



ANNEX III

KETRA FORMS AND WORKING PROCEDURES

CONTENTS

The Forms, Working Procedures and Manuals developed under this Activity are:

- Anti-Dumping Complaints Form/ Questionnaire
- Subsidies and Countervailing Measures Complaints Form/Questionnaire
 - Safeguards Measures Complaints Form/Questionnaire
 - Notice of Initiation of Investigations Form
 - Notice of Intention to Participate Form
 - Access to Non-confidential Information Manual
 - Disclosure of Information Form
 - Sunset Review Application Forms
 - Anti-Circumvention Review Forms
 - Experts Undertakings Forms
 - Non-Disclosure Undertakings

ANTI-DUMPING COMPLAINTS FORM/ QUESTIONNAIRE

COMPLAINT/QUESTIONNAIRE FOR REMEDIAL ACTION AGAINST

THE ALLEGED DUMPING OF

(Name of the product(s))

MANUFACTURED/PRODUCED

in

(country/countries of origin)

OR EXPORTED

from

(country/countries of export)

APPLICANT

Name:

Address:

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GENERAL INFORMATION

- **Introduction**

This questionnaire should be completed by an applicant alleging that dumping of a particular product is causing it material injury. It is important that the applicant provides all the information required in the prescribed manner.

- **Purpose**

The purpose of this questionnaire is to help the domestic industry bring together in a concise and logical form the information needed by the Kenya Trade Remedies Agency (the Agency) to decide whether or not to initiate a formal investigation, and will also serve as a basis for further investigation.

- **Legal framework**

3.1 Anti-dumping investigations are conducted in terms of the Kenya Trade Remedies Act, 2017 (Act No. 32 of 2017) (the Act), and the Anti-Dumping Regulations (ADR) read with the WTO Agreement on Implementation of Article VI of the General Agreement on Tariffs and Trade 1994 (the *Anti-Dumping Agreement*).

3.2 The Act authorises the Agency to investigate dumping in or to the domestic market, which consists of common area of the EAC, while the ADR contains additional substantive and procedural guidelines. Before answering the questionnaire we suggest that you read the Act and the ADR, copies of which are available from the Agency offices, or on its website.

3.3 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 as prescribed in both the Act and the ADR.**

The summaries of confidential information 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:

- 3.3.1 Indicate where information has been omitted in each case;
- 3.3.2 Provide reasons for confidentiality in each instance;
- 3.3.3 Provide a summary of the confidential information which permits a reasonable understanding of the substance of the confidential information in each instance; and
- 3.3.4 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 summarisation.

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

- **General instructions**

1. Applicants should provide full and accurate information and provide supporting documentary evidence from commercial or governmental sources, such as commercial invoices or offers, official trade and production statistics. Failure to do so could detrimentally affect your case. The Agency will not consider unsubstantiated information. All cost related information should be reconcilable to the financial statements or management accounts.

It is in the interest of the applicant to reply as accurately and completely and to attach the supporting documents. Ensure that the information submitted conforms to the requested format and

is clearly labelled. If the answer is "not applicable" or "none

where appropriate, applicants should provide a short explanation about why the requested data is not applicable to avoid the need for follow-up questions by the Agency.

Your reply to this questionnaire may be subjected to verification. Therefore, all worksheets including the source documents used in answering the questionnaire must be retained, for verification during the on-the-spot investigation.

To facilitate the verification, please identify the source documents and specify where they are kept. During the verification, you should be prepared to substantiate all information submitted i.e. able to be traced back to regular company documents

2. Ensure that each page is labelled either "confidential" or "non-confidential"

Please take note that the rules relating to confidential information and the submission of non-confidential versions of submissions 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.**

3. 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 Agency. The public file is available for inspection at the Agency's offices by all interested parties, by appointment.

4. Note that interested parties are encouraged to inspect the public file regularly. The Agency and its relevant departments will not check the public file on behalf of interested parties.

5. If this application is in respect of more than one product, a reference to "product", should be a reference

to "products", and the applicant should respond to the relevant question(s) in respect of all products separately.

Information should be submitted in hard copies as well as in electronic format.

The data should be submitted on a media format compatible with Microsoft Windows. Microsoft Excel and MS Word, or compatible format, is required as the Agency's computer system is based on Windows. The discs must not be write protected and must be labelled clearly indicating:

1. Applicant's name;
2. Product(s) concerned;
3. Type of information on the disc;
4. Software used; and
5. Whether or not confidential.

If the data cannot be presented electronically please contact the Agency's client support section for advice.

6. The application must be addressed to:

Executive Director,
Kenya Trade Remedies Agency
Nairobi

Signature requirements: the application must be signed by a director, senior servant or agent acting with the authority of the party.

7. The information with regard to dumping normally covers the twelve months prior to the lodging of the application and the injury normally covers the last three financial years prior to the lodging of the application plus the current financial year.

8. Should you encounter particular problems in answering the questionnaire or require more information or clarification on policy issues the staff of the Trade Remedies department is ready to discuss these issues and to provide assistance.

The Agency's support section can provide further information for clarification. Contact the team on:

Phone: _____

Email: _____

9. The Agency may verify all information submitted. Should it be found that you have submitted false or misleading evidence, the Agency may decide not to proceed with the investigation.

Parties should be prepared to substantiate all information submitted. Any worksheets used in preparing the applications should therefore be retained to facilitate verification by the Agency.

Some questions require attachments to be provided. The attachment numbering sequence should refer to the question answered and as contemplated in the various sections below.

The next sections deal with specific information relating to the products concerned.

Application for Anti-Dumping Investigation

DECLARATION

I request in accordance with section 24 of the Kenya Trade Remedies Act No. 32 of 2017 and the Second Schedule thereto, that the Government imposes, in respect of products the subject of this application an anti-dumping duty.

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

- 25% or more of the total domestic production of the likeproducts; and
- more than 50% of the total production of like products bythose domestic producers that have expressed either support for, or opposition to, this application.

I believe that the information contained in this application:

1. provides reasonable grounds for the publication of thenotice(s) requested, and
2. is complete and correct.

Signature: _____

Name: _____

Position: _____

Company: _____

Date: _____

SECTION A: DETAILS OF APPLICANT

A1 State the legal name of your business and its type (e.g. company, partnership, sole trader, joint venture). Please provide details of any other business names you use to manufacture/produce/sell the goods that are the subject of your application

Company Name:

Postal Address:

Physical Address:

Tel: (____)

Fax: (____)

Email:

Please attach a map indicating how to reach you as Annex A1.

Applicant's production relative to total domestic production (%) is:

A2 The applicant's manufacturing sites are situated at:

Physical Address:

Please attach a map as Annex A2 (if different to A1)

A3 The applicant has appointed the individual referred to below to act on its behalf in the investigation;

Contact Name: _____
Company and Position: _____
Address: _____
Telephone: _____
Facsimile: _____
E-mail Address: _____

Alternative Contact

Name: _____
Company and Position: _____
Address: _____
Telephone: _____
Facsimile: _____
E-mail Address: _____

Or the applicant has not appointed a consultant/representative.

If you have appointed a consultant/representative, please complete their information below and attach a copy of the letter of appointment, setting out the scope and duration of the appointment, as required by ADR 4, as Annexure A3.

Name: _____
Company and Position: _____
Address: _____
Telephone: _____
Facsimile: _____
E-mail Address: _____

- A4 Provide your company's internal organisation chart. Describe the functions performed by each group within the organisation. Attach as Annexure A4a.

List the major shareholders of your company. Provide the shareholding percentages for joint owners and/or major shareholders. Indicate all shareholders holding more than 5% of equity in your company. Attach as Annexure A4b.

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

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

Provide an outline diagram showing major associated or affiliated companies and your company's place within that structure. Attach as Annexure A4c.

A5 The applicant is an industrial organisation/public company/private company/closedcorporation/partnership/sole- proprietorship/co-operative/other (please specify).

Identify and provide details of any relationship you have with an exporter to the domestic market or importer of the goods.

A6 Indicate the franchise, manufacturing, licensing, know-how, technology and distribution agreements in place in respect of inputs, manufacturing and outputs which relate to the productthat is the subject of this application:

A7 Name the product allegedly being dumped:

A8 Country of origin/export

A9 Indicate which of the following is the basis for normal value:

- The normal value is based on domestic sales in the countryof origin
 - export price to a third country
 - a constructed normal value

A10 List the factors in respect of which actual material injury/a threatof material injury/the material retardation of the establishment ofan industry is alleged.

SECTION B: PRODUCTS

Note on like product: Consult the Act and the ADR on definitions of products and like products.

B1 Imported (subject) product

Note: Where your application covers a range of imported products competing with the domestic product, information should be listed and submitted separately for each make and model in the range.

B1.1 Fully describe the imported product(s) the subject of your application.

B1.2 The main raw materials/components/inputs used in the production is/are

B1.3 The production process used is as follows: Provide a summary and a diagram of the production process. Attach diagram as appendix B1.3

B1.4 Describe the products' physical, technical and other characteristics and appearances:

B1.5 The application and end-use of the products is for

B1.6 The domestic like product is substitutable with the imported product to the following extent:

B1.7 The following tariff dispensation applies to the imported product:

Tariff sub heading	Description	Unit of measurement	Rate of customs duty	Rebate provision item number	Rebate provision description

B1.8 Indicate if you are aware of any possible loopholes in the tariff classification, i.e. whether the product can be imported under any other tariff heading.

Substantiate your answers to B1.1 with catalogues, brochures and other literature/samples. Attach them as Annex B1.1.

B2 Domestic like product

Note: If remedial action is requested in respect of more than one product, the following information should be submitted separately for each product. Where the application is lodged in respect of numerous product lines, e.g. shoes, car tyres, a sample must be selected for investigation purposes and the basis for determining the sample must be indicated. Note that the Agency may request information relating to products falling outside the sample after it has received the exporters' and importers' responses.

B2.1 Provide the name and description of the domestic product

B2.2 The main raw materials/components/inputs used in the production are:

If the domestic product is manufactured from both domestic and imported inputs;

- Describe the use of the imported inputs in the manufacturing process
- Identify at least one substantial process of manufacture that occurs in the domestic region (for example by reference to the value added, complexity of the processor investment in capital).

B2.3 The production process used is as follows: Provide a summary and a diagram of the production process. Attach diagram as appendix B2.3

B2.4 Describe the products' physical, technical and other characteristics and appearances

B2.5 The application and end-use of the domestic product is for:

B2.6 The following tariff dispensation applies to the domestic product:

Tariff sub heading	Description	Unit of measurement	Rate of customs duty	Rebate provision item number	Rebate Provision description

B2.7 Describe the ways in which the essential characteristics of the imported product are like to the goods produced by the domestic producers.

