

**DEPARTMENT OF TRADE AND INDUSTRY  
NOTICE 417 OF 2018  
INTERNATIONAL TRADE ADMINISTRATION COMMISSION OF SOUTH AFRICA**

**This notice replaces Notice No. 402 of 2018 in *Government Gazette* No. 41781 published on 20 July 2018.**

**DRAFT GUIDELINES AND CONDITIONS PERTAINING TO A SAFEGUARD APPLICATION IN TERMS OF ARTICLE 34 OF THE ECONOMIC PARTNERSHIP AGREEMENT BETWEEN THE EUROPEAN UNION AND ITS MEMBER STATES, OF THE ONE PART, AND THE SOUTHERN AFRICAN DEVELOPMENT COMMUNITY (SADC) EPA STATES, OF THE OTHER**

Emanating from the Economic Partnership Agreement (EPA) between the European Community and its Member States, of the one part, and the Southern African Development Community (SADC) EPA States, of the other, Article 34 of the EPA provides for safeguard action in defined circumstances.

The International Trade Administration Commission of South Africa (the Commission) has drafted the attached reference and procedural guide pertaining to the application for safeguard action in terms of Article 34 of the EPA.

All interested parties are invited to comment on the draft guidelines within 10 calendar days of the date of publication of this notice. The Commission will finalise the guidelines after considering all comments received.

Comments can be submitted to the Chief Commissioner, International Trade Administration Commission of South Africa, Private Bag X 753, Pretoria or delivered by hand to the DTI Campus (Block E), 77 Meintjies Street, Sunnyside, Pretoria, 0002.

Further information can be obtained from the Senior Manager: Trade Remedies I, Ms Carina Janse van Vuuren, at (012) 394 3594.

Guidelines and conditions pertaining to a bilateral safeguard application in terms of Article 34 of the EPA



## **GUIDELINES AND CONDITIONS PERTAINING TO A BILATERAL SAFEGUARD APPLICATION IN TERMS OF ARTICLE 34 OF THE ECONOMIC PARTNERSHIP AGREEMENT (EPA) BETWEEN THE EUROPEAN UNION AND ITS MEMBER STATES, OF THE ONE PART, AND THE SOUTHERN AFRICAN DEVELOPMENT COMMUNITY (SADC) EPA STATES, OF THE OTHER**

### **1. PURPOSE**

- 1.1 The purpose of this document is to provide a reference and procedural guide pertaining to the application for bilateral safeguard action in terms of Article 34 of the EPA.

### **2. SCOPE**

- 2.1 The scope of this document covers the application process by applicants for bilateral safeguard action in terms of Article 34 of the EPA which provides as follows in paragraph 2:

*“Safeguard measures referred to in paragraph 1 above may be taken, if as a result of the obligations incurred by a Party under this Agreement, including tariff concessions, a product originating in a Party is being imported into the territory of another Party or SACU as the case may be, in such increased quantities and under such conditions as to cause or threaten to cause:*

- (a) serious injury to the domestic industry producing like or directly competitive products in the territory of the importing Party or SACU as the case may be, or*
- (b) disturbances in a sector of the economy producing like or directly competitive products, particularly where these disturbances produce major social*

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- problems, or difficulties which could bring about serious deterioration in the economic situation of the importing Party or SACU as the case may be, or*
- (c) *disturbances in the markets of like or directly competitive agricultural products in the territory of the importing Party or SACU as the case may be.”*

### 3. PROCEDURE

- 3.1 In order for the Department of Trade and Industry (**thedti**) to raise the matter of a bilateral safeguard in the Trade and Development Committee, it will need to have a case to present, i.e. facts demonstrating that, as a result of the obligations incurred, a product is being imported from the EU in such increased quantities and under such conditions as to cause or threaten to cause serious injury to the SACU industry; or cause or threaten to cause disturbances in a sector of the SACU economy; or cause or threaten to cause disturbances in a sector of the economy; or cause or threaten to cause disturbances in an agricultural market. Facts supporting these allegations must be set forth in an application to the International Trade Administration Commission of South Africa (ITAC or the Commission). Further, if there is the need for immediate action pending a decision by the Implementation Committee, a case will need to be made why a delay would cause damage which would be difficult to repair. Facts supporting these allegations must be set forth in an application to ITAC.
- 3.2 Prior to the submission of an application with ITAC, the industry concerned must lodge a request with the Minister of Trade and Industry to invoke the remedies under Article 34 of the EPA.
- 3.3 Should the Minister of Trade and Industry be in agreement with the request to invoke the said remedies, the Minister will request the Minister of Economic Development to instruct the Commission, in terms of Section 16(d)(i) of the International Trade Administration Act, 2002 (Act 71 of 2002) (ITA Act) to investigate and evaluate an application for bilateral safeguard action in terms of Article 34 of the EPA.

