



INSTRUCTIONS AND GUIDELINES

TRADE MEASURES BRANCH

Application for anti-dumping and/or countervailing measures: Guidelines for applicants

July 2009

**This Instruction and Guideline refers to Practice Statement: PS2009/25:
Administration of Australia's Anti-Dumping and Countervailing System**

Published date: 19 August 2009

Availability: Internal and external

Subject: Applications for anti-dumping and/or countervailing measures:
Guidelines for applicants

Purpose: To provide guidance to applicants completing the application form for
dumping and or/countervailing duties

Owner: National Director Trade and Compliance Division

Category: Operational Procedures (OP)

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The electronic version published on the intranet is the current Instruction and Guideline.

BCS CLASSIFICATION: TDFC_Policy

FILE NUMBER: C2009/9870

Summary of main points

These Instruction and Guidelines provide guidance to applicants to assist them completing the application form for anti-dumping and/or countervailing duties.

This I&G applies to staff in:

- Trade Measures Branch, Trade and Compliance Division

Introduction

These *Instruction and Guidelines - Applications for anti-dumping and/or countervailing measures: Guidelines for applicants* (Guidelines) are separated into three parts which correspond to the three parts of the application form for anti-dumping and/or countervailing duties - Parts A, B and C.

The three Guidelines are available to assist applicants complete the application form for anti-dumping and/or countervailing duties. Applicants should read these Guidelines in conjunction with other publicly available documents on the Customs and Border Protection website.

Instructions and Guidelines

The Guidelines are separated into the following three documents:

- Application form Part A (injury to Australian industry);
- Application form Part B (dumping); and
- Application form Part C (supplementary section, including subsidisation).

Related Policies and References

Practice Statements:

- PS2009/25: Administration of Australia's Anti-Dumping and Countervailing System.

Other Instructions and Guidelines:

- Dumping and Subsidy Manual.

Key Roles and Responsibilities

- The National Manager, Trade Measures Branch, has responsibility for ensuring the implementation and maintenance of this Instruction and Guideline.
- This Instruction and Guideline applies to all staff in the Trade Measures Branch.

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FILE NUMBER: C2009/9870

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Approval

APPROVED ON	6 AUGUST 2009	
BY	SUE PITMAN NATIONAL DIRECTOR TRADE AND COMPLIANCE DIVISION	
Review Period	Annually	

BCS CLASSIFICATION: TDFC_Policy

FILE NUMBER: C2009/9870



Australian Government
**Australian Customs and
Border Protection Service**

Application form Part A: Guidelines for completion

Applications for anti-dumping and/or countervailing measures

Version 1.0
January 2007




**APPLICATION
FOR
DUMPING AND/OR
COUNTERVAILING DUTIES**

**TRADE MEASURES BRANCH
AUSTRALIAN CUSTOMS SERVICE
August 2001**

Assistance with the Application

The Customs Dumping Liaison Unit (DLU) can provide information about dumping and countervailing procedures and the information required by the application form. Contact the DLU on

 **(02) 6275-6066** or fax **(02) 6275-6990**.

Other information is available from the Customs website at www.customs.gov.au.

The application should be sent to the

National Manager

OR

Director Dumping Liaison Unit

**Trade Measures Branch
Australian Customs Service
Customs House
5 Constitution Avenue
CANBERRA ACT 2601**

OR

By facsimile to (02) 6275 6888

Applicants must provide:

- **Two copies of the application plus two non-confidential versions. (Refer to the section on 'Important Information' about preparing a non-confidential application); and**
 - **Where possible, an electronic version of both the confidential and non-confidential application.**
-

AUSTRALIAN CUSTOMS SERVICE

Application for Dumping and Countervailing Duties

DECLARATION

I request in accordance with Section 269TB of the Customs Act 1901 that the Minister publish in respect of goods the subject of this application:

- a dumping duty notice, or
- a countervailing duty notice, or
- a dumping and a countervailing duty notice

This application is made on behalf of the Australian industry producing *like goods* to the imported goods the subject of this application. The application is supported by Australian producers whose collective output comprises:

- 25% or more of the total Australian production of the *like goods*; and
- more than 50% of the total production of like goods by those Australian producers that have expressed either support for, or opposition to, this application.

I believe that the information contained in this application:

- provides reasonable grounds for the publication of the notice(s) requested; and
- is complete and correct.

Signature:.....

Name:.....

Position:.....

Company:.....

ABN:.....

Date: //

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Where a consignment of goods has been imported into Australia, or is likely to be imported, and an Australian industry producing *like goods* believes there are reasonable grounds, an applicant may apply for a dumping duty and/or a countervailing duty notice to be published.

Dumping occurs where goods are exported at a price less than their normal value and a countervailing duty may be applicable where the exported goods are subsidised. Both dumping and countervailing duties may be applicable where the exported goods are both dumped and subsidised.

Anyone may apply for a notice to be published, but an applicant must be sufficiently representative of an Australian industry. This is usually referred to as 'standing'. Standing is decided by reference to Australian domestic production, not on the basis of domestic sales. To show standing the Australian producers or manufacturers of *like goods*, who support the application must:

- account for more than 50% of the total production of manufacturers/producers expressing either support for, or opposition to, the application and
- account for more than 25% of the total production of *like goods* in Australia.

For example:

Total Australian Production	100 Units
Production by those domestic producers supporting the application	30 Units
Production by those domestic producers opposing the application	20 Units
Silent	50 Units

In the above example, the producers supporting the application constitute more than 50% of the portion of the domestic industry expressing either support for, or opposition to, the application. Supporters of the application also constitute more than 25% of total production. Although production volumes have been used, there may be circumstances in which it is appropriate to have regard to the value of production.

Information provided in response to Appendix A-1 to the application will be used to determine that an applicant meets these tests.

If you are aware that other Australian manufacturers have similar concerns about alleged dumping and/or subsidisation you should consider approaching them to join the application. To protect confidentiality each company may separately provide information in response to Part A (injury) and relevant appendices of the application. Part B (dumping) needs only to be completed once.

Applicants should be aware that should an investigation be initiated, other Australian producers and manufacturers will be invited to make submissions to the investigation whether they support the application or not.

Important information

To initiate an investigation into dumping and/or subsidisation, Customs must comply with Australia's international obligations and statutory standards. This form provides an applicant industry with a framework to present its case and will be used by Customs to establish whether there are reasonable grounds to initiate an investigation. To assist consideration of the application it is therefore important that:

- all relevant questions (particularly in Parts A and B) are answered; and
- information that is reasonably available be supplied.

Customs does not require conclusive evidence to initiate an investigation, but any claims made should be reasonably based. An application will be improved by including supporting evidence and where the sources of evidence are identified. Simple assertion is inadequate to substantiate an application.

To facilitate compilation and analysis, the application form is structured in 3 parts:

1. Part A seeks information about the Australian industry. This data is used to assess claims of material injury due to dumping/subsidisation. Where an Australian industry comprises more than one company, each should separately prepare a response to Part A to protect commercial confidentiality.
2. Part B relates to evidence of dumping.
3. Part C is for supplementary information that may not be appropriate to all applications. However some questions in Part C may be essential for an application, for example, if action is sought against subsidisation.

All questions in Parts A and B must be answered, even if the answer is 'Not applicable' or 'None'. Where appropriate, applicants should provide a short explanation about why the requested data is not applicable. This will avoid the need for follow up questions by Customs.

Some questions require attachments to be provided. The attachment numbering sequence should refer to the question answered. For example, question A2.2 requests a copy of an organisation chart. To facilitate reference, the chart should be labelled Attachment A2.2. If a second organisation chart is provided in response to the same question, it should be labelled Attachment A2.2.2 (the first would be labelled Attachment A2.2.1)

During an investigation all interested parties are given the opportunity to defend their interests. Customs maintains a public record of the submissions made during an investigation. A non-confidential version of the application and any subsequent submissions must be provided for inclusion on the public record. A non-confidential submission should enable a reasonable understanding of the substance of the information submitted in confidence. If you cannot provide a non-confidential version, contact the Customs Dumping Liaison Unit ☎ (02) 6275-6066 for advice.

Industry financial data must, wherever possible, be submitted in an electronic format.

- Electronic data facilitates more efficient analysis by Customs (for example analysis can commence sooner and transcription errors are avoided).
- Microsoft Excel, or an Excel compatible format, is preferred.

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- If the data cannot be presented electronically please contact the Customs Dumping Liaison Unit ☎ (02) 6275-6066 for advice.

The application form requests data over several periods (P1, P2...Pn) to evaluate industry trends and to correlate injury with dumped imports. The labels P1...Pn are used for convenience in this application form. Lodged applications should identify the period relevant to the data. This form does not specify a minimum period for data provision. However, sufficient data must be provided to substantiate the claims made. If yearly data is provided, this would typically comprise a period of at least four years (for example the current financial year in addition to three prior years). Where information is supplied for a shorter period, applicants may consider the use of quarterly data. Data must also be sufficiently recent to demonstrate that the claims made are current.

When an investigation is initiated, Customs will verify the claims made in the application. A verification visit to the Australian industry usually takes several days.

- Applicant companies should be prepared to substantiate all Australian industry financial and commercial information submitted in the application. Any worksheets used in preparing the application should therefore be retained to facilitate verification.
- During the visit Customs will examine company records and obtain copies of documents relating to the manufacture and sale of the goods.
- It is generally necessary for sales, production and accounting personnel to be present during the verification visit.

It is a requirement of the Act that non-confidential versions of applications are to be provided for the public record.

Applicants can blank or black out sections of an application that are of a confidential nature. However, to improve the ability of interested parties to obtain a reasonable understanding of the substance of information on the public record, any deletions should be followed by a bracketed summary containing sufficient detail to permit a reasonable understanding of the substance of the information deleted. The following is an example:

Management accounts (eg income statements) can be extracted for individual operating segments, global business units, value centres, etc Company X to individual grades and packing types. Accounts can be further split by legal entity (eg Company X) and sales region.

[explanation of cost allocation through the divisions of Company X].

PART A

INJURY

TO AN AUSTRALIAN INDUSTRY

IMPORTANT

All questions in Part A should be answered even if the answer is 'Not applicable' or 'None'. If an Australian industry comprises more than one company/entity, each should separately complete Part A.

For advice about completing this part please contact the Customs Dumping Liaison Unit on:



(02) 6275-6066 Fax

(02) 6275-6990

A-1 Identity and communication.