Enumerate in detail any differences between the imported product and the domestic like product

B2.8 Give details of all standards/specifications applicable to the product concerned in the domestic market prescribed by law or otherwise

B3 Like product in the country of export/origin

B3.1 Give the name and description of the product sold in the exporting country

B3.2 The main raw materials/components/inputs used in the production is/are:

B3.3 The production process used is as follows. Provide a summary and a diagram of the production process. Attach diagram as appendix B3.3

B3.4 The products' technical characteristics and appearance are as follows:

B3.5 The application and end-use of the products is for

B3.6 The domestic like product is substitutable with the imported product to the following extent:

B3.7 Enumerate in detail any differences between the imported product and the like product sold in the country of origin and/or export:

SECTION C INTERESTED PARTIES

C1 If there is a **domestic representative organisation** submit the following information:

- Names, address, telephone and fax numbers and e-mail addresses of and position held by the organisation's officers to be contacted;
Name of Organisation:

Name of contact person:

Designation: _____

Postal address: _____

Physical address:

Tel: (____) _____ Fax:

(____) _____

Email: _____

- Name the producers in the industry affiliated to the organisation and supply the following information:

<p>Company: _____</p> <p>Postal address: _____</p> <p>Physical address: _____</p> <p>Contact person: _____</p> <p>Designation: _____</p> <p>Tel: (____) _____</p> <p>Fax: (____) _____</p> <p>Email: _____</p>	<p>Company: _____</p> <p>Postal address: _____</p> <p>Physical address: _____</p> <p>Contact person: _____</p> <p>Designation: _____</p> <p>Tel: (____) _____</p> <p>Fax: (____) _____</p> <p>Email: _____</p>
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C2 Name all other producers constituting the domestic industry concerned as provided below:

Company: _____ Postal address: _____ Physical address: _____ _____ Contact person: _____ Designation: _____ Tel: (____) _____ Fax: (____) _____ Email: _____	Company: _____ Postal address: _____ Physical address: _____ _____ Contact person: _____ Designation: _____ Tel: (____) _____ Fax: (____) _____ Email: _____
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ADR7.3 provides as follows:

“An application shall be regarded as brought by or on behalf of the domestic industry if –

- at least 25 per cent of the domestic producers by domestic production volume support the application; and
- of those producers that express an opinion on the application, at least 50 per cent by domestic production volume support such application.”

Without this support KETRA cannot accept an application for investigation. Letters of support for or opposition to the application must be attached to the application as Annexure C2.

C3 Indicate the industry support and/or opposition to the application in the following format:

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

C4 Give details of exporters and foreign producers in the investigation in the following format:

<p>Company: _____</p> <p>Postal address: _____</p> <p>Physical address: _____</p> <hr/> <p>Contact person: _____</p> <p>Designation: _____</p> <p>Tel: (____)_____</p> <p>Fax: (____) _____</p> <p>Email: _____</p>	<p>Company: _____</p> <p>Postal address: _____</p> <p>Physical address: _____</p> <hr/> <p>Contact person: _____</p> <p>Designation: _____</p> <p>Tel: (____)_____</p> <p>Fax: (____) _____</p> <p>Email: _____</p>
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C5 Give details of the importers of the product under investigation in the following format:

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

SECTION D: DUMPING

The purpose of this Section D is to provide the information needed for a proper comparison of export price and normal value (exported products' domestic selling price).

Note: Low prices do not necessarily mean that imports are dumped. Dumping is defined in the Act, as "the introduction of goods into the commerce of the Republic of Kenya or the Common Customs Area of the EAC at an export price ... which is less than the normal value ... of those goods."

D1 Normal value

Paragraph 3 of the Second Schedule to the Act defines the normal value and provides for its determination.

D2 Wherever possible, normal value should be established on the basis of the domestic selling price in the exporting country before turning to determine the normal value with reference to the export price from that country to a third country or constructing the normal value. Where you cannot obtain a domestic selling price in the exporting country clearly indicate your attempts to obtain a domestic selling price in the exporting country. Make sure to refer to the ADR for further details on normal value information.

D3 Identify the source of your information and substantiate all your replies to this section with documentary evidence.

D4 Possible sources of information about domestic selling prices in the country of export include: price lists for domestic sales (with information on discounts); advertisements containing prices; actual quotations or invoices relating to domestic sales; published material providing information on the domestic selling prices; or market research undertaken on behalf of the applicant. In the case of a cost build-up all the main inputs must be substantiated by the necessary documentation such as international commodity prices, publication and internet information.

D5 Domestic selling price in country of origin

D5.1 Furnish the price charged on the exporter's domestic market. Ideally this should be the net ex-factory selling price exclusive of all internal taxes. If this is not available submit the price available to you (e.g. a retail invoice, a retail advertisement, price list, international publication, etc) on which the allegation of dumping is based.

D5.2 Indicate the adjustments that need to be made to obtain a net ex-factory level. This should include at least the following:

1. Transport, where sold on a delivered basis;
2. Payment costs, based on the estimated payment days and the applicable short-term borrowing interest rate in the exporting country;
3. Level of trade adjustment, if the product is not sold on the same basis as the exports to domestic market,
e.g. adjusting back from retail to a wholesale price.

D6 Normal value other than on basis of domestic selling price

D6.1 (a) Indicate your attempts to obtain a domestic selling price in the exporting country and provide documentary evidence thereof.

- Where there are no sales on the exporter's domestic market give the reason why you believe that there are no sales of the like product in the exporter's domestic market.
 - Where domestic sales do not allow for a proper comparison with the exports to Kenya, give the reasons why you believe that the sales in the exporter's domestic market do not allow for such comparison, e.g. it is insignificant in comparison with total output.
 - Where you believe that domestic sales are not made in the ordinary course of trade, i.e. made at a loss, or past or present government intervention to the effect that the normal value does not properly reflect the intrinsic value of the product, submit evidence to support your view.

D6.2 In any one of the situations referred to in D6.1 provide information on one of the following options as the basis for normal value -

- the price charged by the supplier concerned for exports to a third country market or
- the constructed normal value of the like product, exported to Kenya based on production costs in the country of origin, as far as possible in the format and detail indicated in **Annex D2.2**. The cost build-up format is only a guideline to indicate the level of detail required by the Agency. Each cost element must be based on substantiated evidence and not merely on presumptions relating to your own cost information.

D7 Export price

Paragraph 3 Second Schedule to the Act defines the export price and provided for its determination.

To enable proper comparison with the normal value, the export price should be at the net ex-factory level.

D7.1 Give the export prices to the domestic market of the products being the subject of the application (separately for each product, where possible).

Note: The Agency will normally use the official Kenya Revenue Authority import statistics to determine an export price except in instances where the statistics are unreliable because other products, that are not subject to investigation, are also classifiable under the tariff subheading concerned or for any other reason., Where the official Kenya Revenue Authority statistics are used, a substantiated adjustment should be made for movement expenses and costs from the f.o.b. to an ex-factory level in the exporting country.

D7.2 If you are of the opinion that the export price is unreliable or inadequate or do not appropriately reflect actual prices, give reasons and calculate a deductive export price for the goods.

Table D7.2: Constructed export price

	COST PER UNIT
Resale price of imported product to independent buyer	
<u>Less</u> adjustments:	
Transport (factory to harbour)	
Harbour and other expenses	
International freight	
Insurance	
Customs duty	
Clearance costs	
Agent's commission	
Transport to importer	
Importer's costs	
• Administration	
• Selling	
• Distribution	
• Profit	
Constructed ex-factory export price	

Supply a detailed breakdown of the cost items and provide supporting notes/evidence to substantiate your calculation. The evidence should identify the source(s) of the data.

Note: The constructed export price may also be used if no other export price can be obtained.

D8 Price comparison

Note: For the price comparison to be fair, the export price and the normal value should be on a similar basis and level as regards the physical characteristics of the product, the quantities sold, and the terms and conditions of sale. The comparison should be made at the same level of trade, preferably the ex-factory level. However, if the export price and normal value are not on a comparable basis, allowance should be made for any differences.

If the export price and normal value are not on a comparable basis, give the following information.

D8.1 Differences in physical characteristics.

If the product used for determining normal value is not identical to the exported product (refer to section B) –

- list the differences in physical characteristics that give rise to distinguishable and material differences in

price;

In providing the list of physical differences, identify the characteristics in order of significance.

- quantify the effect of the differences on the price of the product (how do they affect price comparability);
- quantify the effect of the differences on the cost of production of the product.

D8.2 Differences in taxation

If the product sold in the exporting country attracts any form of tax that is not incurred in export sales, e.g. VAT, consumption tax or recycle tax, indicate

- the conditions under which the tax is payable;
- the tax rate;
 - the effect of the tax on the normal value (excluding the tax).

D8.3 Differences in terms of trade.

If the product is exported to the domestic market at different terms of trade (payment terms, delivery terms, warranties, guarantees, etc.), -

- indicate the terms of trade for the product exported to the domestic market;
- indicate the terms of trade for domestic sales in the exporting country;
- quantify the effect of the difference in the terms of trade on the price and submit details of your calculations; and
- quantify the effect of the difference in the terms of trade on the cost of the product and submit details of your calculations.

D8.4 Differences in the levels of trade.

The level of trade refers to whether the product is sold to a wholesaler, retailer, end-user, through an agent, differences in the volumes sold, etc. If the level of trade of the product exported to the domestic market is different to the level at which the like product is sold in the domestic market of the exporter: -

- indicate the level of trade pertaining to the exported

product;

- indicate the level of trade pertaining to the like product sold in the domestic market of the exporter;
- quantify the effect of the difference in the levels of trade on the price of the product and submit details of your calculations; and
- quantify the effect of the difference in the levels of trade on the cost to sell the product and submit details of your calculations.

D8.5 Other differences.

If you are aware of any other differences affecting price comparability, including quantity rebates, direct marketing and sales expenses, credit insurance, etc, provide

- details of the differences; and
- a substantiated estimate of the allowances to be made for each of the differences.

D9 Dumping margin

The dumping margin is the margin by which the normal value exceeds the export price after allowance has been made for any differences affecting price comparability. Show dumping margin as a percentage of the export price. Give the margin of dumping and your calculation thereof separately per product model as follows:

	Currency
Normal value	
Less adjustments	
Adjusted normal value	
Export price	
Margin of dumping	
Margin of dumping expressed as a percentage of the export price	

Note: If the calculated margin of dumping is less than 2% the Agency will not initiate an investigation as a dumping margin of less than 2% is regarded as *de minimis* in terms of the Act and the ADR.

SECTION E: MATERIAL INJURY

Note: Before the Agency can initiate an investigation into alleged dumping it must have *prima facie* evidence to reach a reasonable conclusion that the alleged dumping is causing or threatening to cause material injury to the domestic industry.

The information requested must relate only to the affected domestic product that is a like product to the product being imported under the alleged unfair trade practice. Where the available data does not allow separate identification of the product in question, the information given must relate to the narrowest identifiable product group that includes the domestic product that is a like product to the product being the subject of the application.

The Agency requires the use of indexing as a non-confidential summary of figures, that is, the use of a base value in the first period for which information is submitted with deviations from the base value indicate for subsequent periods.

When an applicant produces more than one product the information submitted in this section must relate only to the product that forms the subject of this application.

No investigation can be initiated unless at least 25% of all producers by volume support the application. Additionally, the Agency may not make a preliminary or final determination of injury unless it has considered evidence relating to "a major proportion" of the domestic industry.

