



EUROPEAN COMMISSION

***GUIDE ON HOW TO DRAFT AN
ANTI-DUMPING COMPLAINT***

EN

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I. INTRODUCTION

1. The purpose of this guide¹ is twofold: to provide assistance to potential complainants on how to draft an anti-dumping complaint and to illustrate what information may be needed by the European Commission to decide whether a formal investigation may be opened concerning allegedly dumped imports which are causing injury to a Community industry.
2. The Community legislation implementing the internationally agreed provisions for dealing with dumped imports is set out in Council Regulation (EC) No 384/96² (hereafter, the Basic Regulation).
3. By guiding the reader through the contents and form of a complaint, the Commission hopes to clarify many of the questions that usually arise during the drafting of such a document and to provide a structured format which will ease the preparation of a complaint by the Community industry. It should be noted, however, that this guide is not a legally binding document, nor are its contents compulsory. The information presented by an applicant may vary depending on the specific circumstances of the case. Therefore, this guide is meant only to provide general advice to the complainant, who may take another approach which seems more reasonable due to the particular nature of his case. It also follows that no conclusions can be drawn from this document on what constitutes standards of acceptability in anti-dumping complaints. Equally, the use of this guide does not imply the automatic acceptance of the complaint, since each case must be analysed on its own merits.
4. As this guide is intended to assist complainants, any comments that may lead to its improvement are welcome. The Commission is at your disposal to answer any queries you may have regarding the lodging of an anti-dumping complaint.

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5. Once the complaint has been drafted, it may be sent to the address mentioned above. The European Commission will then evaluate the complaint and decide whether it contains sufficient prima facie evidence that the injury suffered by the Community industry is caused by the dumped imports. If deemed acceptable, an investigation concerning the alleged dumped imports will be initiated 45 days after the lodging of the complaint.
6. It should be noted that the investigation requires positive co-operation by the Community industry including the completion of questionnaires, and visits by the Commission to the premises of the companies.

Impact of enlargement of the EU on anti-dumping complaints and investigations as from the first of May 2004³: Complaints lodged from this date on must be based on an analysis of the EU-25 market, i.e. including the ten new Member States.

¹ This guide is available in all official languages of the European Community.

² Published in OJ No L 56 of 6.03.96, p.1. See also http://www.europa.eu.int/comm/trade/issues/respectrules/anti_dumping/index_en.htm for further amendments to this regulation.

³ Countries acceding the EU on 1 May 2004: Cyprus, Czech Republic, Estonia, Hungary, Latvia, Lithuania, Malta, Poland, Slovakia, and Slovenia.

II. GENERAL COMMENTS

- **Documentation**

7. A complaint should be thoroughly documented. Complainants must provide the best information available to them supported by sufficient documentary evidence.
8. Show explicitly all calculations and all sources for the data used, noting the period to which the data refers.
9. In the body of the complaint, state only figures and tables that are absolutely necessary. Leave everything else to the annexes, pointing to them in the text.
10. Convert all value figures to EURO⁴, showing the exchange rates used and the period to which they apply.

- **Confidentiality**

11. In the interest of fairness, all interested parties will be, upon request, provided with a non-confidential copy of the complaint once a proceeding has been initiated, as required by law. Therefore, you should provide two versions of the complaint, one confidential, and another non-confidential.
12. The Commission strictly respects the confidentiality requirements. The Complaint or any documents which contain confidential information must be labelled "*Limited*". The non-confidential version of the complaint or any other documents which do not contain confidential information are not be labelled at all.
13. The non-confidential version will omit data which are business secrets; however, it will clearly show the trends and/or levels these data depict. For further information on how to produce the non-confidential version, see Annex 3.
14. Complainants are kindly requested to provide both the confidential (limited) and non-confidential versions not only on paper, but also on diskette.⁵
15. When a complaint is lodged on behalf of several companies, information that cannot be grouped due to its confidentiality may be sent directly to the Commission.

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

⁵ Preferably in Word format for the text and in Excel for the calculations.

III. ISSUES AN ANTI-DUMPING COMPLAINT SHOULD ADDRESS

16. An anti-dumping complaint should address a number of issues⁶:

1. General information: Identification of the complainant, of the allegedly dumped product, of the countries of origin, and of other known parties concerned.
2. *Prima facie* evidence of alleged dumping.
3. *Prima facie* evidence of alleged injury to the Community industry.
4. *Prima facie* evidence of a causal link between the alleged dumping and injury.

Please refer to **Annex 1** for an example of a table of contents of a complaint.

1. GENERAL INFORMATION

A. Complainant/s

- **The complainant/s**

17. The industry may choose as its representative any natural or legal person, or association not having legal personality or even an *ad-hoc* association created to represent individual companies, to bring together the necessary information and to present it to the Commission. The representative will, however, be required to certify that he has been authorised to act on behalf of the industry. Experience suggests that a European association is likely to be best placed to carry through a case, but if there is no European confederation or national associations, even individual companies may lodge a case directly with the Commission.
18. State the name, address, telephone and fax numbers, and indicate a contact person of the complainant/s.

- **Representativeness of the complainant/s**

19. The complainant/s must act on behalf of a major proportion of the industry in the European Community.
20. This means in practice that the complainant must get the support of Community producers representing at least 25% of the total Community production.
21. This proportion of the total Community output is calculated on the basis of:
 - the production physically located in the EC;
 - the production of producers not related to exporters or importers;
 - the production of producers who do not import the product under consideration from the countries suspected of dumping, or, at least, even if they import the product, who are not injured by these imports because they remain at a marginal level.
22. Standard forms for expressing support can be delivered to the complainant, upon request.
23. You may also comment on known producers, which do not support the complaint, describing,

⁶ Art. 5 of the Basic Regulation does not require Community interest to be examined in complaints. For further information please contact the Commission.

where possible, how many there are, their names, their contact data and their importance in Community production, and the reasons why they do not support the complaint.

24. It should be noted that the Commission verifies the representativeness of the complainant prior to the initiation of the proceeding.