Please nominate a person in your company for contact about the application:

Contact Name:

Company and position:

Address:

Telephone:

Facsimile:

E-mail address:

ABN:

Alternative contact

Name:

Position in the company:

Address:

Telephone:

Facsimile:

E-mail address:

If you have appointed a representative to assist with your application, provide the following details and complete Appendix A8 (Representation).

Name:

Representative's business name:

Address:

Telephone:

Facsimile:

E-mail address:

ABN:

A person must be nominated from within your company to act as the main contact point. This person should be able to respond to questions about the application or coordinate the provision of additional or further information. You also need to provide an alternate contact in case the principal contact becomes unavailable.

In addition, you may choose a legal person to be your representative (refer to Appendix A-8 of the application form). However, you still need to nominate a main and alternative company contact.

In the case of an application lodged by several entities, the entities may appoint individual representatives or appoint one representative to act on behalf of all entities. It is also possible to use an existing industry association, or even create a temporary one for the purposes of lodging the application and carrying the case through.

A-2 Company information.

Customs and Border Protection uses the information in response to question A-2 to identify an applicant and better understand where they are positioned in an economic entity or with other related economic entities. Relationships with other entities are assessed to consider whether they could affect commercial dealings, prices, consumption of materials or shared services or other factors relevant to the production of *like goods*. Incomplete answers may prevent or delay an application being initiated.

1. State the legal name of your business and its type (eg. company, partnership, sole trader, joint venture). Please provide details of any other business names you use to manufacture/produce/sell the goods that are the subject of your application.

Self evident.

2. Provide your company's internal organisation chart. Describe the functions performed by each group within the organisation.

The copy of your company's internal organisation chart should be marked as Attachment A2.2. Using the chart as a guide, describe the functions performed by each group within the organisation.

3. List the major shareholders of your company. Provide the shareholding percentages for joint owners and/or major shareholders.

A major shareholder is an entity with a greater than 10% share of your company. If not applicable, answer with 'not applicable'.

4. If your company is a subsidiary of another company list the major shareholders of that company.

As above, a major shareholder is an entity with greater than a 10% share. If not applicable, answer with 'not applicable'.

5. If your parent company is a subsidiary of another company, list the major shareholders of that company.

As above, a major shareholder is an entity with greater than a 10% share. If not applicable, answer with 'not applicable'.

6. Provide an outline diagram showing major associated or affiliated companies and your company's place within that structure (include the ABNs of each company).

You should clearly label each company and provide ABNs if appropriate. The diagram should be labelled as A2.6.

7. Are any management fees/corporate allocations charged to your company by your parent or related company?

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This information is used to better understand the relationship between your company and others within a corporate group, e.g. fees and allocations may affect pricing decisions, consumption decisions, willingness to invest or other injury factors. If there are no fees or allocations charged or payable, please state this.

8. Identify and provide details of any relationship you have with an exporter to Australia or Australian importer of the goods.

It is important that you identify all relationships you have with exporters or Australian importers as this will assist Customs and Border Protection to better understand your role in the Australian market for the imported goods.

9. Provide a copy of all annual reports applicable to the data supplied in appendix A3 (Sales Turnover). Any relevant brochures or pamphlets on your business activities should also be supplied.

Please ensure all attached material is clearly labelled and marked as Attachments A2.9.1, A2.9.2, etc

10. Provide details of any relevant industry association.

Self evident. If one exists, you should identify if you are a member of the industry association.

A-3 The imported and locally produced goods.

Questions 1 and 2 refer to the imported product the subject of your application. These are known throughout an investigation as **'the goods'**. Question 3 refers to your production that is known as **'like goods'**.

1. Fully describe the imported product(s) the subject of your application:
 - Include physical, technical or other properties.
 - Where the application covers a range of products, list this information for each make and model in the range.
 - Supply technical documentation where appropriate.

This question requires you to carefully describe the imported goods that you allege are being dumped and/or subsidised and causing injury. Getting the definition right is important, as it will determine the scope of the investigation. Customs and Border Protection advises against just using a product description from an anti dumping action of an overseas anti-dumping authority. The terms of that application would reflect that country's industry that may be dissimilar to the industry in Australia.

Although you should use ordinary meaning of a word to describe the goods, you should be careful when using generalised commercial terms and language. Sometimes these have different meanings for other industry participants that might lead to misunderstandings during an investigation.

Please make sure that you identify all of the products allegedly being dumped and/or subsidised and that are causing you injury. Customs and Border Protection will use your

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description to determine the breadth of the investigation and to do further research. If scientific terms, internationally recognised standards or specifications exist for the goods, they should be included in your description. This makes it easier to identify the particular goods that are the subject of your application, and to exclude other goods that are not.

Care needs to be taken to ensure the description of the goods is sufficiently accurate. Once an investigation is initiated, it is generally not possible to alter the scope of the inquiry.

- A description that is too narrow may not provide an effective remedy if measures are imposed.
- Conversely, a description that is too loose or ambiguous might expand the scope of the investigation to include other unaffected Australian industry participants, or to encompass other products that are not being dumped and/or subsidised.
- Where a remedy is sought against a range of goods, but subclasses or particular models of goods are to be excluded from the investigation, these should be advised in the application along with a reason why they are not subject to the application.

For example, if you produce red, blue and yellow pencils and lodge an application only against red pencils, and it is determined that red pencils are being dumped and causing injury, future anti-dumping duties will only apply to red pencils. In this case, the risk in applying against too narrow a category of good is that all coloured pencils other than red would not be subject to the anti-dumping duties.

If however you make an application and describe the goods as 'writing implements,' the investigation would be much wider and include all pencils, pens, quills etc. In this case, the risk in applying against too broad a category of good is that the Australian industry would comprise all producers of writing implements, and not just producers of coloured pencils. Another risk is that the determination of dumping would be based on exports of all writing implements. Therefore, even though Customs and Border Protection may find that coloured pencils are dumped, other writing implements may be found to be not dumped. In this case, anti-dumping duties would not be imposed if the weighted average dumping margin for all writing implements was below 2%.

It is also possible that Customs and Border Protection would consider that the goods described in the application covered more than one good and treated the application accordingly.

When the goods are identified, the description must be consistently applied throughout the application especially in relation to estimates of normal value and export price.

2. What is the tariff classification and statistical code of the imported goods.

By providing the tariff classification and statistical codes you will help Customs and Border Protection better identify the importer/s of the goods and to undertake research on import information. In answering this question you should consider whether the goods could be classified to more than one tariff classification and/or statistical codes.

Tariff classification information is available from the Customs and Border Protection Website.

3. Fully describe your product(s) that are 'like' to the imported product:
- Include physical, technical or other properties.
 - Where the application covers a range of products, list this information for each make and model in the range.
 - Supply technical documentation where appropriate.
 - Indicate which of your product types or models are comparable to each of the imported product types or models. If appropriate, the comparison can be done in a table.

Question 3 requests a factual description of the products of the Australian industry that are 'like' to the imported products. For a large number of products, a table may assist in presentation.

The products of the Australian industry are described in an investigation as **like goods**.

4. Describe the ways in which the essential characteristics of the imported goods are alike to the goods produced by the Australian industry.

This question seeks information to establish that the products described in response to question 3 are '*like goods*' to the imported goods.

Like goods are products that are identical in all respects to *the goods* under consideration (that is, the imported goods) or that, although not alike in all respects, have characteristics closely resembling those of *the goods* under consideration. Customs and Border Protection will use the following considerations as a basis for assessing whether goods are like:

- a. Physical likeness;
- b. Commercial likeness;
- c. Functional likeness;
- d. Content or production likeness; and
- e. Other considerations.

a. Physical likeness

In your application you should discuss which physical characteristics are similar, and identify the extent of differences. Examples to consider include:

Size	Shape	Content
Weight	Appearance	Taste
Grade	Standards	Age
Strength	Purity	

b. Commercial likeness

Commercial likeness refers to attributes identifiable from market behaviour. You could address this by responding to the following issues:

- Are the goods directly competitive in the market? e.g. do the goods compete in the same market segment? Within a market segment, are the goods similarly positioned?¹
- To what extent are participants in the supply chain willing to switch between sources of *the goods* and *like goods*, suggesting commercial interchangeability.
- How does price competition influence consumption? e.g. close price competition may indicate product differentiation is not recognised by the market.
- Are the distribution channels the same?
- How similar is the packaging used? Does different packaging reveal significant differences in the goods, or highlight different market segments?

c. Functional likeness

Functional likeness refers to end-use. End-use will not of itself establish *like goods*, but may provide support to the assessment above of physical and commercial likeness. If necessary, you could address this by reference to the following issues:

- Do the goods have the same end use? To what extent are the two products functionally substitutable? e.g. both a shovel and an earthmoving machine can move earth.
- To what extent are the goods capable of performing the same, or similar functions? e.g. an earthmoving machine is capable of moving earth more rapidly than a shovel.
- Do the goods have differential quality? Quality claims can be subjective. Objective evidence has higher probative value e.g. standards, or the extent consumers are willing to use the goods to perform the required function/s.
- Is consumer preference likely to change in the future? Have you considered consumer behaviour in other markets/countries?

¹ Market segmentation will usually be identified by objective criteria (e.g. demography, geography). Positioning occurs within a market segment (e.g. a small car may be promoted as performance or economy).

d. Production likeness

Different production processes may produce identical goods. However, different production processes may be used to create different product characteristics. A comparison of production process will not of itself establish *like goods*, but may highlight differences or provide support to the assessment of other considerations. If necessary, you could address this by reference to the following issues:

- To what extent are the goods constructed of the same or similar materials?
- Have the goods undergone a similar manufacturing process? If different, what is the impact of those differences?
- Are there any patented processes or inputs involved?

e. Other considerations

Any other matter you consider relevant.

Weighting of these five considerations may vary depending on the goods at issue. While no one consideration is sufficient to ascertain whether goods are like, and the considerations will be assessed in their entirety, physical likeness will normally carry more weight than other factors. Commercial likeness can also be afforded a high weighting. In rare instances, functional likeness may be of determining importance.

Considerations that reveal objective, measurable evidence carry a higher probative value. If differences are of a technical or likely contestable nature, factual advice from a qualified independent party (e.g. technical expert or organisation) may lend additional weight.

5. What is the Australian and New Zealand Standard Industrial Classification Code (ANZSIC) applicable to your product.

An ANZSIC code can be of assistance to Customs and Border Protection when undertaking further research into the product market, including imports.