Each producer in the local industry should provide the following information to prove material injury to the domestic industry;

E1 General information

E1.1 Generally describe the domestic market for the domestic and imported product and the conditions of competition within the overall market. Your description could include information about:

- sources of product demand;
- marketing and distribution arrangements;
- typical customers/users/consumers of the product;
- the presence of market segmentation, such as geographic or

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

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

E1.2 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.

E1.3 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 E1.3**.

E1.3 Give the reasons and basis for your categorisation of customers.

E1.4 Enumerate major changes over the past three years in your answers to the above questions.

E2 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 Agency.

E2.1 Indicate your normal accounting period.

E2.2 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.)

E2.3 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.

E2.4 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 officials of the Agency.**

E3 Effects on the domestic prices

E3.1 Price depression

E3.1.1 Provide the following information with regard to your average per unit ex-factory selling prices:

	Year 1	Year 2	Year 3
Your ex-factory price per unit			

State the unit of measurement

E3.1.2 If your prices decreased significantly during the last 12 calendar months please supply the average ex-factory prices for each of the last 12 months. Please attach as **Annexure E3.1.1**.

E3.1.3 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.

E3.2 Price suppression

E3.2.1 Provide the following information with regard to your average per unit ex-factory selling prices:

Table E3.2.1

	Year 1	Year 2	Year 3
Your ex-factory price per			

unit			
Your production cost per unit			
Your gross profit per unit			
Your gross profit%			
Your production cost as a % of selling price			

State the unit of measurement

E3.2.2 If price suppression is more pronounced during the last 12 months supply the information as requested in Table E3.2.1 separately for each of the last 12 months. Please attach as **Annexure E3.2.2**.

E3.2.3 Indicate any other factors that have suppressed your ex-factory selling price that do not reflect in the above table, e.g. longer payments terms on sales, shorter payment terms on purchases, higher year-end rebates, additional free stock, etc.

E3.3 Cost build-up

E3.3.1 Please supply a cost build-up in the format indicated in **Annexure E3.3.1**. 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.

E3.3.2 Please supply a Bill of Materials for the domestic like product.

E4 DOMESTIC INDUSTRY SALES

E4.1 Please supply the following information on your sales volume in domestic market.

	Year 1	Year 2	Year 3
Your sales volume			
Sales by other domestic producers			
-			
-			
-			
Total volume of domestic sales by domestic producers			

State the unit of measurement.

E4.2 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.

PROFIT AND LOSS

E5 Actual and potential decline in profit

E5.1 Supply the following information regarding your profit for the product concerned (where the information cannot be supplied separately for the product concerned indicate the group of products to which the profit applies and submit your calculations, indicating how costs and profit were allocated):

	Year 1	Year 2	Year 3
Units sold			
Your total gross profit			
Your total net profit			

E5.2 Comment on the actual and potential decline in your profits.

OUTPUT

E6 Actual and potential decline in output

E6.1 Supply the following information regarding your actual production volumes over the last three years. Note that this should relate to total output of the product under consideration, regardless of whether destined for the domestic or export market.

	Year 1	Year 2	Year 3
Your total production of the product concerned			
Other domestic producers' production			

E6.2 Comment on the actual and potential decline in your production, both total and for domestic consumption.

MARKET SHARE

E7 Actual and potential decline in market share

E7.1 Supply the following information, based on sales (and not on output) **volume**, for the past three years:

	Year 1	Year 2	Year 3
Market share in volume (<i>unit</i>):			
Applicant			
Dumped imports			
Other imports			
Total domestic market			
Percentage share held by:			
Applicant			
Dumped imports			
Other imports			

E7.2 Supply the following information, based on sales (and not on output) **value**, for the past four years:

	Year 1	Year 2	Year 3
Your market share (%)			
Other domestic producers' market share (%)			
Total domestic producers' market share (%)			
Market share of alleged dumped imports by country			
-			
-			
-			
Total market share of alleged dumped imports (%)			
Market share of other imports (%)			

E7.3 Comment on the trends revealed in Tables E7.1 and E7.2.

PRODUCTIVITY

E8 Actual and potential decline in productivity

E8.1 Provide the following information regarding productivity:

	Year 1	Year 2	Year 3
Total production volume			
Number of employees (manufacturing only)			
Units per employee			

E8.2 Comment on the actual and potential decline in productivity identified in Table E8.1

RETURN ON INVESTMENT

E9 Return on investment

E9.1 Supply the information requested below for the product concerned only. If this is not possible, clearly indicate in both your confidential and non-confidential submissions on what

basis the return on investment was determined.

Please reflect the profit before tax, interest and extraordinary items.

	Year 1	Year 2	Year 3
Net profit (product concerned)			
Total net profit (all products)			
Net assets (product concerned)			
Total net assets (total)			
Return on net assets (product)			
Return on net assets (total)			

CAPACITY UTILISATION

E10 Actual and potential decline in capacity and capacity utilisation

E10.1 Supply the information requested below regarding your actual and potential capacity and capacity utilisation for the product concerned. State the unit of measurement.

	Year 1	Year 2	Year 3
Your capacity (units)			
Your actual production			
Your capacity utilisation %			
Rest of domestic capacity			
Rest of domestic production			
Rest of domestic capacity utilisation %			

E10.2 State the normal number of shifts per week, number of hours per shift and number of labour units involved, for each –

	Year 1	Year 2	Year 3
Your company			
Number of shifts			
Workers per shift			
Other domestic producers			
Number of shifts			
-			
-			
-			
Other domestic producers			

Workers per shift			
-			
-			
-			

E10.3 Comment on the trends revealed in Tables E10.1 and E10.2.

CASH FLOW

E11 Actual and negative effects on cash flow

E11.1 Provide the following information regarding your cash flow:

	Year 1	Year 2	Year 3
Product specific			
Cash flow: incoming			
Cash flow: outgoing			
Net cash flow			
Company			
Cash flow: incoming			
Cash flow: outgoing			
Net cash flow			

E11.2 Comment on your cash flow situation relating to the subject product.

INVENTORIES

E12 Actual and potential effect on inventories

E12.1 Supply the following information regarding your inventories for the subject product

	Year 1	Year 2	Year 3
Volume			
Value			

E12.2 Supply your inventories for the subject product on the same basis as in E12.1 for the last 12 calendar months as Annexure E12.2.

E12.3 Is the level of monthly inventories subject to fluctuation? If affirmative, please elaborate.

E12.4 What is the effect of the change in your inventories over the injury investigation period?

EMPLOYMENT

E13 Actual and potential negative effect on employment

E13.1 Supply the following information regarding employment:

	Year 1	Year 2	Year 3
Direct labour units: production			
Indirect labour units: production			
Total labour units: production			
Labour units: Selling and Administrative			
Rest of domestic producers: Total labour units: production			

E13.2 Comment on the actual and potential negative effect on employment, including comments on the possibility of moving employees to other production areas, the minimum number of employees required to operate the machinery, etc.

WAGES AND SALARIES

E14 Actual and negative effects on wages and salaries

E14.1 Supply the following information regarding wages and salaries relating the subject product:

	Year 1	Year 2	Year 3
Total wages: Production			
Wages per employee			

* - Indicate the time period, e.g. per hour, day, week or month

E14.2 Comment on the wage rates, indicating factors that have led to increases and/or decreases.

GROWTH

E15 Actual and potential negative effect on growth

E15.1 Supply the following information:

	Year 1	Year 2	Year 3
Size of the domestic market			
% growth from previous year			
Your sales volume			
Your growth %			
Rest of domestic producers volume			
Rest of domestic growth %			
Alleged dumped imports			
Alleged dumped importsgrowth %			
Other imports			
Other imports growth %			

E15.2 Comment on the growth in the domestic market and factors affecting the growth.

CAPITAL AND INVESTMENT

E16 Ability to raise capital and investment

E16.1 Supply the following information regarding capital and investment:

	Year 1	Year 2	Year 3
Total capital/investment in subject product			
Capital expenditure during year on subject product			

E16.2 Comment on your ability to raise additional capital or investments for the like product and indicate whether such capital or investments would be internally sourced, provided by your parent company or be provided by an outside institution.

E17 OTHER INJURY INFORMATION

E17.1 Please indicate any other injury information to be considered by the Agency and not covered by the questions above.

SECTION F: THREAT OF MATERIAL INJURY

Note: It is not necessary to complete this section if you can prove actual material injury.

Should an application only be based on a threat of material injury as contemplated in Paragraph 7 Second Schedule to the Act and the relevant sections of the ADR, it is advisable that estimates for all injury factors as contained in Section E be provided in addition to the information requested in this section.

F1 Give details on the freely disposable capacity or imminent substantial increase in capacity of the exporter.

F2 Substantiate any significant increase of allegedly dumped imports into the domestic market indicating the likelihood of substantially increased importation.

F3 State whether the products concerned enter the country at prices that will have a significant depressing or suppressing effect on domestic prices and are likely to increase demand for further imports. Substantiate your reply. (A depressing effect means the actual lowering of existing prices and a suppressing effect means the prevention of price increases which would have normally been affected.)

F4 Indicate the exporters' inventories of the product being investigated.

F5 Indicate the state of the economy of the country of origin/export and its influence on the operations of the manufacturers/exporters.

F6 Give any other information relevant to your allegation that the infliction of material injury is imminent.

SECTION G: CAUSE OF MATERIAL INJURY

Note: In order to justify action against the alleged dumping the Agency must be satisfied that material injury is caused by the alleged dumping as contemplated in Paragraph 8 Second Schedule to the Act and relevant sections of the ADR.

GENERAL

G1 Give the reasons for your belief that the alleged dumping is the cause of the alleged material injury or threat thereof.

IMPORTS

Volume of the dumped imports

The volume of exports from a country shall normally be regarded as negligible if the volume of imports for the like product from that country is found to account for less than three per cent of the total imports of the like product into the domestic market, unless countries which individually account for less than three per cent of the total imports of the like product into the domestic market for the like product collectively account for more than seven per cent of the total imports of the like product into the domestic market.

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 subsequently to the end of the last calendar year.

G2.1 Import volumes per annum (State unit of measurement)

	Year 1	Year 1%	Year 2	Year 2%	Year 3	Year 3%
Subject countries						
-						
--						
Subtotal						
Other countries						
Total						

Year%, etc – express the volume of imports from the different countries as a percentage of the total volume imports for the year.

G2.2 Import values per annum

	Year 1	Year 2	Year 3
Subject countries			
-			
-			
Subtotal			
Other countries			
Total			

G2.3 Import prices per unit

	Year 1	Year 2	Year 3
Subject countries			
-			
-			
Subtotal			
Other countries			
Total			

G2.4 If dumping is alleged against more than one country, state the reasons why you believe imports from the different countries may be cumulated.

G3 Monthly import statistics

G3.1 Import volumes per month

Attach as **Annexure G3.1** a table indicating in the same format as under section G2.1, the monthly volumes of imports from the various countries for the last 12 consecutive months. If you believe that the statistics do not properly reflect the increasing trend in imports you may include the monthly import statistics for the last 18 consecutive months.

