

Ministry of Economic Development

Dumping Investigation

Application

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1. The Applicant

An application must be made by or on behalf of the New Zealand producers of like goods. Like goods are defined as goods that are like those imported in all respects or in their absence the goods have characteristics that closely resemble those goods.

Please give details for each of the New Zealand producers by or on whose behalf this application is made.

1.1 Name _____

1.2 Address _____

1.3 Phone _____ 1.4 Fax _____

1.5 Email _____

1.6 Names and titles of contact people for this case

1.7 Ownership details

NOTE Provide broad details of shareholding e.g. 100% privately owned, or 45% XYZ Corp, 55% ABC Corp.

1.8 Details of company accounting year.

1.9 Briefly list all goods produced and/or sold.

2. Other New Zealand Producers

Please provide details of other known New Zealand producers.

Some of the parties you request information from may be concerned with confidentiality. In this case ask a third party or the Ministry of Economic Development to combine, in confidence, the information about individual companies.

NOTE: If there is more than one producer complete this section separately for each relevant producer.

2.1 Name _____

2.2 Address _____

2.3 Phone _____ 2.4 Fax _____

2.5 Email _____

2.6 Briefly list all goods produced and/or sold.

NOTE Written expressions from New Zealand producers, of support for the application, or opposition to it, should be attached to the application.

The collective output of New Zealand producers supporting the application must be 25% or more of the total New Zealand production of like goods for domestic consumption during the most recent representative period of not less than 6 months. As well, producers supporting the application must be responsible for at least 50% of total New Zealand production of those producers supporting or opposing the application in writing.

NOTE

To show clearly the position regarding support and opposition, complete the form on the next page

3. Summary of New Zealand Producers

This page establishes whether there is sufficient support for the application from NZ producers of like goods.

Total New Zealand domestic production of like goods

(during the period/...../.....to...../...../.....)

NOTE: The period is the most recent representative period, being not less than six months.

Domestic production of like goods for domestic consumption by those New Zealand producers who have, in writing, supported the application.

	Quantity
Producer:	
Producer:	
	Total A

Domestic production of like goods for domestic consumption by those New Zealand producers who have in writing, opposed the application

	Quantity
Producer:	
Producer:	
	Total B

Domestic production of like goods for domestic consumption by those New Zealand producers who have neither supported nor opposed the application

	Quantity
Producer:	
Producer:	
	Total C

Calculation of whether required minimum levels of support are met

Total domestic production (i.e. Total A + Total B + Total C)	Total D
Total domestic production of those producers who have, in writing, expressed <i>support for or opposition to</i> the application. (i.e. Total A + Total B)	Total E
Total A as % of Total D (this figure must be 25% or more)	%
Total A as % of Total E (this figure must be 50% or more)	%

4. The Goods

4.1 Please describe the allegedly dumped goods
(if possible supply samples, brochures and catalogues).

4.2 Please provide the tariff classification for the allegedly dumped goods.

NOTE The New Zealand Customs Service, customs brokers or consultants can provide tariff classifications.

4.3 Please describe the like goods produced by New Zealand producers
(if possible supply samples, brochures and catalogues).

4.4 Explain how the goods produced by the New Zealand industry are like the allegedly dumped goods including method of manufacture, physical characteristics, end use, marketing and distribution channels.

5. Allegedly Dumped Imports

WTO rules require that an application shall be rejected if there is not sufficient evidence of either dumping or injury. Evidence of dumping will be regarded as insufficient if the margin of dumping is *de minimis* or the volume of imports is negligible.

The margin of dumping is *de minimis* if it is less than 2% expressed as a percentage of the export price.

The volume of dumped imports is regarded as negligible if the volume of dumped imports from a particular country is found to account for less than 3% of imports of the like product imported into New Zealand unless countries that individually account for less than 3% of imports collectively account for more than 7% of imports.

5.1 Name the countries of origin or export of the allegedly dumped goods

NOTE Disregard countries which the goods pass through in transit. For example, if the goods are made in Country A and pass through Country B without further processing, the country of export is Country A and the normal values in the Country A domestic market would be used.