6. Provide a summary and a diagram of your production process.

A description and diagram of the production process will help Customs and Border Protection better understand your product. It may be of assistance in comparing costs, different means of production in an industry, or matters associated with *like goods*. Where joint products or by-products are a part of the process, please explain and identify in the diagram.

You should label the diagram as Attachment A3.6.

7. If your product is manufactured from both Australian and imported inputs:

- describe the use of the imported inputs; and
- identify that at least one substantial process of manufacture occurs in Australia (for example by reference to the value added, complexity of process, or

investment in capital).

You should only answer this question if the *like goods* manufactured by the Australian industry include the use of imported inputs.

In order for Customs and Border Protection to initiate a dumping investigation you must be able to establish that the Australian industry produces *like goods*. *Like goods* are taken to be produced in Australia if they are wholly or partly manufactured in Australia. If *like goods* are partly manufactured in Australia, at least one substantial process in the manufacture must be carried out in Australia.

To be substantial, the process must create some essential or vital quality or character to the finished product. Customs and Border Protection may not regard the conversion of intermediate goods into a final product by virtue of a simple process such as dividing, sorting, simple assembly, packaging or labelling as substantial.

8. If your product is a processed agricultural good, you may need to complete Part C-3 (close processed agricultural goods).

Self evident.

9. Supply a list of the names and contact details of all other Australian producers of the product.

Those appearing on this list should also be included in Appendix A1 and be consistent with the information supplied in your declaration at the beginning of this application.

The list of all other Australian manufacturers of *like goods* should include those that may use imported inputs.

A-4 The Australian market.

Customs and Border Protection needs to be satisfied that dumped and/or subsidised imports are injuring the Australian industry. Answers to these questions provide Customs and Border Protection with a clear understanding of the Australian market, which is required in order to assess the injury caused by the allegedly dumped and/or subsidised goods.

1. Describe the end uses of both your product and the imported goods.

Provide a detailed explanation of how the products, both imported and local, are used within the Australian market. Are they used for the same purpose? Do different sectors of the market use them for different purposes?

2. Generally describe the Australian market for the Australian and imported product and the conditions of competition within the overall market. Your description could include information about:

- sources of product demand;
- marketing and distribution arrangements;
- typical customers/users/consumers of the product;

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- the presence of market segmentation, such as geographic or product segmentation;
- causes of demand variability, such as seasonal fluctuations, factors contributing to overall market growth or decline, government regulation, and developments in technology affecting either demand or production;
- the way in which the imported and Australian product compete; and
- any other factors influencing the market.

In this question you should describe and explain the conditions of competition evident in the domestic market. Applicants should look to address the following list of questions relating to the characteristics of the Australia market.

- Who are the key players in the market?
- Who or what are the price setters?
- Describe the distribution channels for all the goods in Australia, noting whether:
 - there are any differences between the method of marketing the imported goods compared with the locally produced goods; or
 - the end-user market is differentiated in any way.
- Is this a cyclical market? Are there seasonal fluctuations?
- Are there any packaging differences?
- Are sales by contract or by spot prices?
- Is the market shrinking or growing? Is demand in the market strong or weak?
- Have there been any recent developments such as the cessation of local production by a company or changes in technology, product type or consumer preference that may have affected the market?

3. Identify if there are any commercially significant market substitutes for the Australian and imported product.

For this question you need to identify other products that can be substituted for the product, i.e. for both *the goods* (imported allegedly dumped and/or subsidised product) and the *like goods* (locally made product).

For example, if you produce coloured pencils and the goods subject of the application are described as coloured pencils, then you should identify other possible products that may be substitutable. In this case, substitutable products would possibly include pens, highlighters, crayons, etc.

4. Complete appendix A1 (Australian production). This data is used to support your declaration at the beginning of this application.

To answer this question you need to complete Appendix A1 – Australian Production. This information will help Customs and Border Protection assess the level of support for the application.

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In Appendix A1 you are asked to identify every Australian producer of *like goods*. Where there are significant numbers of Australian producers, you may consider identifying the major producers and consolidating information for the remaining minor producers.

The production data should include all models, grades or types of *like goods* produced and be provided for the immediately previous 12 months and desirably up to the most recent full month. Further the information needs to be divided into the companies that are:

- supporting the application;
- opposing the application;
- commenting on the application; and
- not commenting on the application.

You need to explain the basis of any estimates.

Your data must cover all Australian production of *like goods*, regardless of whether those goods are sold domestically or exported. While the data can show either production value or volume or both, volume is preferred. It is permissible to show values if volume data is not known to you. The last two rows of Appendix A1 contain formulas which determine if the standing tests are met.

5. Complete appendix A2 (Australian market).

To answer this question you need to complete Appendix A2 – Australian Market. This appendix has two separate sections. The first requires sales data of the imported and Australian produced goods, in terms of value and volume. The second part of this appendix will automatically calculate the respective market shares for the Australian industry and each exporting country.

This question seeks to define the size and composition of the Australian market for *the goods* and *like goods*. As this question is about the Australian market you should only provide domestic sales information for Australian producers, i.e. do not include *your* export sales data.

Australian Bureau of Statistics reports may be the best source for information on the imported goods. Please identify where you have used estimates and explain their basis in footnotes. While Customs and Border Protection will use its own import database to assess the reasonableness of your estimates of the volumes of imported goods, it is important that you fully complete this question.

Customs and Border Protection will review this information to consider injury caused by the allegedly dumped and/or subsidised imports to evaluate industry trends and to assist in relating injury with the dumped and/or subsidised imports. For example, we will look to see whether the volume of allegedly dumped goods has increased and whether it appears to have taken sales from the Australian industry.

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We will also use information on import levels provided in the application and obtained from our own records to establish the volume of imports from each country nominated in the application as a proportion of total imports. We cannot initiate an investigation if imports from each country are less than 3% of total imports. However, we can commence an investigation if a number of countries individually representing less than 3%, when combined represent more than 7%.

While appendix A2 does not specify a minimum period of required data, usually 4 years of data should be provided. If possible the applicant should provide information from the commencement of the claimed injury to the most recent period, *plus* a prior period before the onset of injury of one year. It is also important that information is sufficiently recent to demonstrate the currency of your claims.

The table in appendix A2 has columns labelled P1, P2, P3, Pn etc. This allows you to provide the data on a yearly, quarterly or monthly basis with Pn being the most recent period.

The generic labels P¹...Pⁿ are used for convenience in the application form only. It is essential that you insert the actual periods pertaining to the information you are providing e.g. 2001, 2002, 2003 or Q3/01, Q4/01, Q1/02.

It's important that you supply sufficient information to support your injury claims. If your company records prevent you from providing the data in yearly or quarterly formats please discuss other options with the Operational Support section.

You can choose to present your data in shorter periods than one year e.g. monthly or quarterly. However this data still needs to cover the total period to illustrate the injury claims.

Finally, whichever way you choose to present your information, yearly, quarterly or monthly, you must consistently apply this method throughout your application, e.g. for Appendices A3, A5, etc.

6. Use the data from appendix A2 (Australian market) to complete this table:

*Indexed table of sales quantities**

Period	(a) Your Sales	(b) Other Aust ⁿ Sales	(c) Total Aust ⁿ Sales (a+b)	(d) Dumped Imports	(e) Other Imports	(f) Total Imports (d+e)	Total Market (c+f)
P1*	100	100	100	100	100	100	100
P2							
P3							
P4							
P ⁿ							

*Data index for first period commences with 100. Provide sufficient periods to substantiate your application. P1 – Pⁿ are used as labels for a generic application form. Please specify the period relevant to your application (such as 200X or Q1/200X).

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To complete this table you need to use the data in appendix A2 (Australian market). The table above should include information from all the periods included at Appendix A2.

The conversion of confidential information contained in Appendix 2 into indices allows for the trends to be made available for public comment without releasing information confidential to your company.

A-5 Applicant's sales.

This section asks questions regarding your company's sales. It asks for information relating to the sales of all products (*like goods* and others) made by your company, dividing them into sales made on the Australian domestic market and those exported outside Australia.

1. Complete appendix A3 (sales turnover).

This question asks you to complete appendix A3 (Sales Turnover).

The table in appendix A3 also uses column labels P1, P2, P3, Pn etc. Again it is important that you present data using a consistent method, i.e. continue to use the same yearly, quarterly or monthly breakdown of data.

If you use estimates you must explain their basis in footnotes.

Appendix A3 firstly requires periodic sales data for all the products that your company sells. This includes products not covered by this application. This information needs to be divided into sales made into the Australian market, and exported outside Australia.

You are then required to provide periodic sales data for all *like goods* sold by your company on the Australian market and those exported. This should include your company's sales of all *like goods* and any sales made by your company of imported *like goods*.

The third section requires you to break down the sales data (domestically and exported) into different model/grade/type divisions of *like goods*. You will need to replicate the rows in the spreadsheet to accommodate all the divisions required by your situation.

2. Use the data from appendix A3 (sales turnover) to complete these tables.

*Indexed table of Applicant's sales quantities**

Quantity	P1*	P2	P3	P4	P ⁿ
All products					
Australian market	100				
Export market	100				
Total	100				

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Like goods	
Australian market	100
Export market	100
Total	100

*Index of data. Pⁿ should be the most recently completed period. P1 – Pⁿ are used as labels for a generic application form. Please specify the period relevant to your application (such as 200X or Q1/0X).

To complete this table you need to use the volume data in appendix A3 (Sales Turnover) firstly for all products that your company manufactures, then for the *like goods* that your company sold, including goods that you may have imported and sold.

Again it is important that you present data using a consistent method, i.e. continue to use the same yearly, quarterly or monthly breakdown of data.

The conversion of the data provided in Appendix A3 into indices allows the trends to be available for public comment without releasing information confidential to your company.

*Indexed table of Applicant's sales values**

Value	P1*	P2	P3	P4	P ⁿ
All products					
Australian market	100				
Export market	100				
Total	100				
 Like goods					
Australian market	100				
Export market	100				
Total	100				

*Index of data. Pⁿ should be the most recently completed period. P1 – Pⁿ are used as labels for a generic application form. Please specify the period relevant to your application (such as 200X or Q1/0X).

To complete this table you need to use the sales value data in appendix A3 (Sales Turnover) firstly for all products that your company manufactures, then for the *like goods* that your company sold, including goods that you may have imported and sold.

Again it is important that you present data using a consistent method, i.e. continue to use the same yearly, quarterly or monthly breakdown of data.

The conversion of the data provided in Appendix A3 into indices allows the trends to be available for public comment without releasing information confidential to your company.