- **Regional cases**

25. A special case occurs when there is such a large degree of market isolation in one region of the Community (a region can be a country, a part of it, or several countries together) that the producers within the region in question can be considered as the injured industry. If exports are concentrated in the region, there may be grounds for a regional anti-dumping case.

26. The conditions for lodging a regional anti-dumping complaint are as follows:

- a) The producers of the product concerned sell all or almost all (generally more than 80 %) of their production in that region.
- b) The demand in that region is not to any substantial degree covered by supplies of producers located elsewhere in the EC (generally less than 20 %)
- c) There is a concentration of dumped imports of product concerned into that region (generally more than 80 %)
- d) These dumped imports cause injury to all or almost all the producers in the region (generally more than 80 %)

27. For further information please consult Art. 4(1)(b) of the Basic Regulation and contact the Commission.

B. Product concerned

28. The product concerned is the imported product covered in an anti-dumping proceeding. The complainant is advised to provide a thorough description, which clarifies any possible misunderstandings concerning the definition of the product concerned. In particular the complaint will include the following:

29. First, give a short definition of the product for which you requested the initiation of an investigation. This may (or may not) be the definition stated in the relevant CN Code/s (combined nomenclature). It should be borne in mind that the Customs Authorities should be able to identify whether an imported product falls under the product description.

30. Then give a full description of the product. This should include:

- combined Nomenclature Codes of the product concerned⁷,
- summary of the process of production, noting if different production processes co-exist in the Community and the exporting countries,
- physical characteristics, and other properties of the product concerned.
- uses of the product and its market: depict the segment of the market the product belongs to and other relevant issues (e.g. is quality or price the decisive marketing factor? is the market highly cyclical? what's the price-elasticity of demand? what is the consumer's perception of the product?, etc.),

⁷ If the product involved does not cover a full CN code, do not forget to note this by inserting the prefix *ex-* before the code. See also: http://europa.eu.int/comm/taxation_customs/databases/database.htm for a description of all CN codes and their scope.

- sales channels (how is the product sold?),

31. If different types or varieties of the product concerned exist, justify whether all types of the product concerned should be included in the scope of the product definition. If different types or varieties of the product exist, please show whether all of them can be treated as a single product and thus be covered by the same proceeding. In order to ascertain this, it may be necessary, *inter alia*, to explain their interchangeability for industrial applications/consumers.
32. If other anti-dumping cases or complaints involving the same product, primarily in the Community but also in other areas (e.g. the US, Canada, etc.) exist, please give details.

- **Customs duties and other trade measures**

33. List the customs duties payable for the product/s from the countries concerned when imported into the Community, as well as any other known tariff regimes applicable to the imports of the product into the Community (quotas, tariff quotas, GSP treatment, etc.). If you are aware of recent changes in any of these, please specify them.

- **Conclusion on the product concerned**

34. The complainant must reach the conclusion that the product, which is being imported into the EC at allegedly dumped prices, is similar enough to compete with the product produced and sold in the Community by the complainant. Expressed in technical terms, the imported goods and the EC goods must be “like products”.

C. Countries concerned

35. An anti-dumping complaint concerns imports of products originating in one or more countries outside the European Community, i.e. products which are produced in these countries⁸. For each country, state in the annexes (**see Annex 2 below**) the name, address, phone, and fax, of all the known producing/exporting firms. If products originating in the countries concerned are also being exported to the Community via another country, it is important to mention this exporting country as well, and any known exporters operating there. Please note that any country suspected of dumping should be analysed in the complaint, to avoid discrimination.

D. Importers in the Community

36. For each known importer of the product concerned, state in the annexes (**see Annex 2 below**) their name, address, phone, and fax.

E. Suppliers, users and consumers in the Community

37. Please include in the annexes (**see Annex 2 below**) contact data of suppliers, user industries, consumers, and their respective associations, where known.

⁸ Doha Ministerial Declaration 7.1 stipulates that “*Investigating authorities shall examine with special care any application for the initiation of an anti-dumping investigation where an investigation of the same product from the same Member resulted in a negative finding within 365 days prior to the filing of the application and that, unless this pre-initiation examination indicates that circumstances have changed, the investigation shall not proceed.*” If you are faced with a situation where a proceeding regarding the same product and country that you envisage to complain about has been terminated lately please contact the Commission for further information.

2. DUMPING

38. Low prices do not necessarily mean that imports are dumped. The basic definition of dumping is to sell a product in an export market at less than its normal value (= sales prices on the domestic market of the exporter or cost of production including reasonable profit). The purpose of this section is to present the information needed for a proper comparison of export price and normal value.

A. Product types

39. Sometimes the product concerned is completely homogeneous and no different forms or types can be identified which affect prices significantly. In these cases, one dumping calculation will be sufficient for the whole product concerned.
40. In other cases, products allegedly dumped are imported into the Community in different forms or types at significantly different prices. Because price comparability between normal value and export price may be distorted by averages, different dumping calculations may have to be provided for different types imported into the Community. If there are too many different types, it may be necessary to choose some representative product types for this purpose as examples for the whole product concerned. This can be done, for example, by showing that imports into the EC of the chosen product type cover a substantial amount of total imports into the EC.
41. Normal value and export price will be compared for every product type, resulting in different dumping calculations, which will then be averaged.

B. Normal value

42. Normal value is the value of the product sold on the exporter's domestic market for domestic consumption. It will preferably be based on domestic prices or, alternatively, on a constructed value. Special provisions apply for products originating in non-market economy countries or countries with economies in transition.

- **Market-economy country**

43. If the product is produced in a market economy country, in most cases the normal value will be the price charged for the product concerned on the exporter's domestic market. This price must be linked to a domestic transaction intended for domestic consumption, with an independent buyer.
44. Ideally, prices should be net ex-factory and exclude all internal taxes, but if this is not available, please give the prices available to you on which the allegation of dumping is based, and estimate what should be deducted to bring them to a net ex-factory level. Sufficient evidence should support the choice of elements to be subtracted and their value.