5.2 State other countries known to be exporting the goods to New Zealand.

5.3 Calculate the volume of imports to establish possible negligibility:

	Volume (year ended)
Allegedly dumped goods	
Imports from other countries	
Total imports	
Allegedly dumped goods as % of total imports	

NOTE Information on import volumes by tariff item is normally available from Statistics New Zealand.

5.4 Provide the names and addresses of the overseas producers and/or exporters supplying the allegedly dumped goods.

5.5 Give the names and addresses of any known importers of the allegedly dumped goods and describe the nature of their business, e.g. wholesaler, retailer.

5.6 Indicate when the allegedly dumped goods began causing injury.

6. Export Price

The export price is the price paid by the importer for the goods, adjusted by costs relating to exportation, normally back to the ex-factory price in the country of export.

Please provide the export prices of the allegedly dumped goods.

To the extent possible evidence of the export price should be provided, e.g. invoices from the exporter to the NZ importer, quotes by the exporter for selling the product to a NZ buyer, an average per unit price calculated from Statistics NZ import statistics if the product is closely aligned with the tariff item.

The exportation adjustments should be itemised (e.g. overseas freight and insurance, port clearance costs in country of export, inland freight from factory to port), an explanation given of how they were established, and to the extent possible evidence provided to support them (e.g. invoices, quotes).

If the importer and exporter are related the sales may not be at **arm's length** and therefore may not be reliable for determining dumping. If so you will need to provide an explanation of the relationship and why you consider the prices cannot be relied upon. In this case you can **construct an export price** by taking the first arm's length transaction in New Zealand and deducting all duties and taxes, costs, charges or expenses, and a provision for profit incurred after exportation.

A method of constructing the export price is shown in the table below (this can be used whether or not the sales from the exporter to NZ importer are at arm's length). It would be preferable for this detail to be provided for each model or type of good. To the extent possible evidence should be provided of the selling price at first point of resale in NZ and of the deductions from this price.

Model/Type

Price at first point of resale in New Zealand	
Less (as applicable):	
GST on retail price	
Retailer's margin	
Wholesaler's margin	
Importer's margin	
<i>Estimated into importers store cost</i>	
Less (as applicable):	
Cartage to importer's store	
Importer's clearance/handling costs	

Import duty (if applicable)	
Overseas freight	
Other (specify)	
<i>Estimated FOB price in country of origin/export</i>	
Less (as applicable):	
Agent's/Broker's margin (if applicable)	
Wharfage/handling costs	
Cartage from factory to wharf	
Other (specify)	
<i>Estimated ex-factory price in country of origin/export (Deductive export price)</i>	

7. Normal Values

Normal values are the prices at which the allegedly dumped goods sell for in arm's length transactions in the ordinary course of trade in the country of export, adjusted for costs arising for costs after ex-factory and for other factors required to make a fair comparison with the export price.

If it is not possible to establish normal values on the basis of arm's length sales in the country of export then base the value on:

- constructed value in the country of export based on the cost of production plus reasonable amounts that would have been incurred on a domestic sale in the country of export for administrative, selling and general expenses and for profit; or
- sales made to a third country by the exporter provided this price is representative of the domestic selling price in arm's length sales in the country of export ; or
- if none of the above are possible, establish the value from the best information available to you.

Here are some examples of how to establish normal values.

Arm's Length Sales on Domestic Market

Model/Type	
Price at first point of resale in country of export (specify level of trade, e.g. wholesale, retail).	
Less (as applicable):	
Taxation included in selling price (e.g. VAT, GST)	
Retailer's margin	
Wholesaler's margin	
Other adjustments	
Estimated inland freight from factory to customer	
<i>Estimated ex-factory normal value</i>	

Constructed Normal Value

Model/Type	
Cost of production	
Plus: reasonable amount for administration, general and selling expenses incurred on domestic sales	
Plus: reasonable profit margin on domestic sales of the same general category of goods	
<i>Estimated Ex-Factory Normal Value</i>	