G3.2 Import values per month

Attach as **Annexure G3.2** a table indicating in the same format as under section G2.2, the monthly volumes of imports from the various countries for the last 12 consecutive months. If you believe that the statistics do not properly reflect the increasing trend in imports you may include the monthly import statistics for the last 18 consecutive months.

G3.3 Price per unit per month

Attach as **Annexure G3.3** a table indicating in the same format as under section G2.3, the monthly volumes of imports from the various countries for the last 12 consecutive months. If you believe that the statistics do not properly reflect the increasing trend in imports you may include the

monthly import statistics for the last 18 consecutive months.

G4 Own imports

G4.1 Provide the following information on your own imports of the product:

	Year 1	Year 2	Year 3
Volume imported from countries under investigation			
Volume imported from other countries			
Total volume imported			
Value imported from countries under investigation			
Value imported from other countries			
Total value imported			
Price per unit imported from countries under investigation			
Price per unit imported from other countries			
Total average price per unit imported			

G4.2 State your reasons for importing the product.

G4.3 List all your transactions over the injury investigation period in the following format (duplicate as required and attach as **Annex G4.3**):

	Shipment/file nr	Shipment/file nr
Invoice date DA 500 date DA500 number Volume (units)		
Invoice price (foreign currency) Invoice terms (FOB/CIF, etc) Exchange rate/forward cover rate		
Ex-factory price (Kenyan Shillings) Costs to FOB		
FOB price (Kenyan Shillings) Ocean freight Insurance		
CIF price (Kenyan Shillings) Customs duty Landing and clearing costs		
Landed costs Domestic transport		
In-store cost		
In-store cost per unit		

G5 Price undercutting

The Anti-Dumping Regulations define price undercutting as the extent to which the price of the imported product is lower than the price of the domestic product. The price should be compared at the same level of trade and with the same terms of condition of trade, normally at the domestic ex-factory level compared to the landed cost of the imported product.

G5.1 Provide the following information as regards your selling price per unit and the landed cost per unit of the imported product during the POI (indicate separately for each country against which the allegation is lodged):

(KSH/unit)	POI
Your ex-factory selling price	
Other domestic producers	
Landed cost of imports from	
-	
-	
Undercutting per unit-	
-	
-	
Undercutting %-	
-	
-	

Undercutting %: express the undercutting per unit as a percentage of your price. Indicate the level of trade and selling conditions of your product and of the imported product separately, i.e. ex-factory/delivered, payment terms, distributor/wholesaler/retailer.

G5.2 Comment on the trends indicated by this information and substantiate how this factor is indicative of material injury. (If the trends do not support your argument, you must provide other substantiating evidence as proof.)

MARKET SHARE

G6 Supply the following information, based on sales (and not on output) **volume**, for the past three years (refer question E7.1):

	Year 1	Year 2	Year 3
Your market share (%)			
Other domestic producers' market share (%)			
Total domestic producers' market share (%)			
Market share of alleged dumped imports by country - -			
Total market share of alleged dumped imports (%)			
Market share of other imports (%)			

MAGNITUDE OF THE MARGIN OF DUMPING

G7 Indicate how the magnitude of the margin of dumping supports your allegation that dumping is causing material injury to the domestic industry.

PRICES OF UNDUMPED PRODUCTS AVAILABLE IN THE DOMESTIC MARKET

G8.1 Indicate the prices of undumped products available in the market and the effect thereof on the domestic industry prices:

	Year 1	Year 2	Year 3
Your ex-factory selling price			
Landed cost of product imported from countries not alleged to be dumping			
Total domestic producers' market share (%) - - - -			

G8.2 Section 1 of the *Anti-Dumping Regulations* defines unsuppressed selling price is "the price at which the domestic industry would have been able to sell the like products in question in the absence of dumping, and can be determined with reference to –

1. the expected or required return of the domestic industry for the like or similar products; or
2. the profit margins of the industry for the like products before the entry of the dumped imports; or
3. the prices obtained for the like products by the industry

directly before the entry of the dumped imports; or

4. any other reasonable basis.”

State what your unsuppressed selling price is be at present.

OTHER FACTORS CAUSING INJURY

G9.1 Indicate any contraction in demand for or changes in the patterns of consumption of the product under consideration over the past three years.

G9.2 Indicate any trade restrictive trade practices of and competition between the foreign and domestic producers.

G9.3 Indicate any recent developments in technology.

G9.4 Indicate any other factors affecting the domestic prices.

G9.5 Comment on the domestic industry’s export performance.

G9.6 Comment on the productivity of the domestic industry vis-à-vis that of the exporting countries.

G9.7 Have you had any strikes, go-slows or lock-outs during the past twelve calendar months? Please elaborate.

G9.8 Indicate what the effect of the changing exchange rate has been on -

1. Your production cost;
2. your selling price; and
3. the price of the imported product.

G9.9 Indicate any other factors that affecting your sales or your sales prices, including the state of the economy and the industry.

SECTION H: GENERAL

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

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 AGENCY WILL NOT BE IN A POSITION TO REGARD YOUR COMPLAINT AS A PROPERLY DOCUMENTED APPLICATION AND NO INVESTIGATION CAN BE INITIATED.

Cost and price build-up (See question E3.1.1) **ANNEXURE E3.1.1**

	Products under investigation	All other products	Company total cost
1. DIRECT COST: Materials and components# -Imported -Domestic -Direct labour & related costs Re-tooling * -Power & fuel - Royalties, etc - Variable overheads * Other *	<p><i>Separate cost analyses must be provided for each of the subject products model/type in this format. Note that the cost data should reconcile to your company's income statement.</i></p>		
2. FIXED OVERHEAD COST: Indirect labour Repair & maintenance Rates & insurance R & D Plant depreciation Other *			
3. TOTAL PRODUCTION COST: 4. Operating profit			
5. IN-STORE COST: (3&4) 6. SELLING, GENERAL & ADMINISTRATIVE EXPENSES: Administrative expenses General expenses Selling expenses			
7. TOTAL COST: (5&6) 8. Mark-up			
9. SELLING (LIST) PRICE (7&8) 10. DISCOUNTS, ETC: Discounts Settlements discounts Rebates			
11. NET EX-FACTORY PRICE (9&10) 12. Distribution costs *			
13. NET DELIVERED PRICE (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 Agency. 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 for dumping.

**SUBSIDIES COUNTERVAILING
MEASURES COMPLAINT FORM**

COMPLAINT/QUESTIONNAIRE FOR REMEDIAL ACTION AGAINST

THE ALLEGED SUBSIDISED EXPORT OF

(Name of the product(s))

MANUFACTURED/PRODUCED

in

(country/countries of origin)

OR EXPORTED

from

(country/countries of export)

APPLICANT

Name:

Address:

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GENERAL INFORMATION

- **Introduction**

This questionnaire should be completed by an Applicant alleging that the subsidised export of a particular product is causing it material injury. It is important that that Applicant provides all the information required in the prescribed manner.

- **Purpose**

The purpose of this questionnaire is to help the domestic industry bring together in a concise and logical form the information needed by the Kenya Trade Remedies Agency (the Agency) to decide whether or not to initiate a formal investigation, and will also serve as a basis for further investigation.

- **Legal framework**

3.1 Countervailing investigations are conducted in terms of the Kenya Trade Remedies Act, 2017 (Act No. 32 of 2017) (the Act), and the Countervailing Regulations (CVR) read with the WTO Agreement on Subsidies and Countervailing Measures “the *SCM Agreement*”.

3.2 The Act authorises the Agency to investigate subsidised export in or to the common area of the EAC, while CVR contains additional substantive and procedural guidelines. Before answering the questionnaire we suggest that you read the Act and the CVR, copies of which is available from the Agency’s offices, or on its website.

3.3 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 as prescribed in the Act and the CVR.**

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:

- Indicate where information has been omitted in each case; (6). Provide reasons for confidentiality in each instance;

(7). Provide a summary of the confidential information which permits a reasonable understanding of the substance of the confidential information in each instance; and

(8). Where information is not susceptible to a non-confidential summary, indicate this in each instance and provide a sworn affidavit setting out the reasons why the information is not susceptible to summarisation.

The Agency will not formally accept an application until a proper non-confidential version has been submitted in accordance with the above guidelines. If the Agency finds that a request for confidentiality is not warranted and if the Applicant is either unwilling to make the information public or to authorise its disclosure in summarised format, the Agency will not consider such information in determining the merits of the application.

4 General instructions

1. Applicants should provide full and accurate information and 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 your case. The Agency will not consider unsubstantiated information. All cost related information should be reconcilable to the financial statements or management accounts.

It is in the interest of the applicant to reply as accurately and completely and to attach the supporting documents. Ensure that the information submitted conforms to the requested format and is clearly labelled. If the answer is "not applicable" or "none", where appropriate, applicants should provide a short explanation about why the requested data is not applicable to avoid the need for follow-up questions by the Agency.

2. Ensure that each page is labelled either "confidential" or "non-confidential"

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.

3. 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 Agency. The public file is available for inspection at the Agency's offices by all interested parties, by appointment.
4. Note that interested parties are encouraged to inspect the public file regularly. The Agency and its relevant departments will not check the public file on behalf of interested parties.
5. If this application is in respect of more than one product, a reference to "product" should be considered to be a reference to "products", and the Applicant should respond to the relevant question(s) in respect of all products separately.

Information should be submitted in hard copies as well as in electronic format.

The data should be submitted on a media format compatible with Microsoft Windows. Microsoft Excel and MS Word, or compatible format, is required as the Agency's computer system is based on Windows. The discs must not be write protected and must be labelled clearly indicating:

1. Applicant's name;
2. Product(s) concerned;
3. Type of information on the disc;
4. Software used; and
5. Whether or not confidential.

If the data cannot be presented electronically please contact the Agency's client support section for advice.

6. The application must be addressed to the Executive Director, Kenya Trade Remedies Agency Offices in Nairobi.

Signature requirements: the application must be signed by a director, senior servant or agent acting with the authority of the party.

7. The original period of investigation for subsidised exports shall normally be 12 months, and may be more, but in no case less than 6 months, and shall normally be a period ending not more than 6 months before the initiation of the investigation. The investigation period for subsidies shall be clearly indicated in the initiation notice published in the Kenya Gazette.
8. The Agency may verify all information submitted. Should it be found that you have submitted false or misleading evidence, the Agency may decide not to proceed with the investigation.
9. Should you encounter particular problems in answering the questionnaire or require more information or clarification on policy issues the staff of the Trade Remedies department is ready to discuss these issues and to provide assistance.

The Agency's support section can provide further information for clarification. Contact the team on:

Phone: _____

Email: _____

Parties should be prepared to substantiate all information submitted. Any worksheets used in preparing the application should therefore be retained to facilitate verification by the Agency.

Some questions require attachments to be provided. The attachment numbering sequence should refer to the question answered and as contemplated in the various sections below.

The next sections deal with specific information relating to the products concerned.

Application for Investigation into Subsidized Exports

DECLARATION

I request in accordance with section 24 of the Kenya Trade Remedies Act No. 32 of 2017 and the Second Schedule thereto, that the Government imposes, in respect of products the subject of this application a countervailing duty.