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- 3.4 The industry concerned must then submit an application to the Commission, in the prescribed form. The Commission will consider the application and if warranted, initiate an investigation and publish a notice in the *Government Gazette* for comment. A period of 20 days from the date of publication of the initiation notice will be provided for interested parties to submit comments to the Commission.
- 3.5 The rules relating to confidential information as contained in the ITA Act will apply to ALL correspondence, which unless clearly indicated to be confidential and filed together with a non-confidential version, will be placed on the public file and be made available to other interested parties. A public file will be available for inspection at the Commission's offices by all interested parties, by appointment, and interested parties are encouraged to inspect the public file regularly.
- 3.6 All interested parties will be informed of the essential facts to be considered by the Commission in making its preliminary determination. All interested parties will receive 7 days to comment on the essential facts. The Commission may grant parties a single extension on good cause shown. The Commission will take all relevant comments on the essential facts that have been timeously submitted into consideration in its determination.
- 3.7 Taking comments into account, the Commission will then make a preliminary determination which will form the basis for **thedti** to raise the matter in the Trade and Development Committee. On instruction of **thedti**, the Commission may request the Commissioner for South African Revenue Service (SARS) to impose provisional measures. Such measures will take the form of a provisional safeguard duty.
- 3.8 The provisional measures will stay in place for a period not exceeding 200 days. The duration of any such provisional measure shall be counted as a part of the two years for which safeguard measures may be applied. Such period

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shall contain clear elements progressively leading to their elimination at the end of the period for which measures are applied.

#### **4. APPLICATION**

- 4.1 Applications for safeguard action in terms of Article 34 of the EPA must be addressed to the Chief Commissioner, International Trade Administration Commission of South Africa, Private Bag X 753, Pretoria or delivered by hand to the dti Campus (Block E), 77 Meintjies Street, Sunnyside, Pretoria, 0002.
- 4.2 Applications must be submitted according to the requirements reflected in the attached application form (See Annexure A).
- 4.3 Applicants should provide full and accurate information and wherever possible provide supporting documentary evidence from commercial or governmental sources, e.g. commercial invoices or offers, official trade and production statistics. Failure to do so could detrimentally affect the case of the applicant. The Commission will not consider unsubstantiated information. All cost related information should be reconcilable to the financial statements or management accounts.
- 4.4 The Trade Remedies unit offers a public liaison service and if any party has particular problems in answering the questionnaire or requires more information or clarification on policy issues, the staff of the Trade Remedies section are ready to discuss these issues and to provide assistance. Please feel free to contact ITAC's Trade Remedies Unit.
- 4.5 If the application is based in part on confidential material, the application must contain a non-confidential version of the confidential material together with an explanation of why it is confidential. Section 33 of the ITA Act provides as follows:

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- “(1) A person may, when submitting information to the Commission, identify information that the person claims to be information that –
- (a) is confidential by its nature; or
  - (b) the person otherwise wishes to be recognized as confidential.
- (2) A person making a claim in terms of subsection (1) must support that claim with -
- (a) a written statement in the prescribed form-
    - (i) explaining, in the case of information that is confidential by its nature, how the information satisfies the requirements set out in the definition of “information that is by nature confidential” in section 1(2); or
    - (ii) motivating, in the case of other information, why that information should be recognized as confidential; and
  - (b) either –
    - (i) a written abstract of the information in a non-confidential form; or
    - (ii) a sworn statement setting out the reasons why it is impossible to comply with subparagraph (i).”