3. Complete appendix A5 (sales of other production) if you have made any:

- internal transfers; or
- domestic sales of like goods that you have not produced, for example if you have imported the product or on-sold purchases from another Australian manufacturer.

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You only need to complete this question if you have made any internal transfers or related party transactions of *the goods* or *like goods* or any domestic sales of *like goods* that you did not actually manufacture yourself i.e. you have on-sold purchases from another Australian manufacture or imported the product.

If you do not need to answer this question please write “Not Applicable”

In a transaction where goods are transferred between business divisions within the one legal entity, the goods remain the property of the legal entity both before and after the transaction is completed. Customs and Border Protection considers that these transactions are not ‘sales’.

As the table requires you to provide information on these internal transactions in terms of volume and value for each model/type/grade or other division of *like goods* or *the goods* you will need to replicate the table. So while you only need to complete the table if you have made internal transfers, third party sales or domestic sales of *like goods* that you have not produced yourself, if you do complete, it must include all sales of *the goods* or *like goods*.

The table in Appendix A5 also uses column labels P1, P2, P3, Pn etc. Again it is important that you present data using a consistent method, i.e. continue to use the same yearly, quarterly or monthly breakdown of data.

If you use estimates you must explain their basis in footnotes.

The table is divided into five sections:

- own production (*like goods*)
- imported production (*the goods*)
- purchases from other Australian manufacturers (*like goods*)
- other – please specify what this relates to
- total sales

For each section the sales information needs to be divided into:

- sales to third parties
- transactions made to related parties (internal transfers); and
- export sales

4. Complete appendix A4 (domestic sales).

This question requires you to complete appendix A4 (Domestic Sales).

The spreadsheet requires information of all individual domestic sales transactions by your company of *like goods* (whether manufactured by your company or another Australian manufacturer) and *the goods*. The data must be provided for the immediately previous 12 months up to the most recent full month. You may need to provide more up to date information during an investigation.

This information is used in the injury analysis, for example in establishing price undercutting.

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The spreadsheet has 18 columns,

1. Names of your customers. If the name is not easily produced from your automated systems, show a customer code number and then in a separate table list each code and name.
2. State the level of trade of your customer, e.g. wholesale, retail, distributor.
3. Grade/model/type of the good. Use the same category groups as used previously throughout the application
 - 3.1 It is recommended that you add in an additional column to specify if the product is locally produced (*like goods*) or imported product (*the goods*).
4. Code used in your records for the model identified. Provide an explanation of the product codes in your application. In a separate table list each product code and provide its full name and a description.
5. The date that best establishes the material terms of sale for example, invoice date, order confirmation, contract, or purchase order. Add another column and specify the document where the date originates (i.e. invoice).
6. Show order confirmation, contract or purchase order number if you have shown a date other than invoice date as being the date of sale. Add another column and specify what the number represents (i.e. order confirmation).
7. Delivery terms e.g. ex-factory, free on truck, delivered into store.
8. Agreed payment terms; e.g. 60 days.
9. Quantity in units shown on the invoice.
10. Gross invoice value shown on invoice, excluding taxes.
11. If applicable, the amount of any discount deducted on the invoice. If a % discount applies show that % discount applying in another column.
12. The amount of any deferred rebates or allowances paid. This should include all long-term rebates or allowances.
13. Any other charges, or price reductions, that affect the net invoice value. Insert additional columns and provide a description.
14. The net invoice value as entered in your accounting system.
15. The actual amount of discounts not deducted from the invoice. Show a separate column for each type of discount, e.g. early payment discount.
16. Packing expenses.

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17. Transportation and handling costs included in the selling price.
18. Any other costs included in the selling price (such as warranty, commission or technical support). Specify the costs in one column and in an added column indicate what the cost represents.

5. If any of the customers listed at appendix A4 (domestic sales) are associated with your business, provide details of the association. Describe the price effect of the association.

In this question you need to specify if there is a relationship or association between your company and any of your customers. Customs and Border Protection will use this to information to assess the arms length nature of transactions.

6. Attach a copy of distributor or agency agreements/contracts.

Label each agreement/contract consecutively beginning with attachment A5.6.1, A5.6.2 etc.

7. Provide copies of any price lists.

Label each price list consecutively beginning with attachment A5.7.1, A5.7.2 etc.

8. If any price reductions (for example commissions, discounts, rebates, allowances and credit notes) have been made on your Australian sales of *like goods* provide a description and explain the terms and conditions that must be met by the customer to qualify.

- Where the reduction is not identified on the sales invoice, explain how you calculated the amounts shown in appendix A4 (domestic sales).
- If you have issued credit notes (directly or indirectly) provide details if the credited amount has **not** been reported appendix A4 (domestic sales) as a discount or rebate.

9. Select two domestic sales in each quarter of the data supplied in appendix A4 (domestic sales). Provide a complete set of commercial documentation for these sales. Include, for example, purchase order, order acceptance, commercial invoice, discounts or rebates applicable, credit/debit notes, long or short term contract of sale, inland freight contract, and bank documentation showing proof of payment.

Label each bundle of documents consecutively beginning with attachment A5.9.1, A5.9.2 etc.

A-6 General accounting/administration information.

This section asks questions about your company's administration and accounting systems, structure and practice.

1. Specify your accounting period.

This question refers to your company's financial year.

2. Provide details of the address(es) where your financial records are held.

Should your application lead to the initiation of an investigation, Customs and Border Protection will visit your company, to comprehensively verify all the information contained in your application, requiring access to financial and production records.

3. To the extent relevant to the application, please provide the following financial documents for the two most recently completed financial years plus any subsequent statements:

- chart of accounts;

Please provide your company's detailed chart of accounts.

- audited consolidated and unconsolidated financial statements (including all footnotes and the auditor's opinion);

If your accounts are not independently audited, please refer to question 4 below. (Question 3, bullet 3 below, should also be answered, i.e. it should not be skipped).

- internal financial statements, income statements (profit and loss reports), or management accounts, that are prepared and maintained in the normal course of business for the goods.

These documents should relate to:

1. the division or section/s of your business responsible for the production and sale of the goods covered by the application, and
2. the company overall.

Such accounts will contain more detail than the audited accounts. This is necessary to demonstrate a sufficient level of information as it pertains to the profit centres closest to the *like goods*. This facilitates upwards verification to audited accounts.

4. If your accounts are **not** audited, provide the unaudited financial statements for the two most recently completed financial years, together with your taxation returns. Any subsequent monthly, quarterly or half yearly statements should also be provided.

Self evident.

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5. If your accounting practices, or aspects of your practices, differ from Australian generally accepted accounting principles, provide details.

Please identify where your company's accounting practices differ from Australian generally accepted accounting principles, and briefly explain the reasons for the divergence.

6. Describe your accounting methodology, where applicable, for:

- The recognition/timing of income, and the impact of discounts, rebates, sales returns warranty claims and intercompany transfers;

This information is required in order to be able to understand more fully your company's accounts. As an example, income may be recognised on the date of sale, while rebates may be recognised at month end.

- provisions for bad or doubtful debts;

Please advise, if applicable, your company's allowance (i.e. ratio) for bad or doubtful debts, and its basis, (e.g. historical average).

- the accounting treatment of general expenses and/or interest and the extent to which these are allocated to the cost of goods;

This question relates to your company's treatment of indirect (overhead) expenses and/or interest, and their allocation basis to *like goods*. Customs and Border Protection needs to assess whether they are reasonably allocated to *like goods*.

- costing methods (eg by tonnes, units, revenue, activity, direct costs etc) and allocation of costs shared with other goods or processes;

This question requests details of the costing systems, i.e. process costing or job costing, as well as the allocation methods for direct expenses (e.g. raw materials) and share production costs (e.g. labour costs), which may be made on the basis for example, of weight, machine hours or labour hours.

- the method of valuation for inventories of raw material, work-in-process, and finished goods (eg FIFO, weighted average cost);

This question relates to the valuation method of inventory on hand, e.g. perpetual or periodic methods, as well as the valuation methods of cost of goods sold, e.g. FIFO, LIFO, or weighted average cost.

- valuation methods for scrap, by-products, or joint products;

Provide details of what products are regarded as scrap, by-products or joint products and why they are categorised in this manner. Please also detail how these products are valued.

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- valuation methods for damaged or sub-standard goods generated at the various stages of production;

If damaged or sub-standard goods are generated during production, e.g. a 'B-grade' product, please provide details, including how the sub-standard goods are valued, and reported in your accounts, and how they have been treated by you for the purpose of this application.

- valuation and revaluation of fixed assets;

Self evident.

- average useful life for each class of production equipment, the depreciation method and depreciation rate used for each;

Self evident.

- treatment of foreign exchange gains and losses arising from transactions and from the translation of balance sheet items; and

Self evident.

- restructuring costs, costs of plant closure, expenses for idle equipment and/or plant shutdowns.

Please describe and explain any restructuring costs incurred.

7. If the accounting methods used by your company have changed over the period covered by your application please provide an explanation of the changes, the date of change, and the reasons.

Self evident.

A-7 Cost information

1. Complete appendices A6.1 and A6.2 (cost to make and sell) for domestic and export sales.

This question requires you to complete appendix A6.1 (Cost to make and sell (& profit) – Domestic Sales) and A6.2 (Cost to make and sell (& profit) – Export Sales).

This information is used by Customs and Border Protection in the injury analysis, in particular in the analysis of your profit and profitability.

Appendix A6.1 (Cost to make and sell (& profit) – Domestic Sales) requires information on costs incurred in the production of *like goods* and sales of *like goods* in Australia.

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The table in appendix A6.1 uses column labels P1, P2, P3, Pn etc. Again it is important that you present data using a consistent method, i.e. continue to use the same yearly, quarterly or monthly breakdown of data.

If you use estimates you must explain their basis in footnotes.

As data needs to be provided for each model/grade/type or other division of the *like goods*, you will need to use a separate spreadsheet for each model/grade/type or other division of the *like goods*.

It is possible to provide cost to make and sell data in a different format to that of Appendix A6, especially if your company records can provide greater detail (e.g. more cost categories and subcategories). The closer the format submitted to the format routinely used by your company, the easier it will be to verify. Please feel free to consult the Director Liaison on departures from the A6 format.

Appendix A6.2 (Cost to make and sell (& profit) – Export Sales) requires information on costs attached to the production of *like goods* and their sale for export.