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

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

I believe that the information contained in this application:

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

Signature: _____
Name: _____
Position: _____
Company: _____
Date: _____

SECTION A: DETAILS OF THE APPLICANT

A1 State the legal name of your business and its type (e.g. company, partnership, sole trader, joint venture). Please provide details of any other business names you use to manufacture/produce/sell the goods that are the subject of your application

Company _____ name:

Postal Address:

Physical Address:

Tel: _____ (____)

Fax: _____ (____)

Email:

Please attach a map indicating how to reach you as Annex A1.

Applicant's production relative to total domestic production (%) is:

A2 The applicant's manufacturing sites are situated at:
Physical Address:

Please attach a map as Annex A2 (if different to A1)

A3 The applicant has appointed the individual referred to below to act on its behalf in the investigation;

Contact Name: _____
Company and Position: _____
Address: _____
Telephone: _____
Facsimile: _____
E-mail Address: _____

Alternative Contact

Name: _____
Company and Position: _____
Address: _____
Telephone: _____
Facsimile: _____
E-mail Address: _____

Or the applicant has not appointed a consultant/representative.

If you have appointed a consultant/representative, please complete their information below and attach a copy of the letter of appointment, setting out the scope and duration of the appointment, as required by CVR 4, as Annexure A3.

Name: _____
Company and Position: _____
Address: _____
Telephone: _____
Facsimile: _____
E-mail Address: _____

A4 Provide your company's internal organisation chart. Describe the functions performed by each group within the organisation. Attach as Annexure A4a.

List the major shareholders of your company. Provide the shareholding percentages for joint owners and/or major shareholders. Indicate all shareholders holding more than 5% of equity in your company. Attach as Annexure A4b.

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

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

Provide an outline diagram showing major associated or affiliated companies and your company's place within that structure. Attach as Annexure A4c.

A5 The applicant is an industrial organisation/public company/private company/closed corporation/other (please specify).

Identify and provide details of any relationship you have with an exporter to the domestic market or importer of the goods.

A6 Indicate the franchise, manufacturing, licensing, know-how, technology and distribution agreements in place in respect of inputs, manufacturing and outputs which relate to the product that is the subject of this application:

A7 Name the product allegedly being subsidised:

A8 Country of origin/export

A9 Indicate which of the following is the basis for normal value:

- The normal value is based on domestic sales in the country of origin
 - export price to a third country
 - a constructed normal value

A10 List the factors in respect of which actual material injury/a threat of material injury/the material retardation of the establishment of an industry is alleged.

SECTION B: PRODUCTS

Note on like product: Consult the Act and the CVR on definitions of products and like products.

B1 Imported (subject) product

Note If there is more than one imported product competing directly with the domestic product, information should be listed and submitted separately for each make and model in the range.

B1.1 Fully describe the imported product(s) the subject of your application.

B1.2 The main raw materials/components/inputs used in the production is/are

B1.3 The production process used is as follows: Provide a summary and a diagram of the production process. Attach diagram as appendix B1.3

B1.4 Describe the products' physical, technical and other characteristics and appearances:

B1.5 The application and end-use of the products is for

B1.6 The domestic like product is substitutable with the imported product to the following extent:

B1.7 The following tariff dispensation applies to the imported product:

Tariff subheading	Description	Unit of measurement	Rate of customs duty	Rebate provision item number	Rebate provision description

B1.8 Indicate if you are aware of any possible loopholes in the tariff classification, i.e. whether the product can be imported under any other tariff heading.

Substantiate your answers to B1.1 with catalogues, brochures and other literature/samples. Attach them as annex B1.1.

B2 Domestic like product

Note: If remedial action is requested in respect of more than one product, the following information should be submitted separately for each product. Where the application is lodged in respect of numerous product lines, e.g. shoes, car tyres, a sample must be selected for investigation purposes and the basis for determining the sample must be indicated. Note that the Agency may request information relating to products falling outside the sample after it has received the exporters' and importers' responses.

B2.1 Give the name and description of the domestic product

B2.2 The main raw materials/components/inputs used in the production are:

If the domestic product is manufactured from both domestic

and imported inputs;

- Describe the use of the imported inputs in the manufacturing process
- Identify at least one substantial process of manufacture that occurs in the domestic region (for example by reference to the value added, complexity of the processor investment in capital).

B2.3 The production process used is as follows: Provide a summary and a diagram of the production process. Attach diagram as appendix B2.3

B2.4 Describe the products' physical, technical and other characteristics and appearances

B2.5 The application and end-use of the domestic product is for:

B2.6 The following tariff dispensation applies to the domestic product:

Tariff subheading	Description	Unit of measurement	Rate of customs duty	Rebate provision item number	Rebate provision description

B2.7 Describe the ways in which the essential characteristics of the imported product are like to the goods produced by the domestic producers.

Enumerate in detail any differences between the imported product and the domestic like product

B2.8 Give details of all standards/specifications applicable to the product concerned in the domestic market prescribed by law or otherwise

B3 Like product in the country of export/origin

B3.1 Give the name and description of the product sold in the exporting country

B3.2 The main raw materials/components/inputs used in the production is/are:

B3.3 The production process used is as follows. Provide a summary and a diagram of the production process. Attach diagram as appendix B3.3.

B3.4 The products' technical characteristics and appearance are as follows:

B3.5 The application and end-use of the products is for

B3.6 The domestic like product is substitutable with the imported product to the following extent:

B3.7 Enumerate in detail any differences between the imported product and the like product sold in the country of origin and/or export:

SECTION C: INTERESTED PARTIES

C1 If there is a **domestic representative organisation** submit the following information:

- Names, address, telephone and fax numbers and E-mail addresses of and position held by the organisation's officers to be contacted;

Name of organisation:

Name of contact person:

Designation: _____

Postal address: _____

Physical address: _____

Tel: (____) _____ Fax: _____

(____) _____

Email: _____

- Name the producers in the industry affiliated to the organisation and supply the following information:

<p>Company: _____</p> <p>Postal address: _____</p> <p>Physical address: _____</p> <p>Contact person: _____</p> <p>Designation: _____</p> <p>Tel: (____) _____</p> <p>Fax: (____) _____</p> <p>Email: _____</p>	<p>Company: _____</p> <p>Postal address: _____</p> <p>Physical address: _____</p> <p>Contact person: _____</p> <p>Designation: _____</p> <p>Tel: (____) _____</p> <p>Fax: (____) _____</p> <p>Email: _____</p>
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C2 Name all other producers constituting the domestic industry concerned as provided below:

Company: _____ Postal address: _____ Physical address: _____ <hr/> Contact person: _____ Designation: _____ Tel: (____) _____ Fax: (____) _____ _____ Email: _____	Company: _____ Postal address: _____ Physical address: _____ <hr/> Contact person: _____ Designation: _____ Tel: (____) _____ Fax: (____) _____ _____ Email: _____
---	---

The Countervailing Regulation 8.3 provides as follows:

“An application shall be regarded as brought by or on behalf of the domestic industry if –

- a. at least 25 per cent of the domestic producers by domestic production volume support the application; and
- b. of those producers that express an opinion on the application, at least 50 per cent by domestic production volume support such application.”

Without this support KETRA cannot accept an application for investigation. Letters of support for or opposition to the application must be attached to the application as Annexure C2.

C3 Indicate the industry support and/or opposition to the application in the following format:

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

C4 Give details of exporters and foreign producers in the investigation in the following format:

<p>Company: _____</p> <p>Postal address: _____</p> <p>Physical address: _____</p> <hr/> <p>Contact person: _____</p> <p>Designation: _____</p> <p>Tel: (____)_____</p> <p>Fax: (____) _____</p> <p>Email: _____</p>	<p>Company: _____</p> <p>Postal address: _____</p> <p>Physical address: _____</p> <hr/> <p>Contact person: _____</p> <p>Designation: _____</p> <p>Tel: (____)_____</p> <p>Fax: (____) _____</p> <p>Email: _____</p>
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C5 Give details of the importers of the product under investigation in the following format:

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

SECTION D: COUNTERVAILING/SUBSIDISED EXPORT

A countervailing investigation against subsidised exports is separate from an anti-dumping investigation, but can be done concurrently. Countervailing action may only be taken if a subsidy exists and is countervailable.

The Kenya Trade Remedies Act No. 17 of 2017 and the Countervailing Regulations provides for the definitions of subsidies and countervailable subsidies. Parties are encouraged to consult the relevant sections of the Act and the CVR for guidance.

The following information is needed to enable the Agency to consider your application for countervailing action:

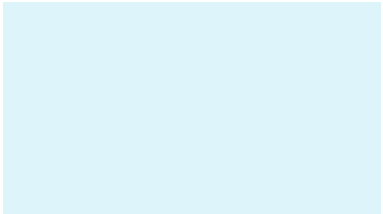
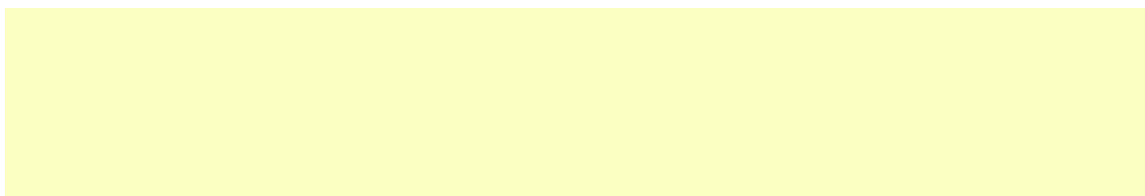
D1 Name the country in which the government provides the financial aid or other assistance.

D2 Name the product/s that benefit from the assistance.

D3 Identify the subsidy paid in the country of export or origin i.e. give details of the financial aid or other assistance scheme. Substantiate your reply with documentation, e.g. government publications or international literature. Attach certified English translations where applicable.

Indicate the following:

- the nature, title and description of the subsidy programmes;
- conditions for granting the subsidy;
- the government agency or authority under which the subsidy is provided;
- list the producers/exporters of the like product;
- the manner in which the subsidy is conveyed; and
- the estimated value of the subsidy when received and used by producers or sellers of the like goods



With details of calculations (the estimated value should be expressed as a percentage of the fob export price)

D4 Submit details of the financial aid or other assistance scheme regarding any inputs of the product under investigation in the same detail as requested under question D3.

SECTION E: MATERIAL INJURY

Note: Before the Agency can initiate a countervailing investigation it must have *prima facie* evidence to reach a reasonable conclusion that the alleged subsidised exports are causing or threatening to cause material injury to the domestic industry.

The information requested must relate only to the affected domestic product that is a like product to the product being imported under the alleged unfair trade practice. Where the available data does not allow separate identification of the product in question, the information given must relate to the narrowest identifiable product group that includes the domestic product that is a like product to the product being the subject of the application.

The Agency requires the use of indexing as a non-confidential summary of figures, that is, the use of a base value in the first period for which information is submitted with deviations from the base value indicated for subsequent periods.

When an applicant produces more than one product the information submitted in this section must relate only to the product that forms the subject of this application.

