



Subsidy Investigation Application

**Re: Trade (Anti-dumping and Countervailing Duties)
Act 1988**

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1. The Applicant

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

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

- 1.1 Name
- 1.2 Address
- 1.3 Telephone / Fax
- 1.4 Email
- 1.5 Contact Name / Title
- 1.6 Company Ownership

***Note:** Provide broad details of shareholding (e.g. 100% privately owned, or 45% XYZ corp, 55% ABC Corp).*

- 1.7 Period of company's accounting year
- 1.8 Briefly list all goods like those imported that are produced in New Zealand and sold on the New Zealand market.

2. Other New Zealand Producers

Please provide details of other known New Zealand producers

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

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

- 2.1. Name
- 2.2. Address
- 2.3. Telephone / Fax
- 2.4. Email
- 2.5. Briefly list all goods like those imported that are produced in New Zealand and sold on the New Zealand market.

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

Note: *The collective output of New Zealand producers supporting the application must be 25% or more of the total New Zealand production of like goods for domestic consumption during the most recent representative period of not less than 6 months. As well, producers supporting the application must be responsible for at least 50% of total New Zealand production of those producers supporting or opposing the application in writing. To show clearly the position regarding support and opposition, complete the form on the next page.*

3. Summary of New Zealand Producers

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

Please provide details of total New Zealand domestic production of like goods by completing the tables below.

Total New Zealand domestic production of like goods

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

Note: *The period of the most recent representative period (preferably an annual period but not less than six months)*

Table 1: Domestic production of like goods for domestic consumption by those New Zealand producers who have, in writing, supported the application.

	Quantity
Producer:	
Producer	
	Total A

Table 2: Domestic production of like goods for domestic consumption by those New Zealand producers who have in writing, opposed the application

	Quantity
Producer:	
Producer	
	Total B

Table 3: Domestic production of like goods for domestic consumption by those New Zealand producers who have neither supported nor opposed the application

	Quantity
Producer	
Producer	
	Total C

Table 4: Calculation of whether required minimum levels of support are met

Total domestic production (i.e. Total A + Total B + Total C)	Total D
Total domestic production of those supporting or opposing the application (i.e. Total A + Total B)	Total E
Total A as a percentage of Total D (this figure must be at least 25%)	
Total A as a % of Total E (this figure must be at least 50%)	%

4. The Goods

4.1. Please describe the allegedly subsidised goods

Note: if possible supply samples, brochures and catalogues

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

Note: the New Zealand Customs Service, customs brokers or consultants can provide tariff classifications

4.3 Please describe the like goods produced by New Zealand producers

Note: if possible supply samples, brochures and catalogues

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

5. Allegedly Subsidised Imports

- 5.1. Name the countries of origin or export of the allegedly subsidised goods.

Note: Disregard countries which the goods pass through in transit. For example, if the goods are made in Country A and pass through Country B without further processing, the country of export is Country A.

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

- 5.3. Calculate the volume of imports to establish possible negligibility:

Table 5: Volume of Imports

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

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

- 5.4. Provide the names and addresses of the overseas producers and/or exporters supplying the allegedly subsidised goods.
- 5.5. Give the names and addresses of any known importers of the allegedly subsidised goods and describe the nature of their business, e.g. wholesaler, retailer.
- 5.6. Indicate when the allegedly subsidised goods began causing injury.

6. Subsidies

Introduction

Subsidies are specific financial contributions, or price or income support schemes, which are provided by governments, either directly or through other organisations, and result in a benefit to the recipient. Governments include local and regional governments and bodies representing groupings of countries such as the European Commission. Examples of financial contributions are grants, soft loans, loan guarantees, and certain equity infusions, tax credits, and goods and services provided by governments.

In order for **countervailing duties** to be imposed, a subsidy must also be a **specific subsidy**.

There are some limited exceptions where subsidies are non-countervailable, as set out in the WTO Agreements. These include subsidies affecting agricultural products subject to trade liberalisation commitments. More information on these exceptions and whether they might apply to the goods you are concerned about, can be obtained from the Trade Remedies team.

The Act requires that before initiating an investigation into subsidies, the Ministry must notify the government of the exporting country and provide reasonable opportunity for consultations with the aim of clarifying the situation and arriving at a mutually agreed solution.

Information is required on the existence, amount and nature of each subsidy. This information permits the Ministry and the foreign government to identify each subsidy programme concerned, and to gauge the extent to which each provides a benefit to the exported product. This can be important, because an investigation cannot be initiated if the amount of subsidies total less than one percent of the value of the goods, or less than two percent for goods from developing countries, or less than three percent for goods from least developed countries.