Selling Price to a Third Country

Model/Type	
Country to which goods sold	
FOB price per unit (specify if FOB, CIF etc)	
Less (as applicable)	
Overseas freight and insurance	
Customs clearance costs in country of export	
Inland freight from factory to wharf	
Other relevant costs	
<i>Estimated Ex-Factory Normal Value</i>	

NOTE: To the extent possible please provide evidence of normal values (e.g. invoices, price lists, quotes) and of the adjustments made. Please also state any factors that you consider would affect a fair comparison of the price of the goods exported to New Zealand with the goods sold on the domestic market in the country of export. These differences may relate to such things as differences in the quantities sold, physical differences, differences in credit terms, differences in taxation and differences in the level of trade.

8. Dumping Margin

The dumping margin is the difference between the normal value in the country of export and the export price, normally calculated at the ex-factory level in the country of export.

You can calculate the dumping margin by using the format of the table below.

Type/Model	
Normal Value (A)	
Export Price (B)	
Dumping Margin (A – B)	
Dumping Margin as % of Export Price	

NOTE

- (a) If the dumping margin has not been calculated at the ex-factory level, please state the level of trade at which the calculation has been made
- (b) If the **dumping margin** is less than **2%** as a percentage of the export price it is *de minimis* and the investigation cannot be initiated.

9. Material Injury

9.1 Introduction

In order to investigate claims of material injury, the Ministry must have evidence showing:

- The volume of imports of allegedly dumped goods.
- The effect of the allegedly dumped goods on prices.
- The economic impact of the volume of imports and the price effects on the New Zealand industry.

It is important for applications to show a **causal link** between the alleged dumping and the alleged material injury. For example, a decrease in local production and sales may be causally linked to increased imports of allegedly dumped goods.

Threat of Material Injury

You may believe that although your industry is not currently suffering material injury there will be material injury if the dumping is not stopped. Your application will then be based on a **threat of material injury**.

When the Ministry investigates whether there is threat of material injury it takes into account the guidelines in Article 3 of the WTO Anti-dumping Agreement which require that a determination of threat of material injury must be based on facts and not merely on allegation, conjecture or remote possibility and must be clearly foreseen and imminent. These guidelines also require that investigating authorities consider:

- The likelihood of substantially increased dumped imports.
- The exporter's capacity to increase dumped imports.
- Whether the prices of dumped imports are having a significant effect on prices in New Zealand such that there would likely be an increase in demand for further imports.
- Inventories of the product being investigated.

None of the above factors alone will necessarily give decisive guidance on whether there is a threat of material injury, but taken together, along with any other relevant information, must lead to the conclusion that further dumped exports are imminent and that, unless protective action is taken, material injury would occur.

If your application relates to a threat of material injury it should have enough information to permit the Ministry to assess the claims in terms of these guidelines.

Provisional Anti-Dumping Duties

Provisional anti-dumping duties can be applied at any time from 60 days after an investigation is initiated provided there is reasonable cause to believe that the goods are dumped and causing or threatening to cause material injury, and provided such action is necessary to prevent material injury being caused during

the remainder of the investigation. If you think this situation applies to your industry, then you should request that provisional duties be imposed.

9.2 Import Volumes into New Zealand

The Ministry is required to assess the extent to which there has been or is likely to be a significant increase in the volume of imports of the allegedly dumped goods either in absolute terms or in relation to the volume manufactured by New Zealand producers or the total New Zealand domestic market.

Please provide the volume (and if available the NZ dollar value) of imports of the allegedly dumped goods for the period over which you consider your industry has been injured by the allegedly dumped goods, and for at least one year prior to the onset of injury. Please provide this data for each country named in the application and for imports from all other countries. As a minimum this information should be provided for the most recent three years available and if possible by month or by quarter.

Information on import volumes and values by tariff item is normally available from Statistics New Zealand (www.stats.govt.nz).

Please comment on the trends in import volumes of the allegedly dumped goods relative to New Zealand production and the total New Zealand market.

The following table may help you compile the necessary information.