No investigation can be initiated unless at least 25% of all producers by volume support the application. Additionally, the Agency may not make a preliminary or final determination of injury unless it has considered evidence relating to “a major proportion” of the domestic industry.

Each producer in the local industry should provide the following information to prove material injury to the domestic industry;

E1 General Information

E1.1 Generally describe the domestic market for the domestic and imported product and the conditions of competition within the overall market. Your description could include information about:

- sources of product demand;
- marketing and distribution arrangements;
- typical customers/users/consumers of the product;
 - the presence of market segmentation, such as geographic or product segmentation;
- causes of demand variability, such as seasonal fluctuations,

- factors contributing to overall market growth or decline, government regulation, and developments in technology affecting either demand or production;
- the way in which the imported and domestic product compete; and
- any other factors influencing the market.

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

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.

E1.2 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 E1.2**.

E1.3 Give the reasons and basis for your categorisation of customers.

E1.4 Enumerate major changes over the past three years in your answers to the above questions.

E2 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 Agency.

E2.1 Indicate your normal accounting period.

E2.2 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.)

E2.3 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.

E2.4 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 officials of the Agency.**

E3 Effects on the domestic prices

E3.1 Price depression

E3.1.1 Provide the following information with regard to your average per unit ex-factory selling prices:

	Year 1	Year 2	Year 3
Your ex-factory price per unit			

State the unit of measurement

E3.1.2 If your prices decreased significantly during the last 12 calendar months please supply the average ex-factory prices for each of the last 12 months. Please attach as **Annexure E3.1.1**.

E3.1.3 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.

E3.2 Price suppression

E3.2.1 Provide the following information with regard to your average per unit ex-factory selling prices:

	Year 1	Year 2	Year 3
Your ex-factory price per unit			
Your production cost per unit			
Your gross profit per unit			
Your gross profit%			
Your production cost as a % of selling price			

State the unit of measurement

E3.2.2 If price suppression is more pronounced during the last 12 months supply the information as requested in Table E3.2.1 separately for each of the last 12 months. Please attach as **Annexure E3.2.2.**

E3.2.3 Indicate any other factors that have suppressed your ex-factory selling price that do not reflect in the above table, e.g. longer payments terms on sales, shorter payment terms on purchases, higher year-end rebates, additional free stock, etc.

E3.3 Cost build-up

E3.3.1 Please supply a cost build-up in the format indicated in **Annexure E3.3.** 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.

E3.3.2 Please supply a Bill of Materials for the domestic like product.

E4 DOMESTIC INDUSTRY SALES

E4.1 Please supply the following information on your sales volume in the domestic market.

	Year 1	Year 2	Year 3
Your sales volume			
Sales by other domestic producers			
-			
-			
-			
Total volume of domestic sales by domestic producers			

State the unit of measurement

E4.2 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.

PROFIT AND LOSS

E5 Actual and potential decline in profit

E5.1 Supply the following information regarding your profit for the product concerned (where the information cannot be supplied separately for the product concerned indicate the group of products to which the profit applies and submit your calculations, indicating how costs and profit were allocated):

	Year 1	Year 2	Year 3
Units sold			
Your total gross profit			
Your total net profit			

E5.2 Comment on the actual and potential decline in your profits.

OUTPUT

E6 Actual and potential decline in output

E6.1 Supply the following information regarding your actual production volumes over the last three years. Note that this should relate to total output of the product under consideration, regardless of whether destined for the domestic or export market.

	Year 1	Year 2	Year 3
Your total production of the product concerned			
Other domestic producers' production			

State the unit of measurement

E6.2 Comment on the actual and potential decline in you production, both total and for domestic consumption.

MARKET SHARE

E7 Actual and potential decline in market share

E7.1 Supply the following information, based on sales (and not on output) **volume**, for the past three years:

	Year 1	Year 2	Year 3
Market share in volume (<i>unit</i>):			
Applicant			
Dumped imports			
Other imports			
Total domestic market			
Percentage share held by:			
Applicant			
Dumped imports			
Other imports			

E7.2 Supply the following information, based on sales (and not on output) **value**, for the past three years:

	Year 1	Year 2	Year 3
Your market share (%)			
Other domestic producers' market share (%)			
Total domestic producers' market share (%)			
Market share of alleged dumped imports by country			
-			
-			
-			
Total market share of alleged dumped Imports (%)			
Market share of other imports (%)			

E7.3 Comment on the trends revealed in Tables E7.1 and E7.2.

PRODUCTIVITY

E8 Actual and potential decline in productivity

E8.1 Provide the following information regarding productivity:

	Year 1	Year 2	Year 3
Total production volume			
Number of employees (manufacturing only)			
Units per employee			

E8.2 Comment on the actual and potential decline in productivity identified in Table E8.1

RETURN ON INVESTMENT

E9 Return on investment

E9.1 Supply the information requested below for the product concerned only. If this is not possible, clearly indicate in both your confidential and non-confidential submissions on what basis the return on investment was determined.

Please reflect the profit before tax, interest and extraordinary items.

	Year 1	Year 2	Year 3
Net profit (product concerned)			
Total net profit (all products)			
Net assets (product concerned)			
Total net assets (total)			
Return on net assets (product)			
Return on net assets (total)			

CAPACITY UTILISATION

E10 Actual and potential decline in capacity and capacity utilisation

E10.1 Supply the information requested below regarding your actual and potential capacity and capacity utilisation for the product concerned. State the unit of measurement.

	Year 1	Year 2	Year 3
Your capacity (units)			
Your actual production			
Your capacity utilisation %			
Rest of domestic capacity			
Rest of domestic production			
Rest of domestic capacity utilisation %			

E10.2 State the normal number of shifts per week, number of hours per shift and number of labour units involved, for each –

	Year 1	Year 2	Year 3
Your company			

Number of shifts			
Workers per shift			
Other domestic producers Number of shifts - -			
Other domestic producers Workers per shift - -			

E10.3 Comment on the trends revealed in Tables E10.1 and E10.2.

CASH FLOW

E11 Actual and negative effects on cash flow

E11.1 Provide the following information regarding your cash flow:

	Year 1	Year 2	Year 3
Product specific			
Cash flow: incoming			
Cash flow: outgoing			
Net cash flow			
Company			
Cash flow: incoming			
Cash flow: outgoing			
Net cash flow			

E11.2 Comment on your cash flow situation relating to the subject product.

INVENTORIES

E12 Actual and potential effect on inventories

E12.1 Supply the following information regarding your inventories for the subject product

	Year 1	Year 2	Year 3
Volume			
Value			

E12.2 Supply your inventories for the subject product on the same basis as in E12.1 for the last 12 calendar months as Annexure E12.2.

E12.3 Is the level of monthly inventories subject to fluctuation? If affirmative, please elaborate.

E12.4 What is the effect of the change in your inventories over the injury investigation period?

EMPLOYMENT

E13 Actual and potential negative effect on employment

E13.1 Supply the following information regarding employment:

	Year 1	Year 2	Year 3
Direct labour units: production			
Indirect labour units: production			
Total labour units: production			
Labour units: Selling and Administrative			
Rest of domestic producers: Total labour units: production			

E13.2 Comment on the actual and potential negative effect on employment, including comments on the possibility of moving employees to other production areas, the minimum number of employees required to operate the machinery, etc.

WAGES AND SALARIES

E14 Actual and negative effects on wages and salaries

E14.1 Supply the following information regarding wages and salaries relating the subject product:

	Year 1	Year 2	Year 3
Total wages: Production			
Wages per employee			

* - Indicate the time period, e.g. per hour, day, week or month

E14.2 Comment on the wage rates, indicating factors that have led to increases and/or decreases.

GROWTH

E15 Actual and potential negative effect on growth

E15.1 Supply the following information:

	Year 1	Year 2	Year 3
Size of the domestic market			
% growth from previous year			

Your sales volume			
Your growth %			
Rest of domestic producers volume			
Rest of domestic growth %			
Alleged dumped imports			
Alleged dumped imports growth %			
Other imports			
Other imports growth %			

E15.2 Comment on the growth in the domestic market and factors affecting the growth.

CAPITAL AND INVESTMENT

E16 Ability to raise capital and investment

E16.1 Supply the following information regarding capital and investment:

	Year 1	Year 2	Year 3
Total capital/investment in subject product			
Capital expenditure during year on subject product			

E16.2 Comment on your ability to raise additional capital or investments for the like product and indicate whether such capital or investments would be internally sourced, provided by your parent company or be provided by an outside institution.

E17 OTHER INJURY INFORMATION

E17.1 Please indicate any other injury information to be considered by the Agency and not covered by the questions above.

SECTION F : THREAT OF MATERIAL INJURY

Note: It is not necessary to complete this section if you can prove actual material injury.

Should an application only be based on a threat of material injury as contemplated in Paragraph 36 Second Schedule to the Act and the relevant sections of the CVR, it is advisable that estimates for all injury factors as contained in Section E be provided in addition to the information requested in this section.

F1 Give details on the freely disposable capacity or imminent substantial increase in capacity of the exporter.

F2 Substantiate any significant increase of allegedly dumped imports into the domestic market indicating the likelihood of substantially increased importation.

F3 State whether the products concerned enter the country at prices that will have a significant depressing or suppressing effect on domestic prices and are likely to increase demand for further imports. Substantiate your reply. (A depressing effect means the actual lowering of existing prices and a suppressing effect means the prevention of price increases which would have normally been affected.)

F4 Indicate the exporters' inventories of the product being investigated.

F5 Indicate the state of the economy of the country of origin/export and its influence on the operations of the manufacturers/exporters.

F6 Give any other information relevant to your allegation that the infliction of material injury is imminent.

SECTION G: CAUSE OF MATERIAL INJURY

Note: In order to justify action against the alleged subsidised imports the Agency must be satisfied that material injury is caused by the alleged subsidised imports as contemplated in paragraph 37 Second Schedule to the Act. Further details on causation are contained in the Countervailing Regulations.

General

G1 Give the reasons for your belief that the alleged subsidised imports are the cause of the alleged material injury or threat thereof.

Imports

Volume of the subsidised imports

The volume of exports from a country shall normally be regarded as negligible if the volume of imports for the like product from that country is found to account for less than three per cent of the total imports of the like product into the domestic market, unless countries which individually account for less than three per cent of the total imports of the like product collectively account for more than seven per cent of the total imports of the like product into the domestic market.

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 subsequently to the end of the last calendar year.

G2.1 Import volumes per annum (State unit of measurement)

	Year 1	Year 1%	Year 2	Year 2%	Year 3	Year 3%
Subject countries						
-						
--						
Subtotal						

Other countries						
Total						

Year%, etc – express the volume of imports from the different countries as a percentage of the total volume imports for the year.

G2.2 Import values per annum

	Year 1	Year 1%	Year 2	Year 2%	Year 3	Year 3%
Subject countries						
-						
--						
Subtotal						
Other countries						
Total						

Year%, etc – express the value of imports from the different countries as a percentage of the total value imports for the year.