Information Required on Subsidy Programmes

To the extent possible, please provide the following information for each subsidy programme you have identified.

- Name the subsidy programmes which are believed to apply to the allegedly subsidised goods, and the legislation or regulation under which the scheme operates. Identify the government agency responsible for the administration of the programmes, and provide copies of laws, regulations or other evidence of the programmes. Where the laws, regulations or other evidence is not in

English, please provide an English translation of those parts referring specifically to the subsidy programmes.

- Describe the nature and operation of the programmes, including the product coverage and the form of assistance provided, e.g. export subsidy, government grants, loan guarantees, tax credits.
- Explain why you consider the subsidies to be specific and countervailable.
- Identify the benefits provided under the programmes. Where the claimed benefit arises from preferential treatment, e.g. through lower interest charges, you should also provide information on the normal treatment, such as the commercial interest rates that would otherwise be payable.
- For each of the overseas producers and exporters identified in paragraph 5.4 above, please explain why you consider they are eligible to receive assistance under each subsidy programme, e.g. the programme is limited to a particular region of a country where the overseas producer is located.
- Where possible identify any companies providing goods or services to the overseas producers and exporters listed in paragraph 5.4 which are also receiving assistance under any of the subsidy programmes you have named. Explain why companies are eligible to receive assistance under these programmes
- Estimate the amount of subsidy under each programme, calculated as a percentage of the value for duty of the goods when imported into New Zealand (full calculations should be shown).

Possible Sources of information on Subsidy Programmes

Shown below are resources from which it may be possible to obtain information about subsidy programmes for use in compiling an application.

Subsidy Programmes Notified to the WTO

All WTO member countries are required to notify each year any specific subsidies granted or maintained within their territories, although such notification does not prejudice its legal status under the WTO Agreements. These notifications are available through the WTO's "Search Documents Online" facility at:

http://www.wto.org/english/tratop_e/scm_e/scm_e.htm

United States Import Administration

The United States Department of Commerce maintains a subsidy enforcement library, which includes details of subsidy programmes that it has investigated and annual reports to Congress on subsidies enforcement, and can be found at:

<https://eset.trade.gov/>

European Commission

The European Commission maintains a data base that includes a list of products currently subject to countervailing duties, on-going subsidy investigations and details of other countries subsidy programmes and whether those programmes are considered countervailable, and can be found at:

<http://ec.europa.eu/trade/policy/accessing-markets/trade-defence/actions-against-imports-into-the-eu/anti-subsidy>

7. Material Injury

7.1. Introduction

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

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

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

Threat of Material Injury

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

When the Ministry investigates whether there is threat of material injury it takes into account the requirement in Article 15 of the WTO Agreement on Subsidies and Countervailing Measures that a determination of threat of material injury must be based on facts and not merely on allegation, conjecture or remote possibility and must be clearly foreseen and imminent. These guidelines also require that investigation authorities consider:

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

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

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

Provisional Countervailing Duties

Provisional countervailing duties can be applied at any time from 60 days after an investigation is initiated provided there is reasonable cause to believe that the goods are subsidised and causing or threatening to cause material injury, and provided such action is necessary to prevent material injury being caused during the remainder of the investigation. If you think this situation applies to your industry, then you should request that provisional duties be imposed.

7.2. Import volumes into New Zealand

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

Please provide the volume (and if available the NZ dollar value) of imports of the allegedly subsidised goods for the period over which you consider your industry has been injured by the allegedly subsidised goods, and for at least one year prior to the onset of injury.

Please provide this data for each country named in the application and for imports from all other countries. As a minimum this information should be provided for the most recent three years available and if possible by month or by quarter.

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

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

The following table may help you compile the necessary information.

Table 6: Imports of allegedly subsidised goods

Period						
	Qty	Value	Qty	Value	Qty	Value
Imports of the allegedly subsidised goods – Country A						
Imports of the allegedly subsidised goods – Country B						
Imports of the allegedly subsidised goods – Country C						
Total imports of the allegedly subsidised goods						

Period						
	Qty	Value	Qty	Value	Qty	Value
Imports from other countries						
NZ industry's production of like goods for domestic sale						
Total NZ market						
Imports of allegedly subsidised goods as % of industry's production						
Imports of allegedly subsidised goods as % of total NZ market						

8. Price Effects

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

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

Price Undercutting

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

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

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

The table below may assist you in providing this information.

