follows:

3.3 *"Where imports of a product from more than one country are simultaneously subject to anti-dumping investigations, the investigation authorities may cumulatively assess the effects of such imports only if they determine that (a) the margin of dumping established in relation to the imports from each country is more than de minimis as defined in paragraph 8 of Article 5 and the volume of imports from each country is not negligible and (b) a cumulative assessment of the effect of the imports is appropriate in light of conditions of competition between the imported products and the conditions of competition between the imported products and the like domestic product."*

5.8 *"... The volume of dumped imports shall normally be regarded as negligible if the volume of dumped imports from a particular country is found to account for less than 3 per cent of imports of the like products in the importing Member, unless countries which individually account for less than 3 per cent of the imports of the like product in the importing Member collectively account for more than 7 per cent of imports of the like product in the importing Member."*

Give the following information on the imports of the product, being the subject of the petition, for the latest three calendar years and separately on a monthly basis for the period subsequently to the end of the last calendar year.

G3.1 Import volumes per annum (State unit of measurement)

IMPORTED FROM PETITIONED COUNTRIES	19-		19-		19-	
	VOLUME	%	VOLUME		VOLUME	%
* * *						
SUB-TOTAL OTHER COUNTRIES						
TOTAL		100		100		100

* Countries identified in question D1.

G3.2 Import volumes for months subsequent to the end of the last calendar year in Table G3.1

IMPORTED FROM PETITIONED COUNTRIES	MONTHS											
	#	#	#	#	#	#	#	#	#	#	#	#
* * *												
SUB-TOTAL OTHER COUNTRIES												
TOTAL												

Identify the specific month, e.g. Jan, Feb etc.

G3.3 Import values per annum (calendar years)

IMPORTED FROM PETITIONED COUNTRIES	19-		19-		19-	
	R	%	R	%	R	%
* * *						
SUB-TOTAL OTHER COUNTRIES						
TOTAL		100		100		100

G3.4 Import values for latest consecutive twelve calendar months prior to the lodge of the petition

IMPORTED FROM	MONTHS											

	#	#	#	#	#	#	#	#	#	#	#	#
* * *												
SUB-TOTAL OTHER COUNTRIES												
TOTAL												

Identify the specific month, e.g. Jan, Feb, etc.

G4 Effects on the SACU prices

G4.1 Price undercutting is the extent to which the landed cost per unit of the imported product is lower than the ex-factory selling price per unit price of the SACU product. Provide the following information with regard to your ex-factory selling price per unit and the ex-factory selling price per unit of the imported product:

	199	199	199
<u>Petitioner</u>			
<u>Imported product</u>			
<u>Price undercutting</u>			

G4.2 Please comment on the trends indicated by this information and substantiate how this factor is indicative of material injury. (If the trends do not support your argument, you must provide other substantiating evidence as prove.)

G4.3 Price depression occurs when the domestic industry experiences a decrease in its selling prices over time. Provide the following information with regard to your ex-factory selling prices:

	199	199	199
<u>Selling prices</u>			

G4.4 Please comment on the trends indicated by this information and substantiate how this factor is indicative of material injury. (If the trends do not support your argument, you must provide other substantiating evidence as prove.)

G4.5 Price suppression is the extent to which increases in the cost of production of the product concerned, cannot be recovered in selling prices. Provide the following information with regard to your cost of production and your selling prices:

	<u>199</u>	<u>199</u>	<u>199</u>
<u>Cost of production</u>			
<u>Selling prices</u>			

G4.6 Please comment on the trends indicated by this information and substantiate how this factor is indicative of material injury. (If the trends do not support your argument, you must provide other substantiating evidence as prove.)

G5 ECONOMIC FACTORS AND INDICES HAVING A BEARING ON THE STATE OF THE INDUSTRY

G5.1 Actual and potential decline in sales volume of product under investigation

G5.1.1 Submit the following information as far as possible in the following format:

<u>Description Volume/</u>	<u>199</u>	199	199	199_*
(1) Petitioner/s sales in SACU				
(2)				
(3) Other SACU producers sales in SACU	(1)	(1)	(1)	(1)

(1) * Current year to date

Note: All information submitted should be reconcilable to the financial accounts.

G5.1.2 Comment on the actual and potential decline in sales volume.

G5.1.3 Comment on the cyclical nature or otherwise of the product (only if the product is of a cyclical nature) indicating the length of the cycle and the prices both during the up and down phases.

G5.2 Actual and potential decline in sales value of the product under investigation.

<u>Description Value R (current year to date)</u>	<u>199</u>	<u>199</u>	<u>199</u>	<u>199</u>
Petitioners sales in SACU				
Other producers sales in SACU				

G5.2.1 Comment on the actual and potential decline in sales

G5.2.2 Supply the following information in respect of your most recent twelve months' sales in value and volume

Months	#	#	#	#	#	#	#	#	#	#	#
Sales volume											
Sales value											

Identify the specific month, e.g. Jan, Feb etc.

G5.2.3 Supply a schedule of sales on a transaction-by-transaction basis for the period indicated in G5.2.2 containing the following information: date, customer (name or code), invoice number, volume, net value (after discounts and rebates and excluding tax), net unit price and indicate any rebates given. This information can be given on a computer disc.

G5.3 Supply the following information regarding your own profit situation (profit must be calculated on total sales) for the product/s concerned - actual or potential decline:

Description	199	199	199	199_*
PROFIT (OWN)				
Profit (in Rand)				
Profit margin on selling price				

* - Current year to date.

G5.3.1 Comment on the actual and potential decline in profits.

G5.4 Actual and potential decline in output

Supply the following information with regard to the actual production of the product under investigation:

Volume	199	199	199	199
Petitioner				
Other SA Producers				

* Year to date

G5.4.1 Comment on the actual and potential decline in output.

G5.5 Actual and potential decline in market share

Supply the following information regarding market share:

Description	199	199	199	199_*
MARKET SHARE (%)				
- by volume				
- Petitioner				
-Rest of the SACU industry				
- alleged dumped imports				
- other imports				
- by value				
- Petitioner				
- rest of SACU industry				
- alleged dumped imports				
- other imports				

* - Current year to date

G5.5.1 Comment on the actual and potential decline or increase in market share

G5.6 Actual and potential decline in productivity

G5.6.1 Complete the following table on productivity:

Description	199	199	199	199*
1. Overheads/employee				
2. Fixed cost/employee				
3. Employee productivity (units/employed)				
4. Employee productivity (units/employed)				
5. Production volume/hour				
6. Production value/hour				
7. Total downtime (hours)				
8. Production/capital				
9. Turnover/capital				
10. Debtors/ turnover				

*-Current year to date

Notes to the table above:

1. Overheads applicable to the product under investigation divided by the number of employees (production only) dedicated to the product.
2. Fixed costs applicable to the product under investigation divided by the number of employees (production only) dedicated to the product.
3. Total number of units produced divided by the number of employees dedicated to the product.
4. Total value of turnover of the product concerned divided by the number of employees dedicated to the product.
5. The number of units produced each hour.
6. The turnover generated each hour of production.

7. The number of hours spent on retooling, maintenance, labour unrest/strikes, time lost with go-slows, etc, non-production hours owing to unavailability of raw materials, etc.
8. The investment required to produce every unit of production, e.g if total investment is R1 million and total production is 200 000 kg, the cost is R 5/kg.
9. The turnover to capital ratio, i.e if the turnover is R 2 million/annum and total capital invested is R1 million, the ratio is 2.
10. Total debtors divided by annual turnover, i.e if debtors account for R130 000 and turnover is R1 million, debtors represent 13% of turnover.

G5.6.2 Comment on the actual and potential decline or increase in productivity.

G5.7 Actual and potential decline in return on investment

Supply the following information:

Years	199	199	199	199*
Return on owners equity				
Return on total nett assets				

*Current year to date

G5.7.1. Comment on the actual and potential decline or increase on the return on investment

G5.8 Actual or potential decline in utilization of capacity

G5.8.1 Submit the following detail of your and the rest of the SACU industry's normal production capacity and the utilisation thereof:

Description	199	199	199	199_*
PETITIONER'S PRODUCTION By volume				
Capacity				
Actual production				
Utilisation of capacity				
OTHER SACU PRODUCER'S * PRODUCTION By volume				
Capacity				
Actual production				
Utilisation of capacity				

current year to date * if available

- G5.8.1 State the normal number of shifts per week, number of hours per shift and number of labour units involved -
 - (a) For the petitioner.
 - (b) For other SACU manufacturers- if known.

- G5.8.2 State whether your production capacity can be increased without additional machinery, equipment and buildings indicating the method (e.g. more shifts, hours or labour units) and the extent of the possible increase in terms of volume.

- G5.8.3 Give the details of plans, inclusive of financing and time schedules, if any, to increase the production capacity and the actual production increase planned in volume terms -
 - (a) For the petitioner.
 - (b) For other SACU manufacturers - if known

- G5.8.4 Comment on the actual and potential decline or increase of the capacity utilisation .

G6 Cost build up

G6.1 Furnish the details of the your average cost and price structure (for the last twelve trading months) of your product/s involved in the petition (the format supplied on the next page is an example and other formats can also be used). The information should be reconcilable to your income statements. Indicate any major changes in the past 12 months.

Average cost and price structure of the product/s under investigation (if more than one product is petitioned a cost build -up of all these products is required) :

	Cost per unit	Total cost
1. DIRECT COST:		
Materials *		
- Imported		
- Domestic		
Waste recovery *		
Components *		
- Imported		
- Domestic		
Direct labour & related costs		
Re-tooling *		
Power & fuel		
Royalties, etc		
Variable overheads *		
Other *		
2. FIXED OVERHEAD COST:		
Indirect labour		
Utilities *		
Repair & maintenance		
Rates & insurance		
R & D		
Plant depreciation		
Other *		

3. TOTAL PRODUCTION COST: (1 & 2) 4. Operating profit		
5. IN-STORE COST: (3 & 4) 6. SELLING & ADMINISTRATIVE EXPENSES: Administrative expenses - salaries & wages - rent - rates & insurance - depreciation - other * Selling expenses - salespersons salaries - advertising - warranties & guarantees - warehousing - other * Other costs *	<div style="border: 1px solid black; height: 100%; width: 100%;"></div>	<div style="border: 1px solid black; height: 100%; width: 100%;"></div>
7. TOTAL COST: (5 & 6) 8. PROFIT, ETC: Subsidies Selling profit	<div style="border: 1px solid black; height: 100%; width: 100%;"></div>	<div style="border: 1px solid black; height: 100%; width: 100%;"></div>
9. SELLING (LIST) PRICE (7 & 8) 10. DISCOUNTS, ETC: Discounts Settlements discounts Rebates	<div style="border: 1px solid black; height: 100%; width: 100%;"></div>	<div style="border: 1px solid black; height: 100%; width: 100%;"></div>
11. NET EX-FACTORY PRICE (9 & 10) 12. Distribution costs * #		
13. NET DELIVERED PRICE (11 & 12)		

* - Provide a detailed breakdown of the basis of allocation in each case that an allocation has been made.

Indicate the production volume on which this cost and price build-up is based.

G6.2 State the production volume on which the above cost-and-price build-ups is based.

G6.3 Indicate the expected effects upon the above cost-and-price build-up of specified increases and decreases in the production volume used.

G7 ACTUAL AND POTENTIAL NEGATIVE EFFECTS OF MATERIAL INJURY

G7.1 Actual and potential negative effects of cash flow

Is your cash flow regarding the petitioned product/s impeded because of the alleged dumped imports and if so, give details of the actual or negative effects on thereon?

G7.2 Actual or potential negative effects on inventories

G7.2.1 Indicate the levels of your inventories of the product concerned at the end of each of the last calendar years and at the latest available date.

Description	199	199	199	199_*
STOCKHOLDING Volume Value				

*Last available date

G7.2.2 Indicate the levels of your inventories of the product concerned at the end of each of the last 12 calendar months prior to the lodge of the petition.

Inventories	MONTHS												Ave
	#	#	#	#	#	#	#	#	#	#	#	#	
Volume Value													

G7.2.3 Is the level of monthly inventories subject to seasonal fluctuations? If affirmative, please elaborate.

G7.2.4 What are the consequences (e.g. cash flow, interest, etc) of the trend in your stockholding.

G7.2.5 Comment on the trend revealed in G7.2.1 and G7.2.2 above.