A-8 Injury

Before Customs and Border Protection can initiate an investigation it must be satisfied that there is reasonable evidence of dumping and/or subsidisation and of resulting material injury. Material injury is described as injury greater than that likely to occur in the normal ebb and flow of business and that is not insubstantial, insignificant or immaterial

The principal indicators of injury are prices, volumes and profit effects – although not all of these must be evident. For this application, profit refers to amounts earned. Profitability is the ratio of profit to sales revenue. Where injury is threatened, but has not yet occurred, refer to question C.2.

1. Estimate the date when the material injury from dumped imports commenced.

Please provide an estimate of when dumped imports began to cause injury to the Australian industry. You should consider the time when your sales revenue and/or volumes (and as a consequence, market share and profits) began to fall in response to competition from dumped imports.

2. Using the data from appendix A6 (cost to make and sell), complete the following tables for each model and grade of your production. Pⁿ is the most recent period.

Index of production variations (model, type, grade of goods)

Period [#]	1	2	3	4	n
Index*	100				

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#Identify the relevant period e.g. 200X or Q1/200X

*Use data from label A of [appendix A6.1](#)

To complete this table you need to use the [production quantity](#) (row A) information in Appendix A6.1 (Cost to make and sell (& profit) – Domestic Sales). A separate table needs to be completed for each model/grade/type or other division of the *like goods* produced by your company.

Again it is important that you present data using a consistent method, i.e. continue to use the same yearly, quarterly or monthly breakdown of data.

The conversion of the data provided in Appendix A6.1 into indices allows the trends to be available for public comment without releasing information confidential to your company.

Index of cost variations (model, type, grade of goods)

Period [#]	1	2	3	4	n
Index*	100				

#Identify the relevant period e.g. 200X or Q1/200X

*use data from label J of [appendix A6.1](#)

To complete this table you need to use the [unit cost to make and sell](#) (row J) information in Appendix A6.1 (Cost to make and sell (& profit) – Domestic Sales). A separate table needs to be completed for each model/grade/type or other division of the *like goods* produced by your company.

Again it is important that you present data using a consistent method, i.e. continue to use the same yearly, quarterly or monthly breakdown of data.

The conversion of the data provided in Appendix A6.1 into indices allows the trends to be available for public comment without releasing information confidential to your company.

Index of price variations (model, type, grade of goods)

Period [#]	1	2	3	4	n
Index*	100				

#Identify the relevant period e.g. 200X or Q1/200X

*Use data from label L of [appendix A6.1](#)

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To complete this table you need to use the [unit sales revenue](#) information (row L) in Appendix A6.1 (Cost to make and sell (& profit) – Domestic Sales). A separate table needs to be completed for each model/grade/type or other division of the *like goods* produced by your company.

Again it is important that you present data using a consistent method, i.e. continue to use the same yearly, quarterly or monthly breakdown of data.

The conversion of the data provided in Appendix A6.1 into indices allows the trends to be available for public comment without releasing information confidential to your company.

Index of profit variations (model, type, grade of goods)

Period [#]	1	2	3	4	n
Index*	100				

#Identify the relevant period e.g. 200X or Q1/200X

*use data from label M or N (specify as appropriate) of [appendix 6.1](#)

To complete this table you should use the [net gain or loss](#) (row M) information in Appendix A6.1 (Cost to make and sell (& profit) – Domestic Sales). A separate table needs to be completed for each model/grade/type or other division of the *like goods* produced by your company.

Again it is important that you present data using a consistent method, i.e. continue to use the same yearly, quarterly or monthly breakdown of data.

The conversion of the data provided in Appendix A6.1 into indices allows the trends to be available for public comment without releasing information confidential to your company.

Index of profitability variations (model, type, grade of goods)

Period [#]	1	2	3	4	n
Index*	100				

#Identify the relevant period e.g. 200X or Q1/200X

*use data from label O of [appendix A6.1](#)

To complete this table you need to use the [profitability](#) information (row O) in Appendix A6.1 (Cost to make and sell (& profit) – Domestic Sales). A separate table needs to be completed for each model/grade/type or other division of the *like goods* produced by your company.

Again it is important that you present data using a consistent method, i.e. continue to use the same yearly, quarterly or monthly breakdown of data.

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The conversion of the data provided in Appendix A6.1 into indices allows the trends to be available for public comment without releasing information confidential to your company.

2. Complete appendix A7 (other injury factors).

Where applicable to injury claims, prepare an indexed table for other injury factor(s) in the format above.

Index of [factor]

Period [#]	1	2	3	4	n
Index*	100				

[#]Identify the relevant period e.g. 200X or Q1/200X

*use data from appendix A7

Appendix A7 outlines other economic factors that may be relevant to demonstrating injury suffered by the Australian industry. You are required to complete Appendix A7 even if you are not claiming to suffer injury in the form of these other economic factors.

The conversion of the data provided in Appendix A6.1 into indices allows the trends to be available for public comment without releasing information confidential to your company.

A-9 Link between injury and dumped imports.

To establish grounds to initiate an investigation there must be evidence of a relationship between the injury and the alleged dumping. This section provides for an applicant to analyse the data provided in the application to establish this link. It is not necessary that injury be shown for each economic indicator.

This section provides you with the opportunity to highlight and explain trends evident in the information you have supplied, to support the argument that the dumped and/or subsidised imports are causing you material injury.

1. Identify from the data at appendix A2 (Australian market) the influence of the volume of dumped imports on your quarterly sales volume and market share.

This question relates to your share of the Australian market and how allegedly dumped and/or subsidised imports have affected your sales volumes and market share (i.e. decreased sales and declining market share).

2. Use the data at appendix A2 (Australian market) to show the influence of the price of dumped imports on your quarterly prices, profits and profitability provided at appendix

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A6.1 (costs to make and sell). If appropriate, refer to any price undercutting and price depression evident in the market.

This question requires you to relate the price of the allegedly dumped imports (Appendix A2 - Australian Market) with your selling prices, profit and profitability. You should highlight and explain any price undercutting or price depression you believe was caused by the allegedly dumped and/or subsidised imports.

You should endeavour to ensure that comparisons are made at the appropriate level of trade e.g. if your sales are made to end-users it may not be appropriate to compare your selling prices against free-into-store prices to importers, if those importers also sell the goods to end-users. In such a case the importers' selling prices to end-users would be more appropriate to compare with your selling price for the purpose of this question.

3. Compare the data at appendix A2 (Australian market) to identify the influence of dumped imports on your quarterly costs to make and sell at appendix A6.1 (for example refer to changes in unit fixed costs or the ability to raise prices in response to material cost increases).

You may be able to identify trends, for example where increased import volume of allegedly dumped imports corresponds with your company experiencing lower sales volumes, which may have resulted in decreased production volumes, and higher per unit costs to make and sell.

4. The quantity and prices of dumped imported goods may affect various economic factors relevant to an Australian industry. These include, amongst other things, the return on investment in an industry, cash flow, the number of persons employed and their wages, the ability to raise capital, and the level of investment in the industry. Describe, as appropriate, the effect of dumped imports on these factors and where applicable use references to the data you have provided at appendix A7 (other economic factors). If factors other than those listed at appendix A7 (other economic factors) are relevant, include discussion of those in response to this question.

Appendix A7 outlines other economic factors that may be relevant to demonstrating injury suffered by the Australian industry. You are required to complete Appendix A7 even if you are not claiming to suffer injury in the form of these other economic factors.

5. Describe how the injury factors caused by dumping and suffered by the Australian industry are considered to be 'material'.

In answer to this question you should explain how the injury factors you have highlighted in question A-8 constitute material injury. That is, how they have caused injury that is not insubstantial, insignificant or immaterial.

6. Discuss factors other than dumped imports that may have caused injury to the industry. This may be relevant to the application in that an industry weakened by other events may be more susceptible to injury from dumping.

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In answer to this question you should indicate other factors that may have caused injury to the Australian industry e.g. a fall in demand for *like goods* due to technological changes, increased raw material costs, or drought.

During an investigation, other parties are likely to comment on these factors.

7. This question is not mandatory, but may support your application. Where trends are evident in your estimate of the volume and prices of dumped imports, forecast their impact on your industry's economic condition. Use the data at appendix A2 (Australian market), appendix A6 (cost to make and sell), and appendix A7 (other economic factors) to support your analysis.

While this question is not mandatory, your answer may provide important support to the claims made in the rest of the application. This section gives you the opportunity to further discuss trends and how they might affect your company in the future if they were to continue. The data you have provided in this application may enable you to make projections regarding the long-term impact of the injury suffered because of allegedly dumped imports. Issues of continued viability and sustainability of your company can be addressed here.



Australian Government
**Australian Customs and
Border Protection Service**

Application form Part B: Guidelines for completion

Applications for anti-dumping and/or countervailing measures

Version 1.0
January 2007

PART B – DUMPING

B-1 Source of exports.

1. Identify the country(ies) of export of the dumped goods.

The country of export is the country from which the manufactured goods are shipped, regardless of the location of the seller. However, where goods are exported to Australia having passed through several countries, Customs and Border Protection disregards the intermediate countries if those countries are involved only in trans-shipment, storage and breaking bulk.

2. Identify whether each country is also the country of origin of the imported goods. If not, provide details.

In the case of un-manufactured or raw products, the country of origin is the country of which they are products. In any other case it is the country in which the last significant process in the manufacture or production of the goods was performed.

Under the *Australia New Zealand Closer Economic Relations Trade Agreement* both countries have precluded anti-dumping action against goods that are the produce or manufacture of the other. However, countervailing action can be applied.

3. If the source of the exports is a non-market economy, or an 'economy in transition', refer to Part C-4 and Part C-5 of the application.

If the source of the exports is a non-market economy, or an 'economy in transition', you should refer to Part C-4 and Part C-5 of the application, as the information required in the rest of the application may be affected.

4. Where possible, provide the names, addresses and contact details of:
 - producers of the goods exported to Australia,
 - exporters to Australia, and
 - importers in Australia.

Self explanatory.

5. If the import volume from each nominated country at *Appendix A.2* (Australian Market) does not exceed 3% of all imports of the product into Australia refer to Part C-6 of the application.

Self explanatory.

6. In the case of an application for countervailing measures against exports from a developing country, if the import volume from each nominated country at *Appendix A.2* (Australian Market) does not exceed 4% of all imports of the product into Australia refer to Part C-6 of the application.

Self explanatory.

B-2 Export price

Possible sources of information on export price include export price lists, estimates from the Australian Bureau of Statistics, a deductive export price calculation from the Australian selling price of the imported goods, export sales quotations or invoices, foreign government export trade clearances.