An example is given below⁹:

Figure 1. Normal value = Domestic sales price

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

Product concerned, brand, type

Retail price	<i>Currency Exporting Country</i>	139.15
- Value Added Tax = 10%. (Calculation: 139.15/1.10)		
⇒ Net sales price		126.5
- Retailer's margin = 10%. (Calculation: 126.5/1.10)		
⇒ Wholesale price		115
- Wholesaler's margin + transport and insurance = 15% (Calculation: 115/1.15)		
⇒ Ex-works price		100
<i>Exchange rate: 2 Currency Units of Exporting Country = 1 EURO</i>		
Normal value		<u>EURO 50</u>

Retail price obtained from _____ shown in annex ____.

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

Exchange rate is average for year _____. See annex ____ for details.

45. If you cannot obtain prices on the exporter's domestic market or these are not reliable (i.e. sales are based on transactions between related parties or they are made at a loss or they are insignificant)¹⁰, you may use the constructed normal value of the product based on production costs in the country of origin plus selling, general and administrative expenses and profit. Show the following separate elements of cost and explain how you have arrived at them: materials (identify the major raw materials used), direct labour, overheads and reasonable profit margin in the country of origin, as shown below.

⁹ If, because the product concerned is not homogeneous, you have chosen a number of representative product types (see above), this will result in different normal values which will be compared individually with the export prices.

¹⁰ Sales on the domestic market are deemed to be insignificant if they do not reach 5% of the country's exports to the EC.

State clearly the sources for every element. Include all the relevant evidence in the annexes (see Annex 2), clearly indicating their date.

Figure 2. Constructed normal value

Constructed normal value in *Exporting Country*

Product concerned, brand, type

Manufacturing costs			
Raw materials		EURO/tonne	395
- raw material A (300 EURO/tonne)			
- raw material B (25 EURO/tonne)			
- raw material C (70 EURO/tonne)			
Labour		EURO/tonne	50
- Skilled labour (30 EURO/tonne)			
- Unskilled labour (20 EURO/tonne)			
Energy 200 Kwh, EURO 0.05/Kwh		EURO/tonne	10
Other manufacturing costs		EURO/tonne	45
<i>(Please specify: rent, lease, depreciation, maintenance and repair, etc.)</i>			
Subtotal Manufacturing Costs		EURO/tonne	500
Selling, General, Administrative Expenses		EURO/tonne	100
<i>(Please specify: financing, insurance, freight/transport, packaging, administration, selling, advertising, R&D, patents/royalties, technical assistance, warranties, etc.)</i>			
TOTAL COST		EURO/tonne	600
Normal Profit	5%	EURO/tonne	30
NORMAL VALUE ex-factory		EURO/tonne	630

Import quantities, raw material and energy costs obtained from the international report on the industry by ___ shown in annex ___.

Manpower costs are based on International Labour Organisation Statistics (see annex ___).

Other manufacturing costs and SGA costs have been obtained from the market survey by ___ or is an estimate based on _____. See annex ___ for a copy of the relevant pages.

Normal profit is the minimum amount necessary to account for reinvestment in the industry. See annex ___ for details.

Exchange rate used: _____ (average for year ____). See annex ___ for details.

46. If constructing the cost of production is impossible, you have the possibility of using the price charged by the supplier concerned for exports to a third country outside the Community. In this case please contact the Commission.

- **Countries with economies in transition or non-market economies¹¹**

47. If the product is produced in a non-market economy country or in a country with an economy in transition, normal value should be established by reference to prices or costs of production in a

¹¹ In September 2003, countries considered as non-market economies include: Azerbaijan, Belarus, North Korea, Tajikistan, Turkmenistan, and Uzbekistan; and countries considered as economies in transition include Albania, Armenia, China, Georgia, Kazakhstan, Kyrgyzstan, Moldova, Mongolia, Ukraine and Vietnam.

comparable market economy country. This is the so-called analogue country, which should be chosen by the complainant in a reasonable manner, on the basis of the below listed criteria.

48. It is advisable to start the selection process by a list of all possible analogue countries. The country that fits the criteria best and seems to be willing to co-operate during the investigation should in principle be selected.

1. *Competition in the market.* Prices for the product concerned in the analogue market economy country should ideally be governed by normal market forces and should not be distorted by market isolation. For example, a high number of producers in the analogue country is also an indication of the existence of competition.
2. *Sufficient quantities sold.* The product concerned should ideally be produced and sold on the domestic market of the analogue country in representative quantities (5% can be used as a benchmark) as compared with the volume exported to the Community by the country under investigation.
3. *Comparability of the product concerned and of production.* The production in the analogue country should be as comparable as possible with that of the exporting country. This means that access to and nature of raw materials and components, production technology, type of process, patterns of specialisation etc. should be considered when selecting the analogue country. Appropriate adjustments should be made, when justified, to take account of any substantial differences in the above factors. In the same fashion, the products originating in the country concerned and those produced in the analogue country should be identical or similar as far as physical characteristics and applications are concerned. Again, appropriate adjustments may be made to account for any differences.

Important: Please bear in mind that a country which is allegedly dumping (or which has dumped in the recent past) may not be an appropriate choice of analogue country, because such a situation implies an anomaly in the relationship between normal value and export price. Therefore, it may be more fitting to select other countries, which have not dumped.

49. Once the selection has been made, give information on one of the following options, which are listed in order of preference:

- a) Price charged for a like product on the domestic market of the analogue country;
- b) Price at which the like product of the analogue country is sold for export to other countries (including the Community);
- c) Constructed value based on production costs of the like product of the analogue country, on the basis of the above guidelines.
- d) Any other reasonable basis such as the price actually paid or payable in the Community for the like product. Normal value may only be established on this basis when the price or constructed value methods outlined above do not prove adequate.
In this case you should show why you do not consider them adequate and give the price actually paid or payable in the Community for a like product.