G7.3 Actual and potential negative effects on employment

Supply the following information regarding employment in the SACU industry for the product concerned:

Description	199	199	199	199_*
EMPLOYMENT (OWN)				
- Units of employment: production				
- Units of employment: total				
(rand/employee)				
- Wages (production)				
- Gross wages/employee (production)				
EMPLOYMENT (SACU)				
- Units of employment: production				
- Units of employment: total				
- Wages (production)				
- Gross wages/employee (production)				

* - Current year to date

G7.3.1 Comment on the actual and potential negative effects on employment.

G7.4 Actual and potential negative effects on wages

Comment on actual and potential negative effects on wages

G7.5 Actual and potential negative effects of growth

Is the growth of the petitioned product/s inhibited because of the alleged dumped imports, please elaborate on the actual and potential effects thereon?

G7.6 Ability to raise capital/investment

G7.6.1 Comment on your ability to raise capital or draw investment should you wish to expand your current production.

G7.6.2 Provide details of your company's present gearing structure, i.e. own funding versus foreign/outside

funding, and distinguish between long and medium term loans.

G8 Own imports

If you import the product comparable to the product being the subject of the petition or if you imported material which make up 75% or more of your local content, used in the manufacture of such product and where the final product is imported *from any country*, please supply the information requested below.

G8.1 Give your reasons for importing the product/raw material.

G8.2 Do you import directly, through an agent, or are you a representative of the exporter?

G8.3 Provide the names, addresses , telephone and fax numbers of:

- (a) the foreign manufacturers and
- (b) the exporters that supply you.

G8.4 List all your transactions for import of the product over the most recent twelve calendar months, giving the following information in each case:

DATE	MANUFACTURER	SUPPLIER	TERMS OF SALE	PRODUCT DESCRIPTION	QUANTITY	UNIT PRICE *	TOTAL VALUE *

* Indicate in foreign currency

G8.5 For each transaction provide the following details of the cost and price build-up and specify the unit of measurement during the last 3 years. (Details must be substantiated with customs clearance documents including invoices.)

Cost build-up of product under investigation imported by yourself

	COST PER UNIT	TOTAL COST PER TRANSACTION
Ex-factory price *		-
Transport costs *		-
Wharfage overseas *		-
Other costs (specify) *		-
FOB price *		-
Exchange rate		-
FOB price (SA currency)		
Insurance		
Freight		
Bank charges		
Other (specify)		

Total cif cost Duty Landing cost Clearing cost Storage overstay Transport to customs warehouse Customs warehouse costs Documentation/agency fees Internal freight to own warehouse Petties (specify) Other costs (specify)		
In store cost Administration expenses - salaries - rent - rates and insurance - other Selling expenses - Salesmen salaries - advertising (incl brochures) - warranties & guarantees - own warehouse costs - other Distribution expenses (specify)		
Total cost Gross profit		100,00%
List selling price <u>Less</u> discounts and rebates - Invoiced rebates - Settlement discounts - Volume rebates		
Net selling price		

* Expressed in the appropriate foreign currency

G9 If you are aware of any other injury indicators, not covered in the injury indicators above, please elaborate.

SECTION H THREAT OF MATERIAL INJURY

Note: If injury is proven under Section G, Section H is not necessary to complete. A determination by the Board of a threat of material injury must be based on substantiated facts and not merely on allegation, conjecture or remote possibility. The change in circumstances which would create a situation in which the dumping would cause material injury must be clearly foreseen and imminent, that is, there must be convincing reason to believe that there will be, in the immediate future, substantially increased exportation of the products at dumped prices.

- H1 Give details on the freely disposable capacity or imminent substantial increase in capacity of the exporter.
- H2 Substantiate any significant increased of allegedly dumped imports into the SACU market indicating the likelihood of substantially increased importation.
- H3 State whether the products concerned enter the country at prices that will have a significant depressing or suppressing effect on SACU prices and are likely to increase demand for further imports. Substantiate your reply. (A depressing effect means the actual lowering of existing prices and a suppressing effect means the prevention of price increases which would have normally been effected.)
- H4 The inventories of the exported product being investigated.
- H5 Indicate the state of the economy of the country of origin/export and its influence on the operations of the manufacturers/exporters.
- H6 Give any other information relevant to your allegation that the infliction of material injury is imminent.

SECTION I CAUSE OF MATERIAL INJURY

Note: In order to justify action against the unfair trade practice the Board must be satisfied that material injury is caused by the unfair trade practice. Article 3.5 of the Anti-Dumping Agreement provides that it *"must be demonstrated that the dumped imports are, through the effects of dumping,, causing injury within the meaning of this Agreement. The demonstration of a causal relationship between the dumped imports and the injury to the domestic industry shall be based on an examination of all relevant information before the authorities. The authorities shall also examine any known factors other than the dumped imports which at the same time are injuring the domestic industry, and the injuries caused by these factors must not be attributed to the dumped imports. Factors which may be relevant in this regard include, inter alia, the volume and price of imports not sold at dumping prices, contraction in demand or changes in patterns of consumption, trade restrictive practices of and competition between the foreign and domestic producers, developments in technology and the export performance of the domestic industry."*

- I 1 Give the reasons for your belief that the alleged unfair trade practice is the cause of the alleged material injury or threat thereof.

- I 2 Give a comparison between your actual ex-factory selling prices and the actual landed costs of the imported products concerned over the latest three financial years, and indicate what your actual (unsuppressed) prices ought to have been.

- I 3 Give the details of any depression of your ex-factory selling prices to enable you to compete with the imported products (indicate price depression, extended payment terms or lower discounts granted, etc.)

- I 4 Give the details of any suppression of your ex-factory selling prices to enable you to compete with the imported products. Refer to matters such as unavoidable increases in the cost of inputs that had to be absorbed partially or totally by your firm.

I.5 Summarise in the table below how the alleged dumping caused material injury:

	19	19	19
Sales			
- own production - volume			
- own imports - volume			
- total (A)			
Imports			
- dumped imports volume			

- rest of the world volume excluding own imports			
- total imports (B) - volume			
Total RSA Market (A + B)			
RELATIVE MARKET SHARES			
SACU - volume%			
Dumped - volume%			
Other imports volume - volume %			
PRODUCTION			
Capacity (ton)			
Actual (ton)			
Utilisation (%)			
Stockholding (end of financial year)			
Price per tonne history (average)			
Capital employed			
Productivity of capital			
Employment (totals)			
Productivity of labour			
Gross wages per unit employment			
Profit per unit			
Return on investment			
Ability to attract (additional capital/investment/credit)			
Growth of industry %			

Note: In evaluating the cause of material injury to the SACU industry the Board must also investigate factors other than dumping that could be the cause of material injury.

I 5.1 Indicate the view that your clients have regarding:

- (a) the quality of your product;
- (b) your delivery times;
- (c) your service; and
- (d) your after sales service, including guarantees and warranties and technical training to customers.

Please elaborate on all of the above issues.

I 5.2 Indicate the state of your workforce and its attitude towards the company, indicating *inter alia* how wage negotiations are conducted.

I 5.3 Have you had any strikes, go-slows or lock-outs during the past twelve calendar months? Please elaborate.

I 5.4 What has the effect of the changing exchange rate been on -
 (a) Your production cost;
 (b) your selling price; and
 (c) the price of the imported product.

I 5.5 Indicate the volume and the prices of imports not sold at dumping prices.

I 5.6 Has there been a contraction in demand for your product or has there been a change in consumption patterns? Please elaborate.

I 5.7 Comment on any trade restrictive practices regarding trade of your product in the SACU.

I 5.8 Indicate the technology developments that have taken place since you last updated your manufacturing process.

I 5.9 Comment on your productivity vis-a-vis that of the exporters.

I 5.10 Comment on changes in your export performance over the last three years.

I 5.11 Indicate any other factors that affecting your sales or your sales prices, including the state of the economy and the industry.

SECTION J GENERAL

Provide any other evidence which you wish to bring to the attention of the Board.

SECTION K CERTIFICATION

The information submitted must be accompanied by the following certificate :

"I, the undersigned, certify that the information given above is complete and correct to the best of my

knowledge and belief and that I have been authorised to represent

_____"

Company

_____ Date

Name and title of authorised person (in print)

NB: HAVE YOU COMPLETED YOUR NON-CONFIDENTIAL SUBMISSION? IN THE ABSENCE OF A PROPER NON-CONFIDENTIAL VERSION THE BOARD WILL NOT BE IN A POSITION TO REGARD YOUR COMPLAINT AS A PROPERLY CONSTITUTED PETITION AND NO INVESTIGATION CAN BE INITIATED.