1. Indicate the FOB export price(s) of the imported goods. Where there are different grades, levels of trade, models or types involved, an export price should be supplied for each.

The export price is usually the amount that the exporter has received for the goods, after deducting any costs included in the selling price that relate to the movement of the goods to Australia, such as overseas freight and insurance, import duties, etc. to bring the price back to a 'free on board' (FOB) price.

Export price can be estimated using several methods. Where the estimate is based on price information, those prices should not be more than one year old.

You should provide the evidence you have regarding the selling price to the importer in Australia, such as price lists, sales invoices, bids, written offers or price quotations, and/or Australia Bureau of Statistics (ABS) reports.

ABS data identifies imported goods only by tariff and statistical code/s and country. Goods other than those targeted by the application may be present in that ABS data, so some analysis is generally required from the applicant.

Provide evidence to support the cost figures deducted.

2. Specify the terms and conditions of the sale, where known.

This question generally refers to credit and delivery terms, e.g. 90 days, FOB. Also advise:

- if you believe the export sale is made between a related importer and exporter (e.g. if a parent/subsidiary company relationship exists);
- the type of packing; and
- the level of trade or known functions of the buyer and seller, e.g. contractor, distributor, reseller, end user.

3. If you consider published export prices are inadequate, or do not appropriately reflect actual prices, please calculate a deductive export price for the goods. *Appendix B1 (Deductive Export Price)* can be used to assist your estimation.

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Another method to estimate export prices begins with the selling price at which the imported goods are resold in Australia. From this resale price you subtract all costs and profits to bring the price back to an FOB level including:

1. the importer's mark-up on the goods (normally covering all the importer's selling, general and administrative costs and related costs concerning the purchase and re-sale of the goods, and an amount for profit), and
2. all costs relating to the movement of the goods, such as freight and insurance (both within Australia and from the country of export to Australia), duties, clearance fees, port charges, handling, cartage and other associated import charges.

Appendix B1 (Deductive Export Price) can be used to assist your estimation.

You should provide all the evidence that you have regarding the resale price of the imported goods in Australia, such as price lists, sales invoices, bids etc. Also provide the basis for the costs and profits subtracted from this selling price to bring it back to an FOB level such as published industry mark-ups, publicly available freight rates, etc.

3. It is important that the application be supported by evidence to show how export price(s) have been calculated or estimated. The evidence should identify the source(s) of data.

Sources of data could include price lists, sales invoices, bids, written offers or price quotations, and/or ABS reports, as well as mark-ups, publicly available freight rates, etc.

B-3 Selling price (normal value) in the exporter's domestic market.

Possible sources of information about domestic selling prices in the country of export include: price lists for domestic sales (with information on discounts), actual quotations or invoices relating to domestic sales, published material providing information on the domestic selling prices, or market research undertaken on behalf of the applicant.

1. State the selling price for each grade, model or type of like goods sold by the exporter, or other sellers, on the domestic market of the country of export.

Usually the normal value is based on the price paid (or payable) for like goods sold in the domestic market of the country of export - either by the exporter or by other sellers of the goods.

The preferred method of estimating normal values is by using the selling price to unrelated customers in the exporter's home market.

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You should start by identifying the like good/s in the exporter's home market (i.e. identical or similar goods to the goods exported to Australia). This is an important first step in ensuring a fair comparison between normal value and export price.

Further information about the meaning of 'like goods' is discussed at Part A-3 of the application guidelines.

Next, provide the selling price information (that is available to you) in the exporter's home market on these goods. This should reflect recent price information, preferably less than one year old.

2. Specify the terms and conditions of the sale, where known.

This question refers to credit and delivery terms, e.g. 45 days ex-works. Also advise:

- if you believe the export sale is made between a related importer and exporter (e.g. if a parent/subsidiary company relationship exists);
- the type of packing; and
- the level of trade or known functions of the buyer and seller, e.g. contractor, distributor, reseller, end user.

3. Provide supporting documentary evidence.

You should provide any evidence of the selling price you have used. Sources of information may include: price lists for domestic sales, discounts, actual quotations or invoices relating to domestic sales, published material providing information on domestic selling prices, market surveys, and trade publications.

4. List the names and contact details of other known sellers of like goods in the domestic market of the exporting country.

Self explanatory.

'Market Situation'

**Note – this part is not compulsory*

What is a 'market situation'?

The anti-dumping framework allows for rejection of domestic selling prices as normal values where there is a 'market situation' making the sales unsuitable to determine a price.

A 'market situation' may exist in a market economy, i.e. the country of export, where prices are artificially low, where there is significant barter trade, or where there is significant government distortion of the domestic market due, for example, to the operation of government owned enterprises, or to significant government influence on the costs of inputs or prices.

Though it should be noted that prices do not have to reflect perfect market competition to be suitable. If a market is distorted because of a monopoly supplier situation, the price may still be considered acceptable. Also the mere presence of government owned enterprises, or existence of any government influence on the costs of inputs, may not necessarily lead to a conclusion that sales are unsuitable.

What you can do if you believe a ‘market situation’ operates

You should indicate whether you expect Customs and Border Protection to investigate claims of a ‘market situation’. If you allege that a ‘market situation’ applies to domestic sales of like goods in the domestic market/s subject of your application, you should clearly identify the alleged ‘market situation’, provide supporting evidence, and explain how it renders domestic sales in the country of export unsuitable for use in normal value calculation. Specific information that can be linked to the nominated goods or sellers is likely to be more supportive of your claims than general observations about market operation in the country or sector.

Such allegations should be made at the application stage, as all interested parties must be afforded due process. Late claims deny Customs and Border Protection the opportunity to formulate appropriate questions, and gather appropriate data for a thorough assessment during an investigation. The non-confidential version of your application should retain as much information on the claim as possible.

Where a ‘market situation’ makes domestic selling prices an unsuitable basis for determining normal value, another method may be adopted by Customs and Border Protection, such as using surrogate (i.e. 3rd country) pricing information. It is preferable, however, for you to provide normal value information relevant to the country the subject of the application.

B-4 Estimate of normal value using another method.

This section is not mandatory. It need only be completed where there is no reliable information available about selling prices in the exporter’s domestic market. Other methods of calculating a normal value include:

- the cost to make the exported goods plus the selling and administration costs (as if they were sold in the exporter’s domestic market) plus an amount for profit (if applicable),

OR

- the selling price of like goods from the country of export to a third country.

1. Indicate the normal value of the like goods in the country of export using another method (if applicable, use *appendix B2 Constructed Normal Value*)

Another method of estimating normal value is based on all costs relating to the production and sale of the goods, and an amount for profit. Typically, this method is used where:

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- you have difficulty getting price information on sales of the like goods in the exporter's home market;
- like goods are not sold for home consumption in the exporter's home market;
- the sales in the exporter's home market are made only to related customers; or
- you have information that indicates the exporter's sales in the home market are generally unprofitable.

In constructing the total unit cost of the goods, you should use information based on the producer's costs in the country of export. If you do not have this information, you should consider having regard to known costs from other suitable countries and benchmarking these.

If no information is available on costs, your own company's costs may be used for estimating the total cost of the goods. However, you should explain and adjust your costs to account for any known differences between your costs and those of the producer in the country of export, including differences in labour rates, production processes (including technological differences), quality, raw material costs, economies of scale, capacity utilisation rates, etc.

In estimating the total unit cost for the goods, list separately the:

- raw material costs, including the major raw material items;
- direct labour costs;
- factory overhead costs, including the major overhead items;
- general, selling and administrative costs; and
- any other costs (specify).

You may like to use the table at appendix B2 to assist with your constructed normal value estimate.

2. Provide supporting documentary evidence.

Explain how you estimated the costs of producing and selling the goods and provide all the evidence you have to support these costs. Explain how you calculated an amount for profit. The application should include all references and/or source of information used along with a full explanation of any assumptions made.

B-5 Adjustments.

A fair comparison must be made between the export price and the normal value. Adjustments should be made for differences in the terms and circumstances of the sales such as the level of trade, physical characteristics, taxes or other factors that affect price comparability.

1. Provide details of any known differences between the export price and the normal value. Include supporting information, including the basis of estimates.

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To ensure a proper comparison between normal value and export price, normal value is adjusted to account for differences between the domestic and the export sale (e.g. differences in credit terms, level of trade, packaging and specification differences). The objective is to adjust the normal value to an FOB equivalent sale level.

2. State the amount of adjustment required for each and apply the adjustments to the domestic prices to calculate normal values. Include supporting information, including the basis of estimates.

If you know of any important differences between the goods sold to Australia and the goods sold in the exporter's home market that might affect the fair comparison of prices between the two markets, these should be explained.

It's unlikely that you would have comprehensive or accurate information on adjustments. However, you may wish to consider some typical differences that have an affect on price comparability such as trade level differences and physical differences.

Regarding trade level, there may be a pattern of price differences between sales by the exporter to various levels of trade. These price differences commonly reflect the costs and expenses of the distribution systems and selling activities for each type of sale (e.g. there may be different selling costs when comparing the exporter's sales to retailers against the exporter's sales to distributors).

Accordingly, if the selling price of the exporter used for determining normal value is not at the same trade level as for exportation, explain the difference in trade levels (including any differences in selling and distribution activities) and whether it might affect pricing.

B-6 Dumping margin.

Dumping occurs when an exporter sells goods to Australia at an export price less than the normal value prevailing for like goods in the country of export. The margin of dumping is the amount by which the normal value exceeds the export price of the goods. Not all low-priced imported goods are dumped.

To support your allegations that the imported goods are dumped into Australia, you must estimate and compare normal values and export prices, and estimate an amount of alleged dumping.

1. Subtract the export price from the normal value for each grade, model or type of the goods (after adjusting for any differences affecting price comparability).

Normal value and export price should both be expressed on a net basis (i.e. net of any known discounts, rebates or allowances) using the same unit of measure (i.e. per kg/tonne/ unit) and be compared at the FOB point of delivery.

If the application involves several different product types, models or classes of goods imported into Australia, you will need to estimate normal values, export prices, and margins of dumping, for each of the different types of goods.

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If the imported goods all consist of the same type of product, one dumping calculation, based on a comparison of normal value and export price may be sufficient for the entire product concerned.

Where the application involves goods from more than one country, you need to provide an estimate of normal values, export prices, and dumping margins for each country.

2. Show dumping margins as a percentage of the export price.

The margin of dumping is calculated by subtracting the export price from the normal value, and the amount of dumping is measured as a percentage of the export price.