G2.3 Import prices per unit

	Year 1	Year 2	Year 3
Subject countries			
-			
-			
Subtotal			
Other countries			
Total			

G2.4 If subsidised imports are alleged against more than one country, state the reasons why you believe imports from the different countries may be cumulated.

G3 Monthly import statistics

G3.1 Import volumes per month

Attach as **Annexure G3.1** a table indicating in the same format as under section G2.1, the monthly volumes of imports from the various countries for the last 12 consecutive months. If you believe that the statistics do not properly reflect the increasing trend in imports you may include the monthly import statistics for the last 18

consecutive months.

G3.2 Import values per month

Attach as **Annexure G3.2** a table indicating in the same format as under section G2.2, the monthly volumes of imports from the various countries for the last 12 consecutive months. If you believe that the statistics do not properly reflect the increasing trend in imports you may include the monthly import statistics for the last 18 consecutive months.

G3.3 Price per unit per month

Attach as **Annexure G3.3** a table indicating in the same format as under section G2.3, the monthly volumes of imports from the various countries for the last 12 consecutive months. If you believe that the statistics do not properly reflect the increasing trend in imports you may include the monthly import statistics for the last 18 consecutive months.

G4 Own imports

G4.1 Provide the following information on your own imports of the product:

	Year 1	Year 2	Year 3
Volume imported from countries under investigation			
Volume imported from other countries			
Total volume imported			
Value imported from countries under investigation			
Value imported from other countries			
Total value imported			
Price per unit imported from countries under investigation			
Price per unit imported from other countries			
Total average price per unit imported			

G4.2 State your reasons for importing the product.

G4.3 List all your transactions over the injury investigation period in the following format (duplicate as required and attach as **Annex G4.3**):

	Shipment/file nr	Shipment/file nr
Invoice date DA 500 date DA500 number Volume (units)		
Invoice price (foreign currency) Invoice terms (FOB/CIF, etc) Exchange rate/forward cover rate		
Ex-factory price (KSH) Costs to FOB		
FOB price (KSH) Ocean freight Insurance		
CIF price (KSH) Customs duty Landing and clearing costs		
Landed costs Domestic transport		
In-store cost		
In-store cost per unit		

G5 Price undercutting

The *Countervailing Regulations* define price undercutting as the extent to which the price of the imported product is lower than the price of the domestic product. The price should be compared at the same level of trade and with the same terms and conditions of trade, normally at the domestic ex-factory level compared to the landed cost of the imported product.

G5.1 Provide the following information regarding your selling price per unit and the landed cost per unit of the imported product during the POI (indicate separately for each country against which the allegation is lodged):

(R/unit)	POI
Your ex-factory selling price	
Other domestic producers	
Landed cost of imports from - -	
Undercutting per unit - -	
Undercutting % - -	

Undercutting %: express the undercutting per unit as a percentage of your ex-factory selling price.

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

G5.2 Comment on the trends indicated by this information and substantiate how this factor is indicative of material injury. (If the trends do not support your argument, you must provide other substantiating evidence as proof.)

Market Share

G6 Supply the following information, based on sales (and not on output) **volume**, for the past three years (refer question E7.1):

	Year 1	Year 2	Year 3
Your market share (%)			
Other domestic producers' Market share (%)			
Total domestic producers' Market share (%)			
Market share of alleged subsidised imports by country -			
Total market share of alleged subsidised imports (%)			
Market share of other Imports (%)			

MAGNITUDE OF THE MARGIN OF SUBSIDISATION

G7 Indicate how the magnitude of the margin of subsidisation supports your allegation that subsidies are causing material injury to the domestic industry.

Prices of non-subsidised products available in domestic

G7.1 Indicate the prices of non-subsidised products available in the market and the effect thereof on domestic industry prices:

	Year 1	Year 2	Year 3
Your ex-factory selling price			
Landed cost of product imported from countries not alleged to be subsidised			
Total domestic producers' market share (%)			
-			
-			
-			
-			

G7.2 The *Countervailing Regulations* defines unsuppressed selling price as "the price at which the domestic industry would have been able to sell the like product in question in the absence of subsidised imports, and can be determined with reference to –

- the expected or required return of the domestic industry for the like or similar product; or
- the profit margins of the industry for the like product before the entry of the subsidised imports; or
- the prices obtained for the like product by the industry directly before the entry of the subsidised imports; or
- any other reasonable basis."

State what your unsuppressed selling price is at present.

Other factors causing Injury

G8.1 Indicate any contraction in demand for or changes in the patterns of consumption of the product under consideration over the past three years.

G8.2 Indicate any trade restrictive trade practices of and competition between the foreign and domestic producers.

G8.3 Indicate any recent developments in technology.

G8.4 Indicate any other factors affecting the domestic prices.

G8.5 Comment on the domestic industry's export performance.

G8.6 Comment on the productivity of the domestic industry vis-à-vis that of the exporting countries.

G8.7 Have you had any strikes, go-slows or lock-outs during the past twelve calendar months? Please elaborate.

G8.8 Indicate what the effect of the changing exchange rate has been on -

1. Your production cost;
2. your selling price; and
3. The price of the imported product.

G8.9 Indicate any other factors affecting your sales or your sales prices, including the state of the economy and the industry.

SECTION H GENERAL

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

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 AGENCY WILL NOT BE IN A POSITION TO REGARD YOUR COMPLAINT AS A PROPERLY DOCUMENTED APPLICATION.

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

	Product under investigation	All other products	Company total cost
<p>1. DIRECT COST:</p> <p>Materials and components#</p> <p>Direct labour & related costs</p> <p>Re-tooling *</p> <p>Power & fuel</p> <p>Royalties, etc</p> <p>Variable overheads *</p> <p>Other *</p> <ul style="list-style-type: none"> • Imported • Domestic 	<p>Separate cost analyses must be provided for each of the subject products model/type in this format. Note that the cost data should reconcile to your company's income statement.</p>		
<p>2. FIXED OVERHEAD COST:</p> <p>Indirect labour</p> <p>Repair & maintenance</p> <p>Rates & insurance</p> <p>R & D</p> <p>Plant depreciation</p> <p>Other *</p>			
<p>TOTAL PRODUCTION COST:</p> <ul style="list-style-type: none"> • Operating profit 			
<ul style="list-style-type: none"> • IN-STORE COST: (3&4) • SELLING, GENERAL & ADMINISTRATIVE EXPENSES: <p>Administrative expenses</p> <p>General expenses</p> <p>Selling expenses</p>			
<ul style="list-style-type: none"> • TOTAL COST: (5&6) • Mark-up 			
<ul style="list-style-type: none"> • SELLING (LIST) PRICE <p>(7&8)</p> <ul style="list-style-type: none"> • DISCOUNTS, ETC: <p>Discounts</p> <p>Settlements discounts</p> <p>Rebates</p>			
<ul style="list-style-type: none"> • NET EX-FACTORY PRICE <p>(9&10)</p> <ul style="list-style-type: none"> • Distribution costs * 			
<p>13. NET DELIVERED PRICE</p> <p>(11&12)</p>			

- 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 Agency. 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 for subsidisation.

SAFEGUARDS COMPLAINT FORM

SAFEGUARD APPLICATION FORM *Kenya Trade Remedies Agency*
(KETRA)

COMPLAINT/QUESTIONNAIRE FOR REMEDIAL ACTION AGAINST

THE INCREASED IMPORTS OF

(Name of the product(s))

MANUFACTURED/PRODUCED

in

(country/countries of origin)

OR EXPORTED

from

(country/countries of export)

APPLICANT

Name:

Address: SAFEGUARD APPLICATION FORM *Kenya Trade Remedies*

Agency (KETRA)

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GENERAL: GENERAL

CERTIFICATION SAFEGUARD APPLICATION FORM *Kenya Trade Remedies Agency (KETRA)*

GENERAL INFORMATION

- **Introduction**

This questionnaire should be completed by an applicant alleging that dumping of a particular product is causing serious injury. It is important that that applicant provides all the information required in the prescribed manner.

- **Purpose**

The purpose of this questionnaire is to help the domestic industry bring together in a concise and logical form the information needed by the Kenya Trade Remedies Agency (the Agency) to decide whether or not to initiate a formal investigation, and will also serve as a basis for further investigation.

- **Legal framework**

3.1 Safeguards investigations are conducted in terms of the Kenya Trade Remedies Act, 2017 (the Act), and Safeguard Regulations readwith the WTO Agreement on Safeguards.

3.2 The Act authorises the Agency to investigate applications for safeguards measures in or to the common area of the EAC while theSafeguard Regulations contain additional substantive and proceduralguidelines. Before answering the questionnaire we suggest that you read the Act and the Safeguard Regulations, copies of which are available at THE Agency’s offices, or on its website.

3.3 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 as prescribed in both the Act and the Safeguard Regulations.**

The summaries of confidential information 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:

- Indicate where information has been omitted in each case;
- Provide reasons for confidentiality in each instance;
- Provide a summary of the confidential information which permits a reasonable understanding of the substance of the confidential information in each instance; and

SAFEGUARD APPLICATION FORM *Kenya Trade Remedies Agency (KETRA)*

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

- **General instructions**

1. Applicants should provide full and accurate information and provide any supporting documentary evidence from commercial or governmental sources, e.g. official trade and production statistics. Failure to do so could detrimentally affect your case. The Agency will not consider unsubstantiated information. All cost related informationshould be reconcilable to the financial statements or management accounts.

It is in the interest of the applicant to reply as accurately and completely and to attach the supporting documents. Ensure that the information submitted conforms to the requested format and is clearly

labelled. If the answer is “not applicable” or “none”, where appropriate, applicants should provide a short explanation about why the requested data is not applicable to avoid the need for follow-up questions by the Agency.

Your reply to this questionnaire may be subjected to verification. Therefore, all worksheets including the source documents used in answering the questionnaire must be retained, for verification during the on-the-spot investigation.

To facilitate the verification, please identify the source documents and specify where they are kept. During the verification, you should be prepared to substantiate all information submitted i.e. able to be traced back to regular company documents

2. Ensure that each page is labelled either “confidential” or “non- confidential”

Please take note that the rules relating to confidential information and the submission of SAFEGUARD APPLICATION FORM *Kenya Trade Remedies Agency (KETRA)*

non-confidential versions of submissions apply to **ALL correspondence, which unless clearly indicated to be confidential and filed together with a non-confidential version, will be placed on the non-confidential file and be made available to other interested parties.**

3. 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 Agency. The public file is available for inspection at the Agency's offices by all interested parties, by appointment.

4. Note that interested parties are encouraged to inspect the publicfile regularly. The Agency and its relevant departments will not checkthe public file on behalf of interested parties.

5. If this application is in respect of more than one product, a reference to "product", should be considered to be a reference to "products", and the applicant should respond to the relevant question(s) in respect of all products separately.

Information should be submitted in hard copies as well as in electronic format.

The data should be submitted on a media format compatible with Microsoft Windows. Microsoft Excel and MS Word, or compatible format, is required as the Agency's computer system is based on Windows. The discs must not be write protected and must be labelled clearly indicating:

- Applicant's name;
- Product(s) concerned;
- Type of information on the disc;
- Software used; and
- Whether or not confidential.