C. Export price

- **Export price charged by the exporter to the importers**

50. The export price is the price of goods destined for export, paid or payable by the first independent Community customer. In most cases, the export price will be based on the price charged by the

exporter to the importer.

51. Evidence of the export price may be obtained from individual invoiced transactions, or written offers, salesmen reports, or from official statistics for imports from the country concerned. It has also to be brought back to an ex-factory level.
- **Export price = constructed on the basis of the price to the first independent buyer in the EC**
52. In some instances, the export price will have to be constructed on the basis of the price at which the imported products are first resold to an independent buyer. This will be the case, in particular, when:
1. you cannot obtain export prices, (explain why); or if
 2. you have reason to believe that the exporter and importer are associated (e.g. through a parent/subsidiary relationship) or that there is a compensatory arrangement between them or that for other reasons the export price is unreliable. Please state the reasons for your belief.
53. In order to reconstruct the export price, please give:
- a) the resale price charged for the imported product at the first point of resale to an independent buyer in the Community;
 - b) estimates of all costs or charges to bring the price to an ex-factory level, including:
 - *selling, general and administrative (SGA) costs of the importer;*
 - *profit of the importer;*
 - *transport, insurance, handling, loading and ancillary costs;*
 - *customs duties, anti-dumping duties.*

Figure 3. Example of a constructed export price

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

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

Retail price obtained from average of invoices (or from catalogue, price list, market survey etc.)

Shown in annex ___ or import price from Eurostat figures (see annex ___).

All margins, as well as insurance and freight, have been obtained from the market survey by _____ or have been estimated based on _____. See annex ___ for a copy of the relevant pages.

D. Price comparison

54. In order to achieve an appropriate price comparison, the export price and the normal value should be comparable as regards the physical characteristics of the product, and the terms and conditions of sale. The comparison should be made at the same level of trade, preferably the ex-factory level, and as nearly as possible at the same time.

When the export price and normal value are not on a comparable basis, allowances should be made for any differences to the best of the complainant's knowledge. As a result, the normal value (not the export prices) will be adjusted to take account of these differences.

- **Differences in physical characteristics** : If the product used for determining normal value is not identical to the imported product, state:
 - a) how the two products differ; and
 - b) the estimated effect of these differences on the market value; or
 - c) the estimated effect of these differences on the cost of production plus profit.
- **Other differences** : If you know of any other differences between the product sold on the domestic market of the exporter and that exported to the EC which affect price comparability (e.g. level of trade¹², import charges, indirect taxes, quantities sold, conditions and terms of sale, transport costs, packing, currency conversions, etc.), give:
 - a) details of the differences; and
 - b) an estimate of the allowances to be made for the differences.

E. Dumping margin

55. The dumping margin is calculated as follows:

1. Price comparison: obtain the difference between the normal value (net ex-factory) and the export prices (net ex-factory) after allowance has been made for any differences affecting price comparability.
2. Express this difference as a percentage of CIF export prices.

Figure 4. Example of a dumping margin calculation (all figures in EURO)

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

56. If different product types have been chosen, this will result in different dumping margins. You may average them to obtain one dumping margin for the whole product concerned, but all calculations should be included.
57. If the complaint concerns more than one country, the dumping margin must be calculated for all countries concerned individually.

¹² This refers to the difference between selling at retail or through distributors.

3. INJURY

A. Principles

58. In order to be able to determine if sufficient *prima facie* evidence exists for the initiation of an anti-dumping proceeding, the Commission needs to be in possession of certain data relating to the alleged injurious effects of the dumped imports. These data concern, firstly, the volume and value of the dumped products and their price level and, secondly, their impact on the complainant industry. The data supplied should, for certain factors, (e.g. sales, price evolution) demonstrate a trend over 3-5 years and for other factors, notably “price undercutting”, provide documentary evidence relating to a recent period of time. Certain factors are considered as of general importance and should, in principle, be supplied to the Commission in all cases.
59. The main injury indicators, which will be explained in detail below, are the following:
- **Consumption in the EC;**
 - **Volume and market share of dumped imports;**
 - **Price of the dumped imports;**
 - **Price undercutting suffered by the complainants;**
 - **Production, capacity and utilisation of capacity of the complainants;**
 - **EC sales¹³, market share and exports of the complainants;**
 - **EC sales price of the complainants;**
 - **Cost of goods sold in the EC by the complainants;**
 - **Profitability of the complainants in the EC;**
 - **Employment of the complainants;**
 - **Investment of the complainants.**
 - **Stock variations**
60. It is not necessary that all elements relating to the Community industry show an actual negative trend. For example, despite growing sales in absolute terms, an industry may consider that it has lost considerable turnover due to lower prices in the market resulting from dumped imports.
61. Information relating to other elements which may indicate injury may also be presented. Furthermore, a threat of injury or a material retardation in the establishment of a Community industry may be taken into account when describing the situation of the Community industry (see below).
62. Attached in annex 4, you will find the example of a table you may use in order to summarise injury information described in this section.
63. In supplying the relevant data and figures, please take into account the following :
- **Geographical area**
All indicators relate to the whole of the EC (see also paragraph 7).
 - **Product concerned**
The assessment of the injury must be based only on the product involved in the complaint and, therefore, all the data and figures you provide should apply exclusively to this product. Only in cases where it is impossible to supply data limited to the product concerned, you may provide data for a larger group of products, which includes the product concerned. This could, for

¹³ Some production is transferred or sold internally within a company or to a related company for further processing. These transactions may be considered as captive (i.e. they do not compete at all with dumped imports). If such transactions exist in your case, please contact the Commission for further information.

example, be the case for import statistics where a customs heading includes more products than the product concerned and this cannot be isolated. It is, of course, essential that all the figures and data relate to the same product and that any extrapolation or adjustment is explained.

- **Information limited to product types**

If the product concerned consists of many different types or varieties, and some injury indicators cannot be provided globally for all of them, or if the evolution of global figures (such as cost of production, sales price, profitability) is not considered to be meaningful, you may limit the information for certain injury indicators to certain representative types (see also point above). You are asked to clarify the basis for the choice of particular types.

- **Period considered**

The injury data should cover a period of 3-5 years, with the exception of data on price undercutting, which should cover only the last year. In order to ensure the comparability of the data, we suggest the use of a calendar year for the financial year. If the data for a certain year are incomplete, it is suggested that you extrapolate, on a reasonable basis, in order to cover a full year.

- **Basket heading**

Sometimes, tariff headings do not allow the isolation of the product concerned because it is mixed-up with other types, which do not concern the complainant. In these circumstances, the complainant should estimate, on the basis of market data or other sources, the import volumes for the product concerned. Statistics from the exporting country might be helpful.

B. Injury Indicators

- **Preliminary remark**

64. Please note that the figures referred to in points A to C in this section concern the EC as a whole, whereas points D to M concern only the producers supporting the complaint.
65. The complainant is invited to submit explanatory comments on each of the injury indicators, along the following lines.

A. Consumption in the EC (See also part A of the table in Annex 4)

66. The evolution of production, volume of sales and market shares is compared with consumption in the EC. This figure (apparent and actual consumption) may be based on market surveys, statistical data etc., but may also be calculated pursuant the two following methods:

Method I

	Year	1	2	3	4	5
a)	Total EC production by all producers in the EC (complainants and others)					
b)	Total imports from non-EC countries*					
c)	Total exports (sales to non-EC countries) *					
d)	Apparent EC consumption (a+b-c)					
e)	Total variation of stocks in the EC					
f)	Actual consumption of the EC (d-e)					

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

- a) **Total EC production by all producers in the EC** is the production of the complainant(s) plus the production of other producers in the EC (including related producers). It may have to be partly estimated. If a part of production is intended for captive use, please specify this quantity and contact the Commission for further guidance.
- b) **Total imports from non-EC countries** are the sum of all imports of the product into the EC, including dumped imports. This volume is available through EUROSTAT statistics. If the Combined Nomenclature (CN) Code does not isolate the product concerned, it will be necessary to assess these figures.
- c) **Total exports (to non-EC countries)** are the amount of exports of the product to non-EC countries, which can be found in EUROSTAT under the heading “extra-EC”. If the Combined Nomenclature (CN) Code does not isolate the product concerned, it will be necessary to assess these figures.
- d) **Total variation of stocks in the EC** is the difference between the opening and the closing stocks built up by all EC producers (complainants, and non-complainants). It may have to be partly estimated depending on the product.

Method II

	Year	1	2	3	4	5
a)	Total EC sales volume of goods produced in the EC (complainants and others)					
b)	Total imports from non-EC countries*					
c)	Actual consumption of the EC (a+b)					

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

- a) **Total EC sales volume of goods produced in the EC by all producers in the EC** is the sales of the complainant(s) plus the sales of other producers in the EC (including related producers). It may have to be partly estimated. If a part of production is intended for captive use, please specify this quantity and contact the Commission for further guidance.
- b) **Total imports from non-EC countries** are the sum of all imports of the product into the EC, including dumped imports. This volume is available through EUROSTAT statistics. If the Combined Nomenclature (CN) Code does not isolate the product concerned, it will be necessary to assess these figures.

B. Volume and market share of the dumped imports (See also part B of the table in Annex 4)

- 67. This volume concerns only the dumped product(s) originating in the countries concerned by the complaint, expressed in the same unit as consumption (tonnes, prices etc.).
- 68. The market share is calculated as a percentage of the consumption in the EC and for each exporting country separately:

$\frac{\text{Volume of dumped imports from country "A"}}{\text{Consumption in the EC}} \times 100$
--

C. Price of the dumped imports (See also part C of the table in Annex 4)

69. The evolution of import prices may be an indicator of price pressure exerted by dumped imports.
70. According to the nature of the information available, three alternative methods are suggested for the presentation of the price evolution of dumped imports. These suggestions do not exclude any other method, which may be used to demonstrate price trends for imported products.
- a) Usually, EUROSTAT indicates the average CIF price per unit. This price does not include customs duties.
 - b) It is also possible to assess the evolution of sales prices on the EC market by looking at specific representative product types. This method may be more useful where the product is not homogeneous and/or is sold in different types or varieties.
 - c) Other sources such as public or private studies, market surveys, salesmen reports, or export statistics from the country (ies) concerned may be used to demonstrate the prices of dumped imports. The evolution of resale prices in the EC is only indicative of import prices if costs and profits of resales have not varied.

D. Price undercutting suffered by the complainants (See also part D of the table in Annex 4)

71. To determine if price undercutting has taken place and/or whether the prices of the dumped imports are depressing or negatively affecting prices in the EC, it is essential to compare the sales prices of the dumped imports with the sales prices of the complainants for a similar type of product on the Community market.
72. This comparison normally needs to be made only for a recent period of time (usually the preceding year) and, in principle no trend needs to be shown. It is sufficient that representative evidence is presented (for example a comparison of several transactions).
73. Three ways to present evidence are suggested, but other appropriate methods may be used. Any comparison must concern, to the extent possible, the same or similar products or types of products and must be made at the same level of trade (e.g. retail level), at the same time and on the same market.
- a) Documentary evidence (price lists, price offers, invoices, salesmen's reports etc.) that an imported product has been sold on the EC market at a lower price than the product concerned being sold by the complainant EC industry.
 - b) As mentioned above, it may be appropriate to compare only certain representative types of the product range covered. It is preferable to use the same types selected in the dumping calculation. Documentary evidence should be provided as well as an explanation of why the chosen types are considered to be representative.
 - c) A comparison can also be based on import statistics, using a weighted average CIF Community frontier price and the ex-works price of the complainants. This option may not be viable where the product covered by the complainants is more limited than the one covered by the CN code.
74. The undercutting margin is expressed as a percentage of the EC selling price of the complainants in the Community market and is calculated as follows:

$\frac{\text{Sales price of complainant} - \text{Sales price of dumped imports}}{\text{Sales price of complainant}} \times 100$

E. Production, capacity and utilisation of capacity of the complainants (See also part E of the table in Annex 4)

75. Production is the total production volume of the complainants in the EC, expressed in the same unit as the volumes already mentioned (tonnes, units)
76. Please indicate whether the complainants have purchased relevant volumes of the product concerned (therefore partly acting as traders) from other EC producers, from countries concerned by the complainant or from other third countries. If this is the usual practice please explain why.
77. Please indicate also your captive production (see footnote in paragraph 59).

F. Sales, market share and exports of the complainants (See also part F of the table in Annex 4)

78. The sales in volume (same units as before) made by the complainants to unrelated customers in the EC are supplied here. Please indicate the level of trade at which the products are usually sold.
79. Sales intended for captive use should be specified (see footnote in paragraph 59).
80. Export sales, i.e. sales made outside the EC, are also relevant in that they might show the competitiveness of the Community industry in other markets where normal competition conditions prevail. If there are no or negligible purchases and stocks, production by the complainants should normally be similar to EC sales plus exports. Please explain any deviations.

G. EC sales price of the complainants (See also part G of the table in Annex 4)

81. The sales price is the average price at which the product manufactured by the complainants is sold on the EC market or on representative EC markets.
82. In the case of a homogeneous product, or where the sales volumes of different types do not vary, an average price could be calculated as follows:

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

83. In cases where the product concerned has many variations or types with different price levels and different sales volumes, it may be preferable to show the price evolution of certain product types which best represent, in terms of production and sales, the product concerned as a whole. Representative EC markets can also be selected. Preferably, use the same types for the price undercutting calculations.
84. Market survey statistics of the representative associations or other reports may also be a useful source of information.

H. Cost of goods sold in the EC by the complainants (See also part H of the table in Annex 4)

85. The cost of goods sold means the sum of fixed and variable manufacturing costs as well as financial costs (selling, general and administrative expenses) linked to the production and sale of the product concerned. If applicable, these data is to be provided for each type of the product concerned.
86. It is recommended that you present the costs in a manner that resembles as much as possible that

used in the company's own financial accounting system. Please provide details of your calculation.

I. Profitability of the complainants related to the product concerned sold in the EC (See also part I of the table in Annex 4)

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

a) As a percentage of the turnover generated by the product concerned:

$\frac{\text{Profit (or loss) on EC sales of product concerned before taxes}}{\text{Turnover in EC of product concerned before taxes}} \times 100$
--

88. The comments in the previous points concerning the types of the product are also applicable here. It would be useful to use the same types as were used in the calculation of your sales prices.

89. In order to establish the price level needed by the Community industry for the re-establishment of fair competition, please indicate the profit margin required guaranteeing long-term viability.

J. Employment of the complainants (See also part J of the table in Annex 4)

90. Only the numbers of personnel (or estimates thereof) attributable to the production; administration and distribution of the product concerned should be provided.

K. Investment of the complainants (See also part K of the table in Annex 4)

91. This is the sum or an estimation of the total amount of individual investment by the complainants.

L. Stock variations (See also part L of the table in Annex 4)

92. Please provide volume and value of stocks of the product concerned. Please indicate whether the product concerned follows any seasonal patterns.

M. Other injury elements of the complainants

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

N. Other injury factors

94. You are invited to comment on other factors, which might have influenced the position of the Community industry (see below, under "causality").

O. Threat of injury

95. Another element that you may wish to comment on is the potential injury, which the Community industry may suffer in the future.

96. The determination of a threat of material injury has to be based on facts and not merely on allegation. If clearly foreseeable and imminent injury can be quantified please do this. Examples of circumstances in which future injury can be predicted are usually the following:

Rate of increase of dumped imports

97. A rising trend in imports of dumped products could indicate the probability that these imports will substantially increase in the future.

Capacity of production of exporters

98. It is important to point out the potential in terms of production capacity of the exporting country in order to make clear that aggressive trade behaviour could continue. The information can usually be obtained from studies, specialised newspaper articles, other sources etc.

Changes in the export market structure

99. Structural changes in the exporters' domestic market (fall in demand, investments, technical development, banking reform, opening of the market to foreign products, etc.) can contribute to intensifying exports at dumped prices.

Obstacles for exports to other third countries

100. Exporters could be expected to target the Community market. This expectation may be based on the individual export strategy of the companies, but also on the fact that high import tariffs or other import barriers (such as anti-dumping measures, technical standards etc.) exist in third countries.

101. Although it is theoretically possible to base a complaint solely on the threat of injury, allegations of this nature normally supplement those on injury.

P. Material retardation

102. Dumped imports may have discouraged potentially interested EC firms from producing the product concerned, thus causing material retardation in their establishment as producers. If this is the case, please explain how this has happened, appropriately documenting your allegations.

103. Again, although it is theoretically possible to base a complaint solely on the material retardation in the establishment of a Community industry, allegations of this nature normally supplement those on injury.

4. CAUSALITY

• Effects of the dumped imports

104. Apart from the data representing injury, you need to demonstrate that material injury has been caused by the dumped imports, i.e. that a causal link exists. This does not mean, however, that the dumped imports should be the sole reason for any injury suffered. Causality is usually shown by the coincidence in time of increasing imports at decreasing prices with the deterioration of the situation of the complainant as shown by the development of the injury indicators.

• Effects of other factors (see also Annex 4 under “Causality”)

105. You are also asked to consider whether factors other than the dumped imports may have influenced the deterioration of the situation of the complainants. Such factors might be for example:

- volumes of imports of product concerned not sold at dumped prices
- production of non-complainants

- volumes and prices of the product concerned from other third countries
- contractions in demand and changes in the pattern of consumption
- restrictive trade practices of the Community producers
- strong competition of the producers located in the Community
- poor export performance of the Community industry
- insufficient productivity of the Community industry
- wrong assessment of the market developments
- poor marketing performance
- insufficient product quality or product range
- exchange rate fluctuation
- Community industry's own imports originating in the country concerned

5. CONCLUSION

106. The conclusion of your complaint may restate, in the form of an executive summary, the *prima facie* evidence submitted on the existence of dumping, material injury, and a causal link between them, which the complainant considers sufficient for the initiation of an anti-dumping investigation.

107. Furthermore, the complainant must request in the conclusion that the European Commission initiate an anti-dumping proceeding to investigate the allegations laid out in the complaint.

108. The complaint will be sent to the European Commission (see address in part I. INTRODUCTION) together with a dated cover letter signed by a person whom the complainant has empowered to act on his behalf.

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

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

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

6. NEXT STEPS

110. Once the Commission has decided to initiate an anti-dumping investigation, questionnaires will be sent to:

- Community producers
- exporters
- related and unrelated importers
- suppliers and users

They will be granted 37 days to provide their reply. The questionnaires for Community producers will contain detailed questions on all of the above injury factors, in particular on the sales price and the cost of production for the product concerned.

111. The Commission will then investigate on-the-spot to verify the accuracy of the replies. In addition, the Commission will assess whether the potential imposition of measures would be in the overall interest of the Community. Provisional measures may be imposed at the latest nine months after the initiation of the investigation. A definitive decision has to be taken by the Council at the latest 15 months after the initiation.

IV. ANNEXES

Annex 1: EXAMPLE OF A STANDARD TABLE OF CONTENTS IN A COMPLAINT

Annex 2: EXAMPLE OF STANDARD ANNEXES TO THE COMPLAINT

Annex 3: NON-CONFIDENTIAL VERSION OF THE COMPLAINT

Annex 4: EXAMPLE OF A TABLE SUMMARISING INJURY INFORMATION

Annex 1: EXAMPLE OF A STANDARD TABLE OF CONTENTS IN A COMPLAINT

0. Introduction

1. General Information

- A. Complainant
 - 1. *The complainant*
 - 2. *Representativeness*
 - 3. *Other producers in the Community*
- B. Product concerned
 - 1. *Product definition*
 - 2. *Product description*
 - 3. *Customs duties and other trade measures*
- C. Countries concerned by the complaint/exporters
- D. Importer/s in the Community
- E. Users and consumers in the Community

2. Dumping

- A. Product types
- B. Normal value
 - 1. *Choice of analogue country (if non-market economy, or economies in transition are concerned)*
 - 2. *Normal value calculation*
- C. Export Price
 - 1. *Export price calculation*
- D. Price comparison
- E. Dumping margin

3. Injury

- A. Consumption in the EC
- B. Volume and market share of dumped imports
- C. Price of dumped imports
- D. Price undercutting
- E. Production, capacity and utilisation of capacity of the complainants
- F. EC Sales, market share and exports of the complainants
- G. EC sales price of the complainants
- H. Cost of goods sold by the complainants in the EC
- I. Profitability of the complainants
- J. Employment of the complainants
- K. Investment of the complainants
- L. Stocks variations
- M. Other injury elements of the complainants
- N. Other injury factors
- O. Threat of injury
- P. Material retardation

4. Causality

5. Conclusion

Annex 2: EXAMPLE OF STANDARD ANNEXES TO THE COMPLAINT

Example Annex 1.A. Representativeness of complainant¹⁴

- Community production volumes available for the last 12 months. Support these calculations by stating the source of the data, attaching the relevant copies of the source, if applicable, and detailing the methodology used (in particular, if the source is the complainant himself).
- List of known producers in the Community related to exporters and excluded from the definition of Community industry, with an estimate of their production volume.
- List of producers in the Community supporting the complaint, and their total production volumes.
- List of known producers in the Community opposing the complaint, if any, and their total production volumes.
- List of known producers in the Community who abstained or did not make themselves known, if any, with an estimate of their production volume.

Example Annex 1.B. Product concerned

- Documents, brochures, photographs of the EC product.
- Idem for the allegedly dumped foreign product concerned.
- Idem for the foreign product sold in the foreign domestic market.

Example Annex 1.C. Exporting companies

- List (by country) of known exporters with names, addresses, phone and fax numbers (if available), and other noteworthy information.

Example Annex 1.D. Importers

- List (by country) of known importers with names, addresses, phone and fax numbers (if available), and other noteworthy information.

Example Annex 1.E. Users and consumers

- List (by country) of known main users/consumers and their associations with names, addresses, phone and fax numbers (if available), and other noteworthy information.

Example Annex 2.A. Choice of product type

- Technical information about these product types.

Example Annex 2.B. Normal value

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

- Any information supporting the choice of the analogue country. For example, concerning the competition in the market (e.g. players in the market with their market shares, official statistics for imports of the product concerned, other information available to the complainants etc.), the size of the market in terms of volume (e.g. figures from a market survey, from the complainants etc.), and the production process (information from surveys, articles etc.).

¹⁴ Please see also paragraph 7 above.

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

If domestic price can be used:

- Invoices, formal offers, surveys, advertisements, statistics etc. indicating domestic price. (This may sometimes be obtained through Member States' Embassies abroad).
- Evidence or basis for estimating any adjustments to be made, if necessary (from market surveys or other reliable sources).

If it has been impossible to obtain domestic prices:

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

Example Annex 2.C. Export price

- Invoices/written offers or Eurostat data or other (salesmen reports).
- Source of figures for adjustments or basis for its estimation to bring price back to ex-factory level.

Example Annex 2.D. Price comparison

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

Example Annex 3.A. Injury

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

Note: The allegations made by the complainant throughout the complaint should be supported by such evidence or solid arguments as are reasonably available to the complainant. The Commission will take into account all circumstances of the case (product concerned, countries involved, structure of EC industry, availability of information etc.) when assessing the reliability and sufficiency of the information submitted by the complainant. A complaint should be thoroughly documented. Applicants must provide the best information available to them and, wherever possible, give supporting documentary evidence from commercial or publicly available sources.

Annex 3: NON-CONFIDENTIAL VERSION OF THE COMPLAINT

When completing the non-confidential version of the complaint you should bear in mind that all interested parties to an investigation, i.e. exporters, importers and other Community producers may have access to it¹⁵. The non-confidential complaint should be sufficiently detailed to permit a reasonable understanding of the substance of the information submitted in confidence while omitting confidential data. In order to assist you in completing the non-confidential complaint, we advise you to act as follows:

1. Use the completed confidential complaint as a basis. Identify all information in the confidential complaint which you consider is not confidential and copy it to the non-confidential file.
2. Explain why each item you have not disclosed is confidential (mainly because of business secrets or because you are dealing with documents whose disclosure would cause harm to the persons supplying it or involved therein). Summarise the confidential information in non-confidential form. If, in exceptional circumstances, it is not possible even to summarise the confidential information, give reasons why a summary is not possible. Indicate where confidential data has been deleted.

Examples of how to summarise confidential information for comparison:

- ◆ When the information concerns figures, you can use indices.

Example of confidential information:

1994	1995	1996
20.000 EURO	30.000 EURO	40.000 EURO

The non-confidential summary could be as follows:

1994	1995	1996
=100	150	200

- ◆ When the information concerns a single number you can apply a % change to it.

Example of confidential figure: "The sales price is EURO 300 per tonne."

The non-confidential summary could be: "The sales price is EURO 330 per tonne" (+ footnote saying: "actual numbers have been amended by a margin of + 10%, to protect confidentiality").

- ◆ When the confidential information concerns text you can either summarise it or eliminate the names of parties by indicating their function.

Example: TRADING COMPANY Ltd. told me that the prices of imports were 20% lower.

Non-confidential summary: [one of my customers], told me that the prices of imports were 20% lower.

¹⁵ Please see also paragraph 13.

Annex 4: EXAMPLE OF A TABLE SUMMARISING INJURY INFORMATION

A					
CONSUMPTION					
Year	1	2	3	4	5
Consumption in the EC					
Index	100	....	....	....	....

Ba					
VOLUME OF DUMPED IMPORTS					
Year	1	2	3	4	5
Exporting country "A"					
Index	100	....	....	....	....
Exporting country "B"					
Index	100	....	....	....	....
etc.					
Total volume of dumped imports					
Index	100	....	....	....	....
Bb					
MARKET SHARE OF DUMPED IMPORTS					
Year	1	2	3	4	5
Exporting country "A"	%	%	%	%	%
Exporting country "B"	%	%	%	%	%
etc.	%	%	%	%	%
etc.	%	%	%	%	%
Total market share of dumped imports	%	%	%	%	0
					%

C					
PRICE OF DUMPED IMPORTS (per unit)					
Year	1	2	3	4	5
Exporting country "A"					
Indexes					
Exporting country "B"					
Indexes					
etc.					
etc.					
Average price of dumped imports (per unit)					
Index	100	....	....	....	....

D					
PRICE UNDERCUTTING SUFFERED BY THE COMPLAINANTS					
Year	1	2	3	4	5
Exporting country "A"	NO DATA NECESSARY BUT NOT EXCLUDED IF RELEVANT				%
Exporting country "B"					%
etc.					%
etc.					%

E					
PRODUCTION, CAPACITY AND UTILISATION OF THE COMPLAINANTS					
Year	1	2	3	4	5
Total Production					
Index	100	....	....	....	....
Production capacity					
Index	100	....	....	....	....
Utilisation of capacity (Total Production/ Production capacity)	%	%	%	%	%

Fa					
EC SALES OF THE COMPLAINANTS					
Year	1	2	3	4	5
Total EC sales (volume)					
Index					
Total EC Turnover					
Index	100	....	....	....	....

Fb					
EC MARKET SHARE OF THE COMPLAINANTS					
Year	1	2	3	4	5
EC market share					
Index	100	....	....	....	....

G					
EC SALES PRICE OF THE COMPLAINANTS					
Year	1	2	3	4	5
EC Sales price					
Index	100	....	....	....	....

H					
COST OF GOODS SOLD BY THE COMPLAINANTS IN THE EC					
Year	1	2	3	4	5
Average cost of production					
Index	100	....	....	....	....

I					
PROFITABILITY OF THE COMPLAINANTS					
Year	1	2	3	4	5
Profitability					
Index	100	....	....	....	....

J					
EMPLOYMENT OF THE COMPLAINANTS					
Year	1	2	3	4	5
Employment					
Index	100	....	....	....	....

K					
INVESTMENT OF THE COMPLAINANTS					
Year	1	2	3	4	5
Investment					
Index	100	....	....	....	....

L				
STOCK VARIATIONS				
	Stock of own produced product concerned		Stock of purchased product concerned	
	Volume	Value	Volume	Value
End of year 1				
End of year 2				
End of year 3				
End of year 4				
End of year 5				

CAUSALITY

VOLUME AND PRICES OF EXPORTS OF COMPLAINANTS						
Volume						
Index						
Value						
Index						
PRODUCTION BY NON-COMPLAINANTS (EC PRODUCERS)						
Year	1	2	3	4	5	
Production by non-complainants						
Index	100	....	....	....	....
SALES IN EC BY NON-COMPLAINANTS						
Year	1	2	3	4	5	
Sales in EC by non-complainants						
Index	100	....	....	....	....
VOLUMES AND PRICES OF IMPORTS FROM OTHER THIRD COUNTRIES						
Volumes	Year	1	2	3	4	5
Exporting country "X"						
Index		100	....	....	....	....
Exporting country "Y"						
Index		100	....	....	....	....
Etc.						
Other countries						
Index		100	....	....	....	....
Total volume of other countries						
Index		100	....	....	....	....
Prices	Year	1	2	3	4	5
Exporting country "X"						
Index		100	....	....	....	....
Etc.						
Other countries						
Index		100	....	....	....	....
Average prices of other imports						
Index		100	....	....	....	....