The following is an example of a dumping calculation:

• Imported product	Model A1
• Like product in the exporter's domestic market	Model A2
• Normal value - FOB (in Australian dollars)	Model A2 – \$77.50
• Export price - FOB (in Australian dollars)	Model A1 – \$64.00
• Dumping amount (normal value less the export price)	\$13.50
• Dumping margin (expressed as % of export price)	21.09%



Application form Part C: Guidelines for completion

Applications for anti-dumping and/or countervailing measures

Version 1.0
January 2007

C-1 Subsidy

This section must be completed where countervailing duties are sought to offset foreign government assistance through subsidies to exporters or producers.

If the application is for countervailing duty alone, the domestic price information required by Part B of the application need not be supplied.

Responses to questions A-9 will need to identify the link between subsidisation and injury.

1. Identify the subsidy paid in the country of export or origin. Provide supporting evidence including details of:
 - (i) the nature and title of the subsidy;
 - (ii) the government agency responsible for administering the subsidy;
 - (iii) the recipients of the subsidy; and
 - (iv) the amount of the subsidy.

You must supply information in response to this question if countervailing duties are sought against goods exported to Australia. A countervailing duty is a special duty levied to offset any subsidy bestowed directly or indirectly upon the manufacture or export of any merchandise.

The term 'subsidy' means a financial contribution from the government of the country of export or country of origin including a

- financial contribution by any level of government;
- public body of a country of which the government is a member; or
- private body entrusted or directed by a government or public body to carry out a governmental function.

A subsidy may include any of the following forms:

- a direct transfer of funds to an enterprise;
- a direct transfer of funds to an enterprise contingent upon particular circumstances occurring;
- the acceptance of an enterprise's liabilities, whether actual or potential;
- the forgoing, or non-collection, of revenue;
- the provision of goods or services otherwise than in the course of providing normal infrastructure; or
- the purchase of goods by a government or government body (e.g. at preferential rates).

To provide evidence of the existence of the subsidy you could consider supplying, for example, extracts of relevant government legislation, government publications, statements of policy, application forms for the subsidy, academic journals, or press articles.

If known, the nature or form of the alleged countervailable subsidy (e.g., short term loans, grants, tax exemptions) should be advised including whether the subsidy program

is an export subsidy, an import substitution subsidy or is limited to a certain enterprise, group of companies or industry within the country in question.

To be countervailable, a subsidy has to be specific to an enterprise or industry or group of enterprises or industries or regions. Customs and Border Protection will examine the information provided in an application to assess whether a subsidy is implemented (either in fact or in law) such that it can be considered 'specific'. The specificity test is intended to avoid the imposition of countervailing duties in situations where, because of the widespread availability and use of a subsidy, the benefit of the subsidy is spread throughout the economy. For example, provision of public roads and transportation systems, fire protection and public health programs, fiscal policy measures or broad economic policies are general governmental policy measures that are excluded by the specificity test.

Finding evidence of the amount of the subsidy can be problematic and estimates may be made in an application. In doing so, assertions as to what is the amount are insufficient – the estimates must be reasonably supported. For some schemes this may be straightforward if the subsidy is directly paid, for example on export sales, and the amount may be known from the available sources.

Finding information about other schemes could pose more difficulty, for example if the subsidy is indirect (that is, it may be paid 'upstream'¹) or was paid 'one off' some time in the past. In the case of an 'upstream' subsidy you will also need to discuss how the benefit of the alleged subsidy is passed through from the recipient of the subsidy to the exporter/producer.

In any case, you are not expected to have exact information about the actual amount of the benefit received by the final processor. However, it would be expected that you would at least be able to identify the nature of the subsidy, its main characteristics, whether it is paid directly or indirectly to the exporter/producer, and how the exporter/producer benefits from the subsidy.

If making an application for countervailing duty only (that is, not an application for both anti-dumping and countervailing duty notices), you should still provide the information requested at Part B-1 of the application form.

If the import volume from each nominated country at Appendix A.2 (Australian Market) does not exceed 3% of all imports of the product into Australia please refer to Part C-6 of the application. In the case of an application for countervailing measures against exports from a developing country, if the import volume from each nominated

¹ For a potentially countervailable subsidy to exist, there must be a financial contribution by the government that confers a benefit to a *recipient*. Where a subsidy is conferred on input products, and the countervailing duty is imposed on processed products, the initial recipient of the subsidy and the producer of the eventually countervailed product, may not be the same. In such a case, there is a *direct recipient* of the benefit—the producer of the *input* product. When the input is subsequently processed, the producer of the *processed product* is an *indirect recipient* of the benefit—provided it can be established that the benefit flowing from the input subsidy is passed through, at least in part, to the processed product. Where the input producers and producers of the processed products operate at *arm's length*, the pass-through of input subsidy benefits from the direct recipients to the indirect recipients downstream cannot be presumed, it must be established.

developing country at Appendix A.2 (Australian Market) does not exceed 4% of all imports of the product into Australia please refer to Part C-6 of the application.

Applicants should be aware that sometime after the receipt of an application and before proceeding to the initiation of an investigation, Customs and Border Protection is obliged to invite consultations with the Government of the exporting country concerned to clarify the situation and to arrive at a mutually agreed solution. If consultations are held, they will be based largely on the information supplied in an application.

C-2. Threat of material injury

Address this section if the application relies solely on threat of material injury (ie where material injury to an Australian industry is not yet evident).

Identify the change in circumstances that has created a situation where threat of material injury to an Australian industry from dumping/subsidisation is foreseeable and imminent, for example by having regard to:

- i. the rate of increase of dumped/subsidised imports;
- ii. changes to the available capacity of the exporter(s);
- iii. the prices of imports that will have a significant depressing or suppressing effect on domestic prices and lead to further imports;
- iv. inventories of the product to be investigated; or
- v. any other relevant factor(s).

2. If appropriate, include an analysis of trends (or a projection of trends) and market conditions illustrating that the threat is both foreseeable and imminent.

If there is reasonable evidence that you are already suffering material injury from imported dumped or subsidised goods, you should not complete this section.

Only complete this section where imports may be present in the market and are not currently causing material injury, but because of a change in circumstances, material injury is now threatened. Potential applicants should be aware that the tests used to establish a threat of material injury are based on World Trade Organization (WTO) agreements, and may be difficult to establish.

A determination of threat of injury also requires an assessment of the impact of imports on the domestic industry through an examination of relevant economic factors. Consideration of those factors is necessary in order to establish a background against which an evaluation of whether imminent further dumped imports will affect the industry's condition in the absence of measures. In addition to Part C-2, an applicant will also need to complete Part A of the application.

To sustain an application alleging that material injury is threatened, it must be reasonably established that there has been a change in circumstances that would make injury 'foreseeable and imminent' unless measures were imposed. The WTO Agreements give a non-exhaustive list of factors that should be considered when making this consideration:

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- A significant rate of increase of dumped/subsidised imports into the domestic market indicating the likelihood of substantially increased importation.
- Sufficient freely disposable, or an imminent, substantial increase in, capacity of the exporter indicating the likelihood of substantially increased dumped/subsidised exports to the importing member's market, taking into account the availability of any other export markets to absorb any additional exports.
- Whether imports are entering at prices that will have a significant depressing or suppressing affect on domestic prices, and would likely increase demand for further imports.
- Inventories of the product being investigated.
- In subsidy cases only the nature of the subsidy or subsidies in question and the trade effects likely to arise therefrom.

Material injury must be 'foreseeable and imminent'. WTO jurisprudence suggests that to satisfy this requirement there needs to be a high degree of likelihood that the anticipated injury will materialise in the very near future.

Although future oriented, an allegation must be based on facts, not conjecture. A factually based claim will need to present information from the recent past, but recent data cannot be considered in isolation from other data pertaining to the entire period of investigation.

- Recent data may show a decline in the domestic industry, but that decline may be part of a normal cycle rather than a precursor to clearly imminent injury.
- A recent decline in performance could indicate that the domestic industry is returning to its normal situation after an unusually favourable period, rather than being on the verge of a precipitous decline into injury.

An applicant should be aware that the Minister can only impose final measures after an exportation has taken place. However, Australian law allows for an application to be considered on the grounds that a consignment of goods 'is likely to be imported into Australia; or may be imported into Australia'. An investigation may therefore commence before goods have been exported such that a preliminary affirmative determination can be made. Securities may then be imposed and apply pending the final recommendation².

C-3. Close processed agricultural goods

Where it is established that the like (processed) goods are closely related to the locally produced (unprocessed) raw agricultural goods, then – for the purposes of injury assessment – the producers of the raw agricultural goods form part of the Australian industry. This section is to be completed only where processed agricultural goods are the subject of the application. **Applicants are advised to contact the Dumping Liaison Unit before completing this section ☎ (02) 6275-6066 Fax (02) 6275-6990.**

1. Fully describe the locally produced raw agricultural goods.

² An example of where this may occur is in a situation where an Australian industry is materially injured because of a tender lost to a dumped price.

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2. Provide details showing that the raw agricultural goods are devoted substantially or completely to the processed agricultural goods.
3. Provide details showing that the processed agricultural goods are derived substantially or completely from the raw agricultural goods.
4. Provide information to establish **either**:
 - a close relationship between the price of the raw agricultural goods and the processed agricultural goods; **or**
 - that the cost of the raw agricultural goods is a significant part of the production cost of the processed agricultural goods.

Information submitted about close processed agricultural goods is relevant to considerations about the composition of, and injury to, an Australian industry.

If there is an Australian industry producing like goods to imported goods, and it is established the like goods are a 'close processed agricultural good', then the industry will also consist of the person(s) producing the raw agricultural goods from which the processed goods are derived.

- Raw agricultural goods are those directly obtained by the undertaking of any agricultural operation or any fishing operation.
- When an application is being made against the importation of a processed agricultural good, an application cannot be made by the producer of the raw agricultural goods alone.

To establish that there exists close processed agricultural goods, an applicant will need to supply information to satisfy three tests. These are that:

- the raw agricultural goods are devoted substantially or completely to the processed agricultural goods; and
- the processed agricultural goods are derived substantially or completely from the raw agricultural goods; and
- either
 - there is a close relationship between the price of the processed agricultural goods and the price of the raw agricultural goods; or
 - a significant part of the production cost of the processed agricultural goods, whether or not there is a market in Australia for those goods, is, or would be constituted by the cost to the producer of those goods of the raw agricultural goods.

If an industry produces close processed agricultural goods, the test as to whether the application is supported by a sufficient part of the Australian industry will apply to the producers of both the raw agricultural good and the processed agricultural good (refer to declaration page of the application form).

Considerations about material injury will be made in respect of all Australian production of both the raw agricultural good and the processed agricultural good. Therefore the information that is submitted in response to Part A of the application form

will need to be in respect of production of both the raw agricultural good and the processed agricultural good.

Before completing this section, applicants are advised to contact the Operational Support section.

C-4. Exports from a non-market economy

Complete this section only if exports from a non-market economy are covered by the application. The domestic price information required by Part B of the application need not be supplied if this question is answered.

Normal values for non-market economies may be established by reference to selling prices or to costs to make and sell the goods in a comparable market economy country.

1. Provide evidence the country of export is a non-market economy. A non-market economy exists where the government has a monopoly, or a substantial monopoly, of trade in the country of export and determines (or substantially influences) the domestic price of like goods in that country.
2. Nominate a comparable market economy to establish selling prices.
3. Explain the basis for selection of the comparable market economy country.
4. Indicate the selling price (or the cost to make and sell) for each grade, model or type of the goods sold in the comparable market economy country. Provide supporting evidence.

The applicant may allege that it is inappropriate to determine normal value in the country of export because the government of that country:

- has a monopoly, or substantial monopoly, of the trade of the country; or
- determines or substantially influences the domestic price of goods in that country.

In consultation with Department of Foreign Affairs and Trade, Customs and Border Protection will consider if the country of export is a non-market economy.

If the country of export is unsuitable, the applicant must nominate a comparable market economy country in which a normal value can be ascertained. The comparable market economy is sometimes referred to as a 'surrogate country'. Customs and Border Protection will consider the case made by an applicant about whether the nominated 'surrogate' market economy country is suitable for determining normal value.

Customs and Border Protection has no fixed criteria to determine the suitability of a surrogate country and will examine each application having regard to what is appropriate and reasonable in the circumstances of the case. Relevant factors that might be taken into account could include similarities between the non-market economy and nominated surrogate country in respect of:

- industry sectoral structure;

- production processes;
- quality;
- inputs;
- scales of production; or
- uses of technology.

An important consideration for an applicant when nominating a suitable surrogate, will be their anticipation about whether producers in that country will cooperate with an Australian investigation.

Even though it may be accepted that the country of export is a non-market economy, an applicant must still reasonably establish that the exported goods are dumped by comparing export price and normal value.

- An applicant should complete parts B-1 and B-2 of the application form;
- Parts B-3 to B-6 should be followed, except that responses should be made in the context of the surrogate country, not the country of export. The methods available for an applicant to estimate normal value are:
 - the price of like goods manufactured and sold for domestic consumption in the surrogate country;
 - the constructed price of like goods manufactured and sold in the surrogate country;
 - the price of like goods manufactured in the surrogate country and sold to an appropriate third country;
 - the price payable for like goods manufactured and sold in Australia.

5.

There is no hierarchy in determining the appropriate method. Regard will be had to what is appropriate, reasonable and reliable in the circumstances of the case.

Applicants are advised to contact Operational Support before completing this section.

C-5 Exports from an ‘economy in transition’

An ‘economy in transition’ exists where the government of the country of export had a monopoly, or substantial monopoly, on the trade of that country (such as per question C-4) and that situation no longer applies.

Complete this section only if exports from an ‘economy in transition’ are covered by the application. **Applicants are advised to contact the Dumping Liaison Unit before completing this section ☎ (02) 6275-6066 Fax (02) 6275-6990.**

1. Provide information establishing that the country of export is an ‘economy in transition’.
2. A price control situation exists where the price of the goods is controlled or substantially controlled by a government in the country of export. Provide evidence that a price control situation exists in the country of export in respect of like goods.

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3. Provide information (reasonably available to you) that raw material inputs used in manufacturing/producing the exported goods are supplied by an enterprise wholly owned by a government, at any level, of the country of export.
4. Estimate a 'normal value' for the goods in the country of export for comparison with export price. Provide evidence to support your estimate.

An 'economy in transition' exists where the government of the country of export had a monopoly, or substantial monopoly, on the trade of that country and that situation now no longer exists. Schedule 1B lists countries to which this definition does not apply³.

In addition to establishing that the country of export is an economy in transition, an applicant will also need to provide evidence that 'market conditions do not prevail' in respect of sales of like goods in the domestic market of the country of export. There are prescribed matters that the Minister must have regard when deciding about whether 'market conditions prevail'. These are set out in regulation 183, reproduced below.

- (a) whether the entity makes decisions about prices, costs, inputs, sales and investments;
 - (i) in response to market signals; and
 - (ii) without significant interference by a government of the country of export;
- (b) whether the entity keeps accounting records in accordance with generally accepted accounting standards in the country of export;
- (c) whether the generally accepted accounting standards in the country of export are in line with international accounting standards developed by the International Accounting Standards Board;

Note: International accounting standards developed by the International Accounting Standards Board can be found on the International Accounting Standards Board website.

- (d) whether the accounting records mentioned in paragraph (b) are independently audited;
- (e) whether the entity's production costs or financial situation are significantly affected by the influence that a government of the country of export had on the domestic price of goods in the country before the country's economy was an economy in transition;
- (f) whether the country of export has laws relating to bankruptcy and property;
- (g) whether the entity is subject to the bankruptcy and property laws mentioned in paragraph (f);
- (h) whether the entity is part of a market or sector in which the presence of an enterprise owned by a government of the country of export prevents market conditions from prevailing in that market or sector;
- (i) whether utilities are supplied to the entity under contracts that reflect commercial terms and prices that are generally available throughout the economy of the country of export;
- (j) if the land on which the entity's facilities are built is owned by a government of the country of export – whether the conditions of rent are comparable to those in a market economy;
- (k) whether the entity has the right to hire and dismiss employees and to fix the salaries of employees.

In assessing whether there is significant interference for subparagraph (2)(a)(ii), the Minister must have regard to the following:

³ As a generalisation, the listed countries are members of the WTO.

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- (a) whether a genuinely private company or party holds the majority shareholding in the entity;
- (b) if officials of a government of the country of export hold positions on the board of the entity – whether these officials are a minority of the members of the board;
- (c) if officials of a government of the country of export hold significant management positions within the entity – whether these officials are a minority of the persons holding significant management positions;
- (d) whether the entity's ability to carry on business activities in the country of export is affected by:
 - (i) a restriction on selling in the domestic market; or
 - (ii) the potential for the right to do business being withdrawn other than under the contractual terms; or
 - (iii) if the entity is a joint-venture in which one of the parties is a foreign person, or is carried on in the form of such a joint-venture – the ability of the foreign person to export profits and repatriate capital invested;
- (e) whether the entity's significant production inputs (including raw materials, labour, energy and technology) are supplied:
 - (i) by enterprises that are owned or controlled by a government of the country of export; and
 - (ii) at prices that do not substantially reflect conditions found in a market economy.

For the provisions applying to an economy in transition to be used, an applicant will need to provide evidence about some or all of these matters.

If it can be established that an economy in transition exists, and that market conditions do not prevail in relation to sales of like goods in the domestic market of the exporter, then the normal value may be determined by having regard to all relevant information.

Other relevant information may include reference to a comparable market economy country in which a normal value can be ascertained (this is one option - applicants are not limited to reference to a comparable economy). The comparable market economy is sometimes referred to as a 'surrogate country'. Customs and Border Protection will consider the case made by an applicant about whether the nominated 'surrogate' market economy country is suitable for determining normal value.

Customs and Border Protection has no fixed criteria to determine the suitability of a surrogate country and will examine each application having regard to what is appropriate and reasonable in the circumstances of the case. Relevant factors that might be taken into account could include similarities between the non-market economy and nominated surrogate country in respect of:

- industry sectoral structure;
- production processes;
- quality;
- inputs;
- scales of production; or
- uses of technology.

Even though it may be accepted that the country of export is an economy in transition, and that market conditions do not prevail in respect of domestic sales of like goods, an applicant must still reasonably establish that the exported goods are dumped by comparing the estimated export price and normal value.

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- An applicant should complete parts B-1 and B-2 of the application form;
- Parts B-3 to B-6 should be followed, except that responses may be made in the context of the surrogate country, not the country of export. The methods available for an applicant to estimate normal value are:
 - the price of like goods manufactured and sold for domestic consumption in the surrogate country;
 - the constructed price of like goods manufactured and sold in the surrogate country;
 - the price of like goods manufactured in the surrogate country and sold to an appropriate third country;
 - the price payable for like goods manufactured and sold in Australia.

C-6 Aggregation of Volumes of dumped goods

Only answer this question if required by question B-1.5 of the application and action is sought against countries that individually account for less than 3% of total imports from all countries (or 4% in the case of subsidised goods from developing countries). To be included in an investigation, they must collectively account for more than 7% of the total (or 9% in the case of subsidised goods from developing countries).

	Quantity	%	Value	%
All imports into Australia		100%		100%
Country A*				
Country B*				
etc*				
Total				

* Only include countries that account for less than 3% of all imports (or 4% in the case of subsidised goods from developing countries). Use the data at [Appendix A.2 \(Australian Market\)](#) to complete the table.

Anti-dumping or countervailing action cannot usually be taken when there is a small volume of exports to Australia. This is referred to as a negligible volume.

A negligible volume for dumped goods is:

- where the export volume from the particular country is less than 3% of the total import volume into Australia.

A negligible volume for subsidised goods is:

- if the country of export is not a developing country, where the export volume from the country is less than 3% of the total import volume into Australia; or
- if the country is a developing country, where the export volume from the country is less than 4% of the total import volume into Australia.

However, in certain circumstances, negligible volumes of dumped or subsidised goods from several countries may be aggregated:

- action may be taken for dumped goods where:

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- the export volumes from several countries are each less than 3% of the total import volume into Australia, but when aggregated are more than 7% of the total import volume into Australia;
- action may be taken for subsidised goods where:
 - if the country of export is not a developing country, the exports from the countries concerned are each less than 3% of the total import volume into Australia, but when aggregated are more than 7% of the total import volume into Australia; or
 - if the country is a developing country, the exports from each of the countries concerned are less than 4% of the total import volume into Australia, but when aggregated are more than 9% of the total import volume into Australia.

The table at question C-6 should be completed where an applicant seeks a dumping duty or countervailing notice against several countries, but individually the volume of exports from each country is negligible. Appendix A-2 requests data about the Australian market, including import volumes. An applicant should use the data compiled in response to that question to complete this table.