Table 7: Extent of price undercutting

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

Price Depression

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

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

Table 8: Extent of price depression

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

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

Price Suppression

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

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

Table 9: Extent of price suppression

	<i>Period</i>		
<i>Type/Model</i>			
Average selling prices per unit net of discounts and rebates			
Cost of production per unit			
Selling and administration costs per unit			

Total costs per unit			
Total costs as % of average selling price			

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

9. Economic Impact

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

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

9.1 Injury Summary

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

Table 10: Injury Summary

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

Selling and admin. Expenses			
EBIT			

Complete the following cost and production summary:

Variable costs (specify)			
Fixed Costs (specify)			

9.2 Output

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

9.3 Sales

Provide any details available to you of any decline in the industry's domestic sales volume and revenue of like goods that are additional to the data shown in the injury summary at paragraph 9.1.

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

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

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

9.4 Market Share

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

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

9.5 Profits

Explain how the gross profit and EBIT earned on domestic sales of like goods shown in the injury summary at paragraph 9.1 have been affected by the allegedly subsidised goods.

9.6 Productivity

Show how productivity has been affected, on a monthly or quarterly basis if possible. Remember to state the basis used for measuring productivity (e.g. production per worker).

9.7 Return on Investments

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

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

9.8 Use of Production Capacity

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

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

9.9 Other Adverse Effects

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

9.9.1 cash flow

9.9.2 inventories

9.9.3 employment

9.9.4 wages

9.9.5 growth

9.9.6 ability to raise capital

9.9.7 investments

9.9.8 comment on other factors affecting domestic prices

10. Other Causes of Injury

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

- The volume and prices of like goods that are sold at subsidised prices
- Reduction in demand or changes in the pattern of consumption
- Restrictive trade practices of, and competition between, overseas and New Zealand producers
- Developments in technology
- The export performance of the New Zealand producers

10.1 Imports By The Industry

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

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

11. Declaration

Trade (Anti-dumping and Countervailing Duties) Act 1988

Note: The application should be attached to the following declaration:

I hereby apply to for the initiation of an investigation into the subsidisation of
(product)

From (country of origin)

In support of this application I attach evidence of:

- i. Subsidisation;
- ii. Material injury to the industry; and
- iii. A causal link between the alleged subsidisation and the alleged material injury;

and such information as is reasonable available to me in relation to the matters referred to in section 10(3) of the Trade (Anti-dumping and Countervailing Duties) Act 1988

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

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

Signed:

Position:

Date:

12. Checklist

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

The Trade (Anti-dumping and Countervailing Duties) Act 1988 requires that a properly documented application include the following information where it is reasonable available:

- The names of the New Zealand producers making the application.
- The names of all known New Zealand producers of like goods.
- A description of the volume and value of the domestic production of the like goods both by the producers making the application and all other known New Zealand producers.
- A complete description of the allegedly subsidised goods.
- The names of the countries of origin or export of the allegedly subsidised goods.
- The names of the known exporters or overseas producers of the allegedly subsidised goods.
- The names of persons known to be importing the allegedly subsidised goods.
- The existence, amount and nature of the alleged subsidy.
- The import volumes into New Zealand of the allegedly subsidised goods.
- The effects that the imports of the allegedly subsidised goods have had, or will have, on prices of the like good in New Zealand.
- The consequent impact of those imports on the industry.
- Relevant factors affecting the industry that may have a bearing on the information required under the last two items above.

13. Reminder

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

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

Please send the application for an investigation to:

The Manager

Trade and International
Ministry of Business, Innovation and Employment
PO Box 1473
Wellington, 6140

OR

Trade and International
Ministry of Business, Innovation and Employment
15 Stout Street
Wellington

Email: TradeRemedies@mbie.govt.nz

14. Glossary

Arm's length

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

Causal Link

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

Countervailing Duty

A duty imposed to remedy injury caused by subsidies

Country of Export/Country of Origin

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

EBIT – Earnings before Interest and Taxation

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

Gross Profit

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

Like Goods

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

Net Profit

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

Price Depression

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

Price Suppression

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

Price Undercutting

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

Specific Subsidy

A subsidy limited to an enterprise or industry or group of enterprises or industries. A subsidy can be limited to certain enterprises or industries by being available only in particular regions of a country. All export related subsidies, and subsidies related to the use of domestic over imported goods, are specific. Subsidies can also be specific if they are provided in practice to only certain enterprises or industries, even though the law may not explicitly limit their application in such a manner.

WTO

World Trade Organization