If the data cannot be presented electronically please contact the Agency's client support section for advice.

1. The application must be addressed to:

Executive Director,

Kenya Trade Remedies Agency

Nairobi SAFEGUARD APPLICATION FORM *Kenya Trade Remedies Agency (KETRA)*

Signature requirements: the application must be signed by a director, senior servant or agent acting with the authority of the party.

2. Should you encounter particular problems in answering the questionnaire or require more information or clarification on policy issues the staff of the Trade Remedies section is ready to discuss these issues and to provide assistance.

The Agency's support section can provide further information for clarification. Contact the team on:

Phone: _____

Email: _____

3. The Agency may verify all information submitted. Should it be found that you have submitted false or misleading evidence, the Agency may decide not to proceed with the investigation.

Parties should be prepared to substantiate all information submitted. Any worksheets used in preparing the application should therefore be retained to facilitate verification by the Agency.

Some questions require attachments to be provided. The attachment numbering sequence should refer to the question answered and as contemplated in the various sections below.

The next sections deal with specific information relating to the products concerned. SAFEGUARD APPLICATION FORM *Kenya Trade Remedies Agency (KETRA)*

SECTION A: DETAILS OF THE APPLICANT

Note: Should the Agency decide to initiate a formal investigation it will publish the notice of initiation of the investigation in the Kenya Gazette and will identify the applicant in the notice. The application can also be brought by a representative body.

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

Company name: _____

Postal Address: _____

Physical Address: _____

Tel: (____) _____

Fax: (____) _____

Email: _____

Please attach a map indicating how to reach you as Annex A1.

Applicant's production relative to total domestic production (%) is:

A2 Indicate the exact location of your manufacturing site(s):

Physical Address:

Please attach a map as Annex A2 (if different to A1)

A3 The applicant has appointed the individual referred to below to act on its behalf in the investigation;

Contact Name: _____

Company and Position: _____

Address: _____ SAFEGUARD APPLICATION

FORM Kenya Trade Remedies Agency (KETRA)

Telephone: _____

Facsimile: _____

E-mail Address: _____

Alternative Contact

Name: _____

Company and Position: _____

Address: _____

Telephone: _____

Facsimile: _____

E-mail Address: _____

Or the applicant has not appointed a consultant/representative.

If you have appointed a consultant/representative, please complete their information below and attach a copy of the letter of appointment, setting out the scope and duration of the appointment, as required by ADR 4, as Annexure A3.

Name: _____

Company and Position: _____

Address: _____

Telephone: _____

Facsimile: _____

E-mail Address: _____

A4 Provide your company's internal organisation chart. Describe the functions performed by each group within the organisation. Attach as Annexure A4a.

List the major shareholders of your company. Provide the shareholding percentages for joint owners and/or major shareholders. Indicate all shareholders holding more than 5% of equity in your company. Attach as Annexure A4b.

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

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

Provide an outline diagram showing major associated or affiliated companies and SAFEGUARD APPLICATION FORM *Kenya Trade Remedies Agency (KETRA)*

your company's place within that structure. Attach as Annexure A4c.

A5 The applicant is an industrial organisation/public company/private company/closedcorporation/partnership/sole-proprietorship/co-operative/other (please specify).

Identify and provide details of any relationship you have with an exporter to the domestic market or importer of the goods.

A6 Indicate the franchise, manufacturing, licensing, know-how, technology and distribution agreements in place in respect of inputs, manufacturing and outputs which relate to the product that is the subject of this application:

A7 Name the product allegedly being exported:

A8 Country of origin/export

A9 List the factors in respect of which actual serious injury/a threat of serious injury/the retardation of the establishment of an industry is alleged. SAFEGUARD APPLICATION FORM *Kenya Trade Remedies Agency (KETRA)*

SECTION B DOMESTIC INDUSTRY

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

- a. Names, address, telephone and fax numbers and e-mail address of and position held by the organisation's officers to be contacted; Name of organization: _____
Name of contact person: _____
Designation: _____

Postal address: _____ Physical address: _____

Tel: (____) _____ Fax: (____) _____

Email: _____

- b. Name the producers in the industry affiliated to the organisation and supply information in the following format:-

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

FORMS - NOTICE OF INTENT TO PARTICIPATE

SUBJECT MATTER -----

FILE No. -----

NOTICE OF INTENTION TO PARTICIPATE (PARTY)

The Executive Director
Kenya Trade Remedies Agency
P.O. Box -----
NAIROBI

Notice is hereby given that the undersigned, -----
----- intends to participate in the above referenced matter.

The undersigned will not be represented by counsel

Or

The undersigned will be represented by counsel, whose name is -----
----- and whose address for the purposes of service is -----

Dated at this day of
.....20.....

Signature: -----

Name (Print): -----

Title: -----

Company Name: -----

Address: -----

Telephone: -----

Fax: -----

Email: -----

ACCESS TO NON-CONFIDENTIAL INFORMATION-2

PROCEDURES ON ACCESS TO NON-CONFIDENTIAL INFORMATION IN ANTI-DUMPING INVESTIGATIONS

Article 1 With a view to ensuring fairness, justice and openness in anti-dumping investigations, these Rules are formulated in accordance with provisions of the Kenya Trade Remedies Act.

Article 2 The Kenya Trade Remedies Agency (KETRA) shall be responsible for implementation of these Rules.

Article 3 Access to non-confidential information provided for in these Rules implies that the interested parties relevant to an anti-dumping case go to a place designated by KETRA to search, read, transcribe and copy the non-confidential information and materials submitted by other interested parties with regard to the anti-dumping case in question.

Article 4 KETRA permits all interested parties to have an access to all non-confidential information relating to the case under investigation.

Article 5 The accessible non-confidential information specified in Article 4 of these Rules includes:

- i. Non-confidential version of the application for initiation of an anti-dumping investigation submitted by the applicant;
- ii. Non-confidential version of the responses to the questionnaire and supplementary responses submitted by foreign responding exporters and producers;
- iii. Other non-confidential information submitted to KETRA by interested parties;
- iv. Requests made to KETRA by relevant interested parties, including but not limited to, request for extension of the time period for submission of the response to the questionnaire, request for

- adding of countries (regions) to be investigated, request for retroactive levy of anti-dumping duties, and requests for price undertakings, public hearings, reviews, etc.;
- v. Non-confidential information contained in the views and comments presented by other interested parties with respect to the requests mentioned in the above Paragraph of this Article;
 - vi. KETRA'S reply to the requests mentioned in Paragraph (iv) of this Article;
 - vii. Summary of meetings between KETRA and relevant interested parties;
 - viii. Public Notice and notifications issued by KETRA;
 - ix. Summary of on-the-spot verification carried out by KETRA;
 - x. Other non-confidential information KETRA considers accessible to the interested parties.

Article 6 When submitting relevant information to KETRA, interested parties shall mark it as non-confidential or confidential.

Provided that if the information provided by interested parties is confidential, the interested parties may apply for confidentiality treatment for such confidential information, and shall submit a non-confidential summary thereof, which summary shall be incorporated in the non-confidential version of the submission.

Provided further that in case information is not marked as confidential, KETRA may consider it as non-confidential, and make it accessible to other interested parties.

Article 7 Each interested party may, during the whole process of investigation of a case, get access to the non-confidential information in KETRA during office hours.

Article 8 Before having access to the non-confidential information, the interested party seeking such information shall contact in advance the relevant officials of KETRA and address the content and scope of the

information they intend to get access to.

Article 9 While searching the non-confidential information, the interested party shall present its identity card or other documents indicating its identity to relevant officials of KETRA and shall comply with any further identification and registration requirements that KETRA may impose.

Article 10 Interested parties may transcribe and copy the non-confidential information they have searched, but shall not share it with third parties.

Article 11 KETRA shall be responsible for interpretation of these Rules.

Article 12 These Rules shall enter into force from.....

DISCLOSURE OF INFORMATION-2

KETRA

PROCEDURES ON DISCLOSURE OF INFORMATION IN ANTI-DUMPING INVESTIGATIONS

Article 1 With a view to ensuring fairness, justice and openness of anti-dumping investigations, these Rules are formulated in accordance with provisions of the Kenya Trade Remedies Act.

Article 2 The Kenya Trade Remedies Agency (KETRA) shall be responsible for implementation of these Rules.

Article 3 The term "disclosure" provided for in these Rules refers to the procedure under which KETRA notifies relevant interested parties in an anti-dumping investigation who have provided information during the course of investigation of the essential data, information, evidence and reasons adopted for establishment of the existence of dumping and dumping margin for that particular interested party.

Article 4 Disclosures consist of disclosure after the preliminary determination is publicized, disclosure of the result of on-the-spot verification and disclosure before the final determination is made.

Article 5 Information which is contained in the disclosures after the preliminary determination is publicized and before the final determination is made includes:

- i. Regarding Normal Value: establishment of normal value, transaction data submitted and data having been adjusted adopted for calculation of normal value, data rejected for calculation of normal value and reasons for the rejection, etc.;
- ii. Regarding Export Prices: establishment of export prices, transaction data submitted and data having been adjusted

adopted for calculation of export prices, data rejected for calculation of export prices and reasons, etc.;

- iii. Regarding Costs: Data for the establishment of cost of production, allocation method for various expenses and data adopted, estimate of profits, establishment of abnormal or non-recurring items, etc.;
- iv. Usage of best information available and facts available and reasons, provided that confidential information of other interested parties is not involved;
- v. Methodologies for calculation of dumping margin;
- vi. Other information KETRA considers necessary to disclose.

Article 6 Disclosures shall be made in written form.

Article 7 KETRA shall make disclosure to the relevant interested parties within 20 days from the date of issuance of Public Notice of the preliminary determination in an anti-dumping investigation.

Article 8 KETRA shall, after the disclosure is made to the relevant interested parties, give that interested party no less than 10 days to make comments on the preliminary determination and the disclosed information and facts.

Such comments shall be in written form, and submitted to MOFTEC within a stipulated period of time.

Article 9 KETRA shall, within a reasonable period of time after the on-the-spot verification is completed, make disclosure concerning the result of the on-the-spot verification to the relevant exporters and producers whose data provided have been verified. Such disclosure includes:

- Whether the exporters and producers subject to the verification have been cooperative during the verification;

- Whether data, information and materials provided by such exporters and producers are genuine, accurate and complete;
- Whether such exporters and producers have conducted fraud or concealment;
- Further collection of information during the verification in the countries (regions) where such exporters and producers are located;
- Other information KETRA considers necessary to disclose.

Article 10 Where the disclosure is conducted before the final determination is made, KETRA shall give the relevant interested parties subject to the disclosure no less than 10 days to make comments on the disclosed information and facts.

Such comments shall be in written form, and submitted to KETRA within a stipulated period of time.

Article 11 Disclosure of confidential information concerning anti-dumping reviews shall be carried out in accordance with provisions of these Rules.

Article 12 KETRA shall be responsible for interpretation of these Rules.

Article 13 These Rules shall enter into force from the.....

**ACKNOWLEDGEMENT AND
UNDