



**MINISTRY OF BUSINESS,
INNOVATION & EMPLOYMENT**
HĪKINA WHAKATUTUKI

**TRADE AND
INTERNATIONAL**



Trade Safeguard Investigation Application

Trade (Safeguard Measures) Act 2014

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1. Important Notes

1. An application must be made by or on behalf of the New Zealand domestic industry. **Domestic industry** means New Zealand producers who produce goods that are 'like', or 'directly competitive', with the imported goods to which the application relates. The domestic industry can consist of:
 1. All such New Zealand producers; or
 2. Those New Zealand producers whose collective production constitutes a major proportion of the production in New Zealand of like or directly competitive goods.
2. **Like goods**, in relation to imported goods are defined as goods that are like the imported goods in all respects or in their absence, goods which have characteristics that closely resemble those goods. **Directly competitive goods**, in relation to imported goods, means goods that, as a matter of fact and commercial common sense, are substitutable for the imported goods.
3. An application must contain evidence that increased imports have caused or threaten to cause **serious injury** to the domestic industry. Serious injury means a significant overall impairment in the position of a domestic industry.
4. A safeguard investigation will usually be completed in 75 working days or 85 working days if provisional measures have been requested. A safeguard is usually applied in the form of a duty and can only be imposed for a maximum of 4 years (although this can be extended for a further 4 years in certain circumstances).
5. All interested parties are entitled to access all information relevant to a safeguard investigation which is not considered confidential. All submissions provided during an investigation must therefore be accompanied by a non-confidential summary so that it can be made available to all other interested parties.
6. The industry should provide a combined application, that is, provide the information requested in this questionnaire to present the position of the industry, as well as providing the information separately for the individual producers who have provided injury information in support of the application. If producers are concerned about sharing their information with other producers you may need an independent party to co-ordinate and combine the data. Alternatively, each producer can send their information directly to the Ministry and we will combine it.
7. For more information, please contact the Trade Remedies team at TradeRemedies@mbie.govt.nz.

2. The Applicant

Any person can make an application for a trade safeguard investigation.

- 2.1. Applicant Name (if the applicant is a company, please provide the name of the company)
- 2.2. Postal and Street Address
- 2.3. Telephone / Fax
- 2.4. Email
- 2.5. Contact Name(s) / Title(s)
- 2.6. Is the applicant a domestic producer of the goods?
- 2.7. Ownership details (only required if applicant is a corporate entity and a New Zealand producer of like or directly competitive goods)

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

- 2.8. Period of applicant's accounting year

3. Description of Imported Goods

- 3.1. Describe in detail the imported goods about which the application is made

***Note:** If possible, please supply pictures, brochures or catalogues*

- 3.2. Provide a tariff classification for the imported goods, if available.

***Note:** The New Zealand Customs Service can provide tariff classifications or Customs brokers/consultants can usually advise on these.*

4. Provisional Safeguard Duty

At any time after an investigation has been initiated, a provisional safeguard duty can be applied by the Minister, if the Minister is satisfied that there are reasonable grounds to believe that delay would cause damage that would be difficult to repair and that increased imports are causing or threatening to cause serious injury to the industry. A provisional safeguard duty can be applied up to a maximum of 200 days.

- 4.1. Please advise whether you are seeking the imposition of a provisional safeguard duty.
- 4.2. If you are requesting the imposition of provisional measures please explain why you consider they are necessary in terms of the criteria set out above that must be met before the Minister can impose such measures.

5. New Zealand Producers

- 5.1. Please provide the following details of the New Zealand producers of like or directly competitive goods who support this application (apart from the applicant if the applicant is a producer in the domestic industry):
 - Company Name
 - Postal and Street Address
 - Telephone / Fax
 - Email
 - Contact Names(s) / Title(s)
- 5.2. Please provide the names, and any known contact details, of New Zealand producers of like or directly competitive goods who do not support the application.

6. Summary of NZ Producers

- 6.1. Please provide the volume and value of the domestic industry's domestic production of like or directly competitive goods, for each New Zealand producer, in the format of the table below. (Specify the period).