These summaries should be in sufficient detail to permit a reasonable understanding of the substance of the information submitted in confidence. Therefore where confidential and non-confidential versions are supplied, parties must:

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

A sworn statement is defined as a written sworn statement of fact voluntarily made by an affiant or deponent under an oath or affirmation administered by a person authorized to do so by law. Such statement is witnessed as to the authenticity of the affiant's signature by a taker of oaths, such as a notary public or commissioner of oaths. An affidavit is a type of verified statement or

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showing, or in other words, it contains verification, meaning it is under oath or penalty of perjury and this serves as evidence to its veracity and is required for court proceedings.

The Commission will not formally accept an application until a proper non-confidential version has been submitted in accordance with the above guidelines. If, in terms of section 34 of the ITA Act, the Commission finds that a request for confidentiality is not warranted and if the applicant is either unwilling to make the information public or to authorize its disclosure in summarized format, the Commission will not consider such information in determining the merits of the application.

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

- 4.6 Note that interested parties are encouraged to inspect the public file regularly. The Commission and the Trade Remedies section will not check the public file on interested parties' behalf.
- 4.7 Information should be submitted in hard copies as well as in electronic format, such as on compact disks or flash disks. The Commission's computer system is based on Windows and it uses Excel and MS Word software. The disks must not be write protected and labeled clearly indicating:
1. Applicant's name;
  2. Product(s) concerned;
  3. Type of information on the disk;

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4. Software used; and
5. Whether or not confidential.

4.8 The Commission may verify information submitted. Should it be found that the information submitted is false or misleading, the Commission may decide not to proceed with the investigation.

## 5. **CONDITIONS**

5.1 SACU producers representing at least 50% of the total volume produced by all producers that express an opinion on the investigation must support the application, and a minimum of 25% (by production volume) of the total industry must support the application. Without this support the Commission cannot accept an application for investigation. Letters of support for the application must be attached to the application as Annexure 5.1. Additionally, the Commission may not make a determination of serious injury or disturbance unless it has evidence relating to "a major proportion" of the SACU industry for consideration.

5.2 A like product is defined as "a product which is identical, i.e. is alike in all respects to the product under investigation, or in the absence of such a product, another product which, although not alike in all respects, has characteristics closely resembling those of the product under investigation", while a directly competitive product is "a product, other than a like product, that competes directly with the product under investigation".

5.3 The following factors will be considered by the Commission in making a determination of serious injury or disturbance:

- a. the rate and volume of the increase in imports of the product under investigation from the EU –
  - (i) in absolute terms; or
  - (ii) relative to the production and demand in SACU; and
- b. whether the SACU industry is experiencing:



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- (i) price suppression;
- (ii) price depression;
- (iii) price undercutting/price disadvantage with regard to EU as well as other imports;
- (iv) a decline in exports;
- (v) a change in market share;
- (vi) any other relevant factors placed before the Commission.

None of these factors listed above is necessarily decisive on its own.

The information requested must relate only to the affected SACU product that is a like or directly competitive product to the product under investigation.

5.4 The SACU industry must provide the information as requested in Annexure A.

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**ANNEXURE A**

**INTERNATIONAL TRADE ADMINISTRATION  
COMMISSION OF SOUTH AFRICA**

**APPLICATION FOR A BILATERAL SAFEGUARD MEASURE IN TERMS  
OF ARTICLE 34 OF THE EPA ON**

**[product]**

**APPLICANT**

Name:

Address:

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## INTRODUCTION

1. The purpose of this questionnaire is to help industry bring together in a concise and logical form the information needed by the International Trade Administration Commission of South Africa (the Commission) to decide whether or not to initiate a formal investigation, and will also serve as a basis for further investigation.
2. The legal framework is the International Trade Administration Act No.71 of 2002 (the ITA Act).

## SECTION A APPLICANT

- A1 State the name, postal and street addresses, the telephone and fax numbers (including codes) and the E-mail address of your company.

Company: \_\_\_\_\_

Postal Address: \_\_\_\_\_

\_\_\_\_\_

Physical Address: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Tel: (\_\_\_\_) \_\_\_\_\_

Fax: (\_\_\_\_) \_\_\_\_\_

Email: \_\_\_\_\_

- A2 State the names, telephone numbers of and positions held by the company's officers to be contacted.