Period						
	Qty	Value	Qty	Value	Qty	Value
Imports of the allegedly dumped goods – Country A						
Imports of the allegedly dumped goods – Country B						
Imports of the allegedly dumped goods – Country C						
Total imports of the allegedly dumped goods						
Imports from other countries						
NZ industry’s production of like goods for domestic sale						
Total NZ market						
Imports of allegedly dumped goods as % of NZ industry’s production						
Imports of allegedly dumped goods as % of total NZ market						

10. Price Effects

Price effects refers to the effect of the allegedly dumped goods on the selling prices of like goods manufactured by the NZ industry and sold on the NZ domestic market. The Ministry is required to consider the extent of price undercutting, price depression and price suppression.

If there is more than one New Zealand producer the information requested below should be provided separately for each producer.

Price Undercutting

Price undercutting occurs when the allegedly dumped goods are sold on the New Zealand market at the relevant level of trade at lower prices than the like goods manufactured by the New Zealand industry.

The relevant level of trade at which prices should be compared is the point at which the allegedly dumped goods first compete with like goods produced in New Zealand. The relevant level of trade for domestically produced like goods is normally ex-factory and for the allegedly dumped goods is normally either ex-wharf in New Zealand or ex-importer's store.

Outline the extent to which the allegedly dumped goods are undercutting the prices of domestically produced like goods. To the extent possible information on price undercutting should be provided for each model or product type and for each exporter named in the application.

The table below may assist you in providing this information.

Type/Model	
NZ producer's price per unit (state level of trade, e.g. ex-factory, ex-warehouse)	
Price of allegedly dumped goods per unit (state level of trade, e.g. ex-wharf, ex-importer's store)	
Amount of Price Undercutting	
Price undercutting as % of NZ producer's price	

Price Depression

Price depression occurs when the NZ industry's domestic selling prices are reduced because of the allegedly dumped goods.

Outline the extent to which the allegedly dumped goods are causing price depression. Supporting evidence, preferably in the form of average ex-factory selling prices per unit (net of discounts and rebates), should be provided. The table below may assist you in providing this information.

Period			
Type/Model			
Average selling prices per unit net of discounts and rebates (state basis of sale, e.g. ex-factory, FIS)			

If information on average selling prices is not available, please provide other supporting evidence, e.g. price lists, invoices and explain how this information shows depression of prices.

Price Suppression

Price suppression occurs when price increases that would otherwise have taken place do not occur because of the allegedly dumped goods. This could mean that, for example, cost increases are not fully recovered.

Outline the extent to which the allegedly dumped goods have caused price suppression. Supporting evidence, preferably in the form of financial data showing average costs per unit relative to average selling prices per unit, should be provided. The table below may assist you in providing this information.

Period			
Type/Model			
Average selling prices per unit net of discounts and rebates			
Cost of production per unit			
Selling and administration costs per unit			
Total costs per unit			
Total costs as % of average selling price			

If information on average selling prices and costs is not available, please provide other supporting evidence, e.g. details of increases in production costs and selling and administration costs and any information on your pricing policies and history.

11. Economic Impact

The information provided in this section of the application should cover a period sufficient to show the economic impact of the allegedly dumped goods and should include at least one year’s data prior to the claimed onset of injury. As a minimum, the information should cover at least the most recent 3 years for which data is available. To the extent possible the information should relate only to the industry’s production and sale of like goods in New Zealand.

If there is more than one New Zealand producer the information requested in this section should be provided both separately for each producer and, to the extent possible, in amalgamated form for all producers. If amalgamated information covers different accounting years, please identify the different accounting years for each producer.

11.1 Injury Summary

Complete the following injury summary for domestic sales of the like goods, if possible by month or by quarter.

Injury Summary:

Period			
Sales volume			
Sales revenue			
Cost of production			
Gross profit			
Selling and admin. expenses			
Earnings before interest and tax (EBIT)			
Per Unit			
Sales revenue			
Cost of production			
Gross profit			
Selling and admin. expenses			
EBIT			

Complete the following cost and production summary.

Variable costs (specify)

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Fixed Costs (specify)

--	--	--

11.2 Output

Provide details of any decline in the industry's output of like goods for the New Zealand market.

11.3 Sales

Provide any details available to you of any decline in the industry's domestic sales of like goods that are additional to the data shown in the injury summary at paragraph 11.1.

Explain any lost sales due to direct competition from the allegedly dumped goods.

Give copies of any correspondence or cancelled orders from the industry's customers showing they are buying the allegedly dumped goods.

Provide a schedule of dollar value, and quantity of **export sales** over the most recent three years available, if possible by month or by quarter.

11.4 Market Share

Provide evidence of the size of the New Zealand market, preferably by volume, but otherwise by value.

Compare the market share of the domestic industry with the share held by imports of the allegedly dumped goods and imports from other sources.

11.5 Profits

Explain how the gross profit and EBIT earned on domestic sales of like goods shown in the injury summary at paragraph 11.1 have been affected by the allegedly dumped goods.

11.6 Productivity

Show how productivity has been affected, on a monthly or quarterly basis if possible.

Remember to state the basis used for measuring productivity (e.g. production per worker).

11.7 Return on Investments

Show return on shareholders' funds or return on assets or a similarly appropriate measure of return on investment and explain how it has been affected by the allegedly dumped goods.

Provide details of how any allocation of shareholder's funds or assets has been made to like goods.

11.8 Use of Production Capacity

Provide the industry's production capacity, if possible on a monthly or quarterly basis, for the like goods. Explain the basis for your assessment of production capacity, e.g. machine capacity, number of shifts. State the units of measurement, e.g. tonnes, square metres.

What has been the industry's capacity utilisation rate for the periods for which capacity data has been provided? Explain how it has been affected by the allegedly dumped goods.

11.9 Other Adverse Effects

Please give evidence to support claims of injurious effects (actual or potential) in any of the following areas:

- 11.9.1 cash flow
- 11.9.2 inventories
- 11.9.3 employment
- 11.9.4 wages
- 11.9.5 growth
- 11.9.6 ability to raise capital
- 11.9.7 investments
- 11.9.8 comment on the impact made by the alleged margin of dumping and any other factors affecting domestic prices

12. Other Causes Of Injury

Please comment on factors other than the allegedly dumped goods that have injured, or are injuring the industry. These factors could include:

- the volume and prices of like goods that are sold at dumped prices
- reduction in demand or changes in the pattern of consumption
- restrictive trade practices of, and competition between, overseas and New Zealand producers
- developments in technology
- the export performance of the New Zealand producers

12.1 Imports By The Industry

If the industry has imported the allegedly dumped goods in the past three years please provide:

- full description of the goods;
- details of each shipment (including dates of importation, supplier, country of origin, values for duty, CIF values, and volume); and
- an explanation why the industry has imported the subject goods.

Declaration

Dumping and Countervailing Duties Act 1988

I hereby apply to initiate an investigation into the dumping of (product)

From (country of origin)

In support of this application I attach evidence of:

- i. dumping
- ii. material injury to the industry; and
- iii. a causal link between the alleged dumping and the alleged material injury;

and such information as is reasonably available to me in relation to the matters referred to in section 10(2)(b) of the Dumping and Countervailing Duties Act 1988.

This application is made [by] [on behalf of] the New Zealand Industry producing like goods to those subject to the application, and is supported by producers of like goods whose collective output constitutes:

- a. Twenty five percent or more of the total New Zealand production of like goods produced for domestic consumption (during the most recent representative period, being not less than six months) and:
- b. More than fifty percent of the total production of like goods produced for domestic consumption by those New Zealand producers who have, in writing, expressed support for or opposition to the application.

Signed

Position

Date

Checklist

Use this list to check that you have met the requirements of the Act.

The Dumping and Countervailing Duties Act 1988 requires that a properly documented application include the following information where it is reasonably available:

- The names of the New Zealand producers making the application.
- The names of all known New Zealand producers of like goods.
- A description of the volume and value of the domestic production of the like goods both by the producers making the application and all other known New Zealand Producers.
- A complete description of the allegedly dumped goods.
- The names of the countries of origin or export of the allegedly dumped goods.
- The names of the known exporters or overseas producers of the allegedly dumped goods.
- The names of persons known to be importing the allegedly dumped goods.
- Normal values of the allegedly dumped goods when destined for consumption in the domestic markets of the countries of origin or export (or, where appropriate, either the prices based on a constructed value or the price at which goods are sold from the countries of origin for export to third countries).
- The export prices of the allegedly dumped goods.
- The import volumes into New Zealand of the allegedly dumped goods.
- The effects that the imports of the allegedly dumped goods have had, or will have, on prices of the like good in New Zealand.
- The consequent impact of those imports on the industry.

Relevant factors affecting the industry that may have a bearing on the information required under the last two items above.

Reminder

Please make sure you compile your application using the numbering system used in this workbook

1. Have you covered everything in the checklist?
2. Have you attached evidence in support of your claims and calculations?
3. Have you prepared a non-confidential summary or version of your application, for viewing by any interested party if an investigation is initiated?
4. Hold onto a copy of the application as it will be useful if further questions arise during the assessment of the application document and a dumping investigation.

Please send the application for an investigation to:

**The Manager
Trade Rules, Remedies and Tariffs Group
Ministry of Economic Development
PO Box 1473
Wellington**

OR

**33 Bowen Street
Wellington
Telephone: (04) 472-0030
Facsimile: (04) 499 8508
Email: traderem@med.govt.nz**

Glossary

Arm's Length

A transaction is at arm's length if the price is not affected by any relationship between the buyer and seller, or if there is no compensation or reimbursement other than price.

Causal Link

The demonstration of a relationship between the imports of the allegedly dumped goods and the material injury suffered by the New Zealand industry.

Constructed Value

Where the price in the ordinary course of trade cannot be used as a normal value in the country of export, a constructed value can be used. A constructed value includes the cost of production and reasonable amounts that would be incurred on a domestic sale in the country of export for administration and selling costs, delivery charges, and other charges incurred in the sale, and an amount for profit.

Country of Export/Country of Origin

The country the goods are exported from is the country of export. The country of origin may be different if there is no process of manufacture or packing carried out in the country of export.

Dumping

The situation where the export price of goods imported into New Zealand is less than the normal value of the goods in the country of export.

Dumping Margin

The difference between the normal value in the country of export and the export price

EBIT - Earnings before Interest and Taxation

Earnings refers to the operating surplus arising from normal operations, and excludes extraordinary items and distributions to and contributions from owners.

Export Price

The price the importer in New Zealand pays for the goods, adjusted by costs related to exportation.

FOB

FOB is an international commercial term (incoterm) for Free-on-Board. It is the value of the goods at the point that they have been cleared by the Customs Authority in the Country of Origin and the main cost of carriage is not paid by the seller.

Gross Profit

The surplus resulting from the deduction of the cost of manufacture from sales over a given period. The cost of manufacture includes manufacturing overheads, but excludes selling, administration and financial expenses.

Like Goods

In relation to any goods, means other goods that are like those goods in all respects; or in the absence of such goods, goods which have characteristics closely resembling those goods.

Net Profit

For the purposes of this workbook, net profit has the same meaning as EBIT

Normal Value

The price which the allegedly dumped goods sell for in the ordinary course of trade in the country of export, or their constructed value (see previously) or the price to a third country.

Price Depression

When selling prices in New Zealand are reduced because of the allegedly dumped goods.

Price Suppression

When price increases that would otherwise have taken place do not occur because of the dumped goods. This could mean that, for example, cost increases are not fully recovered.

Price Undercutting

When prices of the allegedly dumped product are sold on the New Zealand market at the relevant level of trade at lower prices than the like goods produced by the New Zealand industry.

Related Party

A person shall be deemed to be related to another person 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.

A person controls another person if they are in a position, whether legally or operationally, to exercise restraint or direction over the other person.

WTO

World Trade Organisation.