***Note:** The period should cover the most recent representative period (preferably an annual period but not less than 6 months).*

Figure 1: Level of Support from Domestic Producers for Application

	Ex-factory Value (\$)	Quantity (Specify unit)
Applicant		
Producers who support the application <i>(please list)</i> :		
Other Producers <i>(please list)</i> :		
Total New Zealand Industry		
% Support from Industry		

7. Domestically Manufactured Goods

- 7.1. Provide a detailed description of the goods produced by New Zealand producers that are ‘like’, or ‘directly competitive’ with, the imported goods to which this application relates

Note: If possible, please supply pictures, brochures or catalogues. (See definitions in Section 1).

- 7.2. Explain how the goods produced by the New Zealand industry are either ‘like’, or ‘directly competitive’ with, the imported goods, including:
- method of manufacture
 - physical characteristics
 - end use
 - marketing and distribution channels
 - in the case of directly competitive goods, how the imported goods are substitutable for the New Zealand produced goods.

8. Increase in Imports

- 8.1. Please provide as much information as is reasonably available to you to show the extent of the increase in import volumes of the goods to which this application relates, in either absolute terms or relative to the volume of like or directly competitive goods produced in New Zealand. This information should include a period of at least one year prior to the time from when import volumes began increasing significantly.

Note: The Table below may be helpful in structuring your response. You may provide annual, quarterly or monthly data (which illustrates the pattern of increased imports affecting the industry).

Under trade agreements with Australia and Singapore, New Zealand cannot impose a safeguard measure on imports which originate from those countries. Your assessment of the extent to which imports have increased must therefore exclude imports from Australia and Singapore.

Figure 2 : Imports

	Period ended		Period ended		Period ended		Period ended	
	Qty ¹	Value ²	Qty ¹	Value ²	Qty ¹	Value ²	Qty ¹	Value ²
Imports from all countries excluding Australia and Singapore								
Imports from Australia and Singapore								
Total imports								
NZ industry production of like or directly competitive goods for domestic sale								
Total NZ market								
Imports from all countries excluding Australia and Singapore as % of NZ industry's								
Imports from all countries excluding Australia and Singapore as % of total NZ market								
% change in imports from preceding period (excluding imports from Australia and Singapore)								
% change in imports from 1 st period (excluding imports from Australia and Singapore).								

¹ Specify the quantity measure used, e.g. kilograms, square metres.

² Value should be the Customs value for duty (VFD) in NZ dollars – VFD is equivalent to the FOB value. If VFD is not available in NZ dollars, specify the currency used and the point at which value is measured, e.g. FOB, CIF.

Note: Import volume and value by Tariff Item is available from the Statistics New Zealand website.

8.2. If Statistics NZ import data has not been used for the Table above, please explain why this is and state the source of any figures used in the Table.

8.3. If your data is not from Statistics New Zealand, what is its source?

8.4. Describe and comment on the trend in imports in absolute terms and relative to New Zealand production and the total New Zealand market.

8.5. Describe the unforeseen developments that have caused the increase in imports. How did they result in the increased level of imports shown in the table above?

9. Serious Injury or Threat of Serious Injury

Your application should be based on increased imports having caused either serious injury to a domestic industry or threat of serious injury to a domestic industry.

Serious injury means a significant overall impairment in the position of a domestic industry. Threat of serious injury means a serious injury that is clearly imminent.

In investigating whether there is serious injury or a threat of serious injury, the Ministry must consider the impact of increased imports on the domestic industry, including actual and potential decline in output, sales, market share, profits, productivity, employment, and utilisation of production capacity. While the Ministry must consider at least these factors, the impact of increased imports on other relevant factors may also be taken into account.

The Ministry is also required to consider:

8. The nature and extent of imports of the goods by the domestic industry, including the value, quantity, frequency and purpose of the imports; and

9. Factors other than imports that have injured, or are injuring, the domestic industry.

Note: It is important to show how the imports have caused the consequent serious injury to the industry. You should therefore support your application with as much

evidence as possible which explains the linkages between the timing of the increased imports and the specific evidence provided of injury. For example, a decrease in local production and sales may be causally linked to the timing of increased imports.

Note: *If you want further information about the kind of information that would be relevant for a threat of serious injury, please contact the Trade Remedies team of the Ministry (MBIE).*

Price Effects

Price effects refer to the effect of the imports on the selling prices of like (or directly competitive) goods manufactured by the New Zealand industry and sold on the New Zealand domestic market. The extent of any price undercutting, price depression or price suppression is a likely indicator of injury being caused to the New Zealand industry.