Person: \_\_\_\_\_

Designation: \_\_\_\_\_

Direct line: (\_\_\_\_) \_\_\_\_\_

Direct fax: (\_\_\_\_) \_\_\_\_\_

Email: \_\_\_\_\_

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A3 Indicate the exact location of your manufacturing site(s). (Map to reach your offices)

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A4 Indicate the legal structure of your firm, i.e. public or private company, closed corporation, etc. \_\_\_\_\_

A5 Have you appointed a consultant, legal or other representative to assist you in this application and/or ensuing investigation?

Yes/No.

If affirmative, please attach a copy of the letter of appointment, setting out the scope and duration of the appointment, as Annexure A5.

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**SECTION B DOMESTIC INDUSTRY**

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

- (a) Name of organisation: \_\_\_\_\_  
 Name of contact person: \_\_\_\_\_  
 Designation: \_\_\_\_\_  
 Postal address: \_\_\_\_\_  
 Physical address: \_\_\_\_\_  
 Tel: (\_\_\_\_) \_\_\_\_\_ Fax: (\_\_\_\_) \_\_\_\_\_  
 Email: \_\_\_\_\_

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

|                         |                         |
|-------------------------|-------------------------|
| Company: _____          | Company: _____          |
| Postal address: _____   | Postal address: _____   |
| Physical address: _____ | Physical address: _____ |
| Contact person: _____   | Contact person: _____   |
| Designation: _____      | Designation: _____      |
| Tel: (____) _____       | Tel: (____) _____       |
| Fax: (____) _____       | Fax: (____) _____       |
| Email: _____            | Email: _____            |

B2 Name all other producers constituting the SACU industry concerned. Give their company names, postal and physical addresses, telephone and fax numbers, E-mail addresses and the names of contact persons.

|                         |                         |
|-------------------------|-------------------------|
| Company: _____          | Company: _____          |
| Postal address: _____   | Postal address: _____   |
| Physical address: _____ | Physical address: _____ |
| Contact person: _____   | Contact person: _____   |
| Designation: _____      | Designation: _____      |
| Tel: (____) _____       | Tel: (____) _____       |
| Fax: (____) _____       | Fax: (____) _____       |
| Email: _____            | Email: _____            |

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B3 Indicate the industry support and/or opposition to the application in the following format:

| <b>Industry Standing</b><br>(Total domestic production of like goods for the 12 months preceding the lodging of the application) |  |  |                               |
|--|--|--|-------------------------------|
| Producer   | Production volume-<br>Support<br>Application | Production volume-<br>Oppose application | Production volume-<br>Neutral |
| Your Company   |  |  |                               |
| Other producers  |  |  |                               |
| 1.   |  |  |                               |
| 2.   |  |  |                               |
| 3.   |  |  |                               |
| Total SACU   |  |  |                               |

**SECTION C PRODUCTS**

**C1 Imported (subject) product**

**Note** If more than one type of imported product form part of this application, information should be submitted separately for each such product type.

C1.1 Describe the imported product in the following detail:

- (a) Detailed physical description:
  - scientific name.
  - common name and
  - trade name
- (b) Main raw materials/components/inputs used
- (c) Production/manufacturing process used
- (d) Technical characteristics
- (e) Application/use
- (f) Categories of users

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

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C1.2 Enumerate in detail any differences between the imported product and the SACU like or directly competitive product.

C1.3 Customs classification

Supply the following information:

| Tariff subheading | Description | Unit | Rate of duty |
|-------------------|-------------|------|--------------|
|                   |             |      |              |

C1.4 Possible tariff loopholes

Indicate if you are aware of any loopholes in the tariff classification.

**C2 SACU like product/directly competitive product**

C2.1 Describe the subject product that you produce (attach photograph or brochure):

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

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

C2.2 Statutory or other standards/specifications

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

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## **SECTION D SERIOUS INJURY/DISTURBANCE**

***All information provided in Sections D, E and F should be for the latest 3 financial years, as defined by D2.1.***

### **D1 General Information**

- D1.1 Provide a flow chart of your marketing/distribution channels for the product(s) concerned in the application and indicate the percentage off-take for each channel.
- D1.2 Provide full details of your terms and conditions of sale and selling price to each class of customer, e.g. wholesaler, retailer, downstream producer, etc. Attach a copy of your standard terms and conditions as **Annexure (D1.2)**.
- D1.3 Give the reasons and basis for your categorisation of customers.
- D1.4 Enumerate major changes over the past three years in your answers to the above questions.

### **D2 FINANCIAL INFORMATION**

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

- D2.1 Indicate your normal accounting period.
- D2.2 Provide copies of your audited financial statements, including detailed manufacturing, trading and profit and loss statements for the most recent three financial years. If your statutory statements do not include detailed accounts/schedules, please provide such accounts/schedules separately.)



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- D2.3 Provide copies of your year-to-date management accounts, including detailed manufacturing, trading and profit and loss accounts for the period between the last financial year-end and the most recent month end. Provide ancillary schedules if not part of published accounts.
- D2.4 Provide a separate sales and profit (before tax) contribution analysis of all the product line items manufactured by your company, including a percentage analysis. The information should be sufficient to allow proper verification of your like product information. The requested income statements should be analysed in a departmental or divisionalised format detailing the product concerned as a separate activity. The analysis should also be in respect of three prior financial years and the most recent year-to-date management accounts period. **If the requested information is not available from your financial database, please discuss alternatives with the Commission.**

### D3 IMPORTS

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

#### D3.1 Annual import statistics

**Import volumes and values per annum (State unit of measurement)**

|               |                    | Year 1 | Year 2 | Year 3 | Current year |
|---------------|--------------------|--------|--------|--------|--------------|
| EU            | Volume             |        |        |        |              |
| EU            | Value              |        |        |        |              |
| EU            | Average unit price |        |        |        |              |
| Other imports | Volume             |        |        |        |              |
| Other imports | Value              |        |        |        |              |
| Other imports | Average unit price |        |        |        |              |

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### D3.2 Import volumes and values per month

Attach as Annexure D3.2 a table indicating the monthly volumes, values and unit prices of imports for the last 18 consecutive months in the same format.

### D3.3 Own imports

Provide the following information on your own imports of the product:

|               |                    | Year 1 | Year 2 | Year 3 | Current year |
|---------------|--------------------|--------|--------|--------|--------------|
| EU            | Volume             |        |        |        |              |
| EU            | Value              |        |        |        |              |
| EU            | Average unit price |        |        |        |              |
| Other imports | Volume             |        |        |        |              |
| Other imports | Value              |        |        |        |              |
| Other imports | Average unit price |        |        |        |              |

State your reasons for importing the product.

### D4 Effects on the SACU prices

#### Definitions:

**Price undercutting** is the extent to which the price of the imported product is lower than the price of the SACU product. The price should be compared at the same level of trade and with the same terms of condition of trade, normally at the SACU ex-factory level compared to the landed cost of the imported product.

**Price depression** is the extent to which the SACU industry has been forced to reduce its prices, i.e. price depression takes place where there has been an absolute decrease in prices.

**Price suppression** takes place where the SACU industry is not able to increase prices in line with the increase in costs, i.e. where there is a relative decrease in prices.

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**D4.1 Price undercutting**

D4.1.1 Provide the following information with regard to your selling price per unit and the selling price per unit of the imported product:

| (R/unit)   | Year 1 | Year 2 | Year 3 | Current Year |
|--|--------|--------|--------|--------------|
| Your company   |        |        |        |              |
| Average landed cost (incl. duty) of imported product |        |        |        |              |
| Undercutting per unit                                |        |        |        |              |
| Undercutting %                                       |        |        |        |              |

*Undercutting %: express the undercutting per unit as a percentage of your price.*

D4.1.2 Indicate the level of trade and selling conditions of your product and the imported product, i.e. ex-factory/delivered, payment terms, distributor/wholesaler/retailer.

D4.1.3 Comment on the trends indicated by this information and substantiate how this factor is indicative of serious disturbance. (If the trends do not support your argument, you must provide other substantiating evidence as proof.)

**D4.2 Price suppression and depression**

D4.2.1 Provide the following information with regard to your average per unit ex-factory selling prices:

| Per unit   | Year 1 | Year 2 | Year 3 | Current Year |
|--|--------|--------|--------|--------------|
| Your production cost                                     |        |        |        |              |
| Your total cost (incl. Selling, general and admin costs) |        |        |        |              |
| Your ex-factory price                                    |        |        |        |              |
| Total cost % of selling price                            |        |        |        |              |

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D4.2.2 If your cost or prices changed significantly during the last 18 calendar months please additionally supply the abovementioned information on a monthly or quarterly basis. Please attach as Annexure D4.2.2.

D4.2.3 Indicate any other factors that have depressed your ex-factory selling price that do not reflect in the above table, e.g. longer payments terms, higher year-end rebates, additional free stock, etc.

**D4.4 Cost build-up**

D4.4.1 Please supply a cost build-up in the format indicated in **Annexure D4.4.1**. Where your management accounts do not allow for the specific cost elements indicated in the pro forma, please indicate the information that is available and supply as much detail as possible.

D4.4.2 Please supply a Bill of Materials for the domestic like or directly competitive product.

**D5 SACU INDUSTRY SALES AND MARKET SHARE**

D5.1 Please supply the following information on your sales volume in SA. State the unit of measurement.

|  | Year 1 | Year 2 | Year 3 | Current Year |
|--|--------|--------|--------|--------------|
| Your sales volume                            |        |        |        |              |
| Sales by other SACU producers                |        |        |        |              |
| Total volume of SACU sales by SACU producers |        |        |        |              |
| Volume of imports                            |        |        |        |              |
| Your market share                            |        |        |        |              |
| Total market share held by SACU producers    |        |        |        |              |
| Market share held by imports                 |        |        |        |              |

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D5.2 Indicate how the information in Tables D5.1 supports your allegation of serious injury to the domestic industry, disturbance to a sector of the economy or disturbance in the market.

D5.3 If sales of the product is of a cyclical nature comment on the nature thereof, indicating the length of the cycle and the prices both during the up and down phases.

**D6 Other information**

Please indicate any other information to be considered by the Commission and not covered by the questions above.

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## **SECTION E THREAT OF SERIOUS INJURY/DISTURBANCE**

Note: It is not necessary to complete this section if you can prove actual current serious injury or disturbance.

Note: Any allegation of threat of serious injury or disturbance should be based on concrete evidence and not only mere conjecture or remote possibility.

- E1 Give details on the freely disposable capacity or imminent substantial increase in capacity of the exporter.
- E2 Substantiate any significant increase of imports into the SACU market indicating the likelihood of substantially increased importation.
- E3 State whether the products concerned enter the country at prices that will have a significant depressing or suppressing effect on SACU prices and are likely to increase demand for further imports. Substantiate your reply.
- E4 Give any other information relevant to your allegation that a serious injury or disturbance is imminent.

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**SECTION F CAUSE OF SERIOUS INJURY/DISTURBANCE**

- F1 Give the reasons for your belief that the imports are the cause of the alleged serious injury or disturbance.
- F2 Give a comparison between your actual ex-factory selling prices and the actual landed costs of the imported products concerned over the latest three financial years, and indicate what your actual (unsuppressed) prices ought to have been.
- F3 Give the details of any depression of your ex-factory selling prices to enable you to compete with the imported products (indicate price depression, extended payment terms or lower discounts granted, etc.)
- F4 Give the details of any suppression of your ex-factory selling prices to enable you to compete with the imported products. Refer to matters such as unavoidable increases in the cost of inputs that had to be absorbed partially or totally by your firm.
- F5 Indicate the view that your clients have regarding:
- (a) the quality of your product;
  - (b) your delivery times;
  - (c) your service; and
  - (d) your after sales service, including guarantees and warranties and technical training to customers.

Please elaborate on all of the above issues.

- F6 Have you had any strikes, go-slows or lock-outs during the past twelve calendar months? Please elaborate.
- F7 Has there been a contraction in demand for your product or has there been a change in consumption patterns? Please elaborate.

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- F8 Indicate the technology developments that have taken place since you last updated your manufacturing process.
  
- F9 Comment on your productivity vis-à-vis that of the exporters.



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**SECTION G                      DAMAGE THAT WOULD BE DIFFICULT TO REPAIR**

Paragraph 10 of Article 34 of the EPA provides as follows:

*“Where delay would cause damage which it would be difficult to repair, the importing party concerned, whether the EC Party, or a SADC EPA States or SACU, as the case may be, may take the measures provided for....”*

Provide substantiation which would warrant the Commission to take immediate action.

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**SECTION H                      GENERAL**

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

Guidelines and conditions pertaining to a bilateral safeguard application in terms of Article 34 of the EPA

**SECTION H CERTIFICATION**

The information submitted must be accompanied by the following certificate:

"I, the undersigned, certify that the information given above is complete and correct to the best of my knowledge and belief and that I have been authorised to represent

\_\_\_\_\_.  
Company

\_\_\_\_\_  
Date

\_\_\_\_\_  
Signature of authorised person

\_\_\_\_\_  
Name and title of authorised person **(in print)**

**NB: HAVE YOU COMPLETED YOUR NON-CONFIDENTIAL SUBMISSION?**

**IN THE ABSENCE OF A PROPER NON-CONFIDENTIAL VERSION THE COMMISSION WILL NOT BE IN A POSITION TO REGARD YOUR COMPLAINT AS A PROPERLY DOCUMENTED APPLICATION AND NO INVESTIGATION CAN BE INITIATED.**

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| Annex D4.4.1   | Products under investigation  | All other products | Company total cost |
|--|---|--------------------|--------------------|
| <p><b>1. DIRECT COST:</b></p> <p>Materials #<br/>                     - Imported<br/>                     - Domestic<br/>                     Waste recovery *<br/>                     Components *<br/>                     - Imported<br/>                     - Domestic<br/>                     Direct labour &amp; related costs<br/>                     Re-tooling *<br/>                     Power &amp; fuel<br/>                     Royalties, etc<br/>                     Variable overheads *<br/>                     Other *</p>   | <p><i>Separate cost analyses must be provided for each of the subject products in this format. Note that the cost data should reconcile to your company's income statement.</i></p> |                    |                    |
| <p><b>2. FIXED OVERHEAD COST:</b></p> <p>Direct labour<br/>                     Utilities *<br/>                     Repair &amp; maintenance<br/>                     Rates &amp; insurance<br/>                     R &amp; D<br/>                     Plant depreciation<br/>                     Other *</p>   |   |                    |                    |
| <p><b>3. TOTAL PRODUCTION COST:</b><br/>                     4. Operating profit</p>   |   |                    |                    |
| <p><b>5. IN-STORE COST: (3&amp;4)</b><br/> <b>6. SELLING &amp; ADMINISTRATIVE EXPENSES:</b></p> <p>Administrative expenses<br/>                     - salaries &amp; wages<br/>                     - rent<br/>                     - rates &amp; insurance<br/>                     - depreciation<br/>                     - other *<br/>                     Selling expenses<br/>                     - salespersons salaries<br/>                     - advertising<br/>                     - warranties &amp; guarantees<br/>                     - warehousing<br/>                     - other *<br/>                     Other costs *</p> |   |                    |                    |
| <p><b>7. TOTAL COST: (5&amp;6)</b><br/> <b>8. PROFIT, ETC:</b></p> <p>Subsidies<br/>                     Selling profit</p>  |   |                    |                    |
| <p><b>9. SELLING (LIST) PRICE (7&amp;8)</b><br/> <b>10. DISCOUNTS, ETC:</b></p> <p>Discounts<br/>                     Settlements discounts<br/>                     Rebates</p>   |   |                    |                    |

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|   |  |  |  |
|---|--|--|--|
| 11. <b>NET EX-FACTORY PRICE</b><br>(9&10)<br>12. Distribution costs * |  |  |  |
| 13. <b>NET DELIVERED PRICE</b><br>(11&12)                             |  |  |  |

# - Supply a full Bill of materials, indicating the cost and volume of each material or component

\* - Supply a detailed breakdown of the items.

Indicate the production volume on which the above cost and price build-ups are based.

This format serves as an indication of the details required by the Commission. However, you may use your own format, provided that the required amount of detail is submitted. This information should be reconcilable to your income statements. Provide a detailed breakdown of the basis of allocation in each case that an allocation has been made.

**The cost and price build-ups should refer to the average costs for the 12-month period under investigation.**