Note: *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 where the imported goods are sold on the New Zealand market, at the relevant level of trade, at lower prices than comparable like (or directly competitive) goods manufactured by the New Zealand industry for sale on the New Zealand domestic market.

Your application should therefore include any evidence you have available on the prices of the imported goods compared (at the relevant level of trade) to the prices of comparable like or directly competitive goods sold by the New Zealand industry. This information should be provided separately for goods imported from each major supplying country (but excluding imports from Australia and Singapore).

The relevant level of trade for price undercutting purposes should be the point at which the imported goods first compete with the like or directly competitive goods produced by the New Zealand industry for sale on the New Zealand domestic market. The relevant level of trade is normally ex-wharf or ex-importer's store for the imported goods, compared to the ex-factory price for the NZ industry's goods, but will depend on the circumstances of each case. You should explain why you consider the level of trade at which prices have been compared is relevant for this purpose.

- 9.1. Outline the extent to which the goods are undercutting the prices of the domestically produced like (or directly competitive) goods.
- 9.2. Please explain the basis on which the prices of the imported goods have been established.

The format of Figure 3 below may assist you in providing this information

Figure 3: Price Undercutting

Product Type/Model	
Country from which goods imported	
Period to which data relates	
NZ producer's price per unit (state level of trade e.g. ex-factory, ex-warehouse)	
Price of the allegedly dumped goods per unit (state level of trade, e.g. ex-wharf, ex-importer's store)	
Amount of price undercutting	
Price undercutting as % of NZ producer's price	

Price Depression

Price depression occurs when the New Zealand industry's domestic selling prices are reduced because of the imports.

9.3. Outline the extent to which the imports are causing price depression.

Supporting evidence, preferably in the form of average ex-factory selling prices per unit (net of discounts, and rebates) over at least the past three years should be provided. The format of Table 9.2 below may assist you in providing this information.

Figure 4: Price Depression

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

Note: If information of average selling prices is not available, provide other supporting evidence, (e.g. price lists, or invoices etc. 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 imports. This could mean, for example, that cost increases are not fully recovered.

- 9.4. Outline the extent to which the imports have caused prices to be suppressed. Supporting evidence preferably in the form of financial data over the past 3 years showing average cost per unit relative to average selling prices per unit, should be provided. The format of Figure 5 below may assist you in providing this information.

Figure 5 Price Suppression

Period			
Product Type/Model			
Average selling prices per unit net of discounts and rebates (state basis of sales, e.g. ex-factory, FIS)			
Cost of production per unit			
Selling and Administration costs per unit			
Total costs per unit			
Total costs as % of average selling price			

Note: 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.

Economic Impact

The information provided in this section of the application should cover a period sufficient to show the economic impact of the increase in volume of the imports subject to the application.

Note: The data 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 only relate to the industry's production and sale of like (or directly competitive) goods in New Zealand. Where you are asked to comment on the impact of the imported goods on the various economic indicators referred to below, you should exclude the impact of any imported goods from Australia and Singapore from this analysis.

Note: If there is more than one New Zealand producer the information in this section should be provided 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.

Injury Summary

9.5. Complete the following injury summary over at least the past 3 years for like (or directly competitive) goods produced by the New Zealand industry for sale on the New Zealand domestic market.

Figure 6: Injury Summary

Period				
Output (kgs, units, etc)				
Sales Volume				
Sales Revenue				
Cost of Production				
Gross Profit				
Selling and Admin. Expenses				
Earnings Before Interest and Tax (EBIT)				
Per Unit				
Sales Revenue				
Cost of Production				
Gross Profit				
Selling and Admin. Expenses				

9.6. Please complete the following cost of production summary.

Figure 7: Cost of Production Summary

Variable costs (specify)				
Fixed costs (specify)				

Output

- 9.7. Please comment on the trends in the industry's output shown in Figure 6 above and explain how any decline in output is linked to competition from the imported goods.

Sales

- 9.8. Provide any relevant details available of any decline in the industry's domestic sales revenues and volumes of like (or directly competitive) goods that are additional to the data shown in the injury summary Figure 6.
- 9.9. Please comment on the trends in the industry's sales volume and revenue and explain how any decline in sales is due to competition from the imported goods.
- 9.10. Please provide copies of any correspondence or cancelled orders from the industry's customers showing they are buying the imported goods.

Market Share

- 9.11. Please provide evidence of the size of the New Zealand market, preferably by volume, but otherwise by value, over the period covered by the injury summary in Figure 6. This should show the proportion of the New Zealand market held by the imported goods (excluding imports from Australia and Singapore) and the like (or directly competitive) goods produced by the New Zealand industry for each year over this period.
- 9.12. Please compare the market share of the domestic industry with that of the imported goods and comment on the extent of the change over the period for which you have provided data.

Profits

- 9.13. Please explain how the gross profit and EBIT earned on domestic sales of like (or directly competitive) goods shown in the injury summary in Figure 6 have been affected by the imported goods.

Productivity

- 9.14. Please show how productivity has been affected over the period covered by the injury summary in Figure 6.
- 9.15. Please state the basis used for measuring productivity (e.g. production per full time equivalent (FTE) worker) and comment on how productivity has been affected by competition from the imported goods.

Employment

- 9.16. Please provide the numbers of employees engaged in the production and sale of like (or directly competitive) goods for the New Zealand market either:
- at the end of each of the periods covered by the injury summary in Figure 6; or
 - the average number employed over each of these periods.
- 9.17. Where part time workers have been employed over this period please convert them into full time equivalent (FTE) numbers.
- 9.18. Comment on the impact of the imported goods on employment in the industry.

Use of Production Capacity

- 9.19. Please provide the industry's production capacity, for each of the periods covered by the injury summary in Figure 6, for the like (or directly competitive) 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).
- 9.20. What has been the industry's capacity utilisation rate for the period for which capacity has been provided? Explain how it has been affected by the imported goods?

Other Adverse Effects

- 9.21. Describe and comment on any other adverse effects on the industry that the imports have had, supported by industry data (e.g. in relation to cash flow, inventories, wages, growth, ability to raise capital and to invest in the industry).

Other Causes of Injury

- 9.22. Please comment on factors other than the imports that have injured or are threatening to injure the industry.

Note: If the industry has exported like (or directly competitive goods) over the period covered by the injury summary in Figure 6, provide a schedule for each year over this

period showing the sales quantity and value, cost of production, gross profit, selling and administration expenses and EBIT relating to these sales. Comment on the impact your exporting business has had on your domestic production and sale of like (or directly competitive) goods.

Imports by the Industry

9.23 If the industry has imported the goods to which this application relates in the past 3 years please provide:

- A full description of the goods;
- Details of each of the New Zealand producer's shipments (including dates of importation, supplier, country of origin, values for duty, CIF values, and volume); and
- Commentary on why the industry (or the individual producers) have imported the goods.

10. Public Interest

10.1 These are the matters to be investigated in considering the public interest in a safeguard investigation. Please provide any information or comments that are relevant to this investigation.

- the likely effectiveness of a safeguard measure in assisting the domestic industry:
- the alternatives to a safeguard measure:
- the likely effect of a safeguard measure on the market (including on consumers):
- New Zealand's international relations and trade goals:
- the strategic importance of the domestic industry.

11. Declaration

Trade (Safeguard Measures) Act 2014

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

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

In support of this application, I attach evidence meeting the requirements of sections 9(2) and 9(3) of the Act.

This application is made by [name].

Signed:

Position:

Date:

12. Checklist

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

Section 9(2) of the Trade (Safeguard Measures) Act 2014 requires that an application must include the following information:

- A complete description of the imported goods and the like or directly competitive goods.
- The name of the applicant and whether the applicant is a producer in the domestic industry.
- Whether the applicant seeks the imposition of a provisional safeguard duty.

Section 9(3) of the Trade (Safeguard Measures) Act 2014 requires that an application must include as much of the following information as is reasonably available:

- Whether there have been increased imports.
- Whether there is serious injury or a threat of serious injury.
- A causal link between the increased imports and the serious injury or threat of serious injury.
- Whether the increased imports were due to unforeseen developments.
- The level of support (if any) from domestic industry producers.
- The names of domestic industry producers.
- Details of the volume and value of the domestic industry's production of like goods or directly competitive goods in New Zealand by each of the producers making up the industry.

13. Reminder

- Please make sure you compile your application using the numbering system used in this workbook.
- Have you covered everything in the checklist?
- Have you attached the evidence in support of your claims and calculations?
- Have you prepared a non-confidential summary or version of your application, which will be placed on the Public File for any interested party to see, if an investigation is initiated?
- Please keep a copy of your application as you will need to refer to it if further questions arise during the assessment of the application document and if a dumping investigation is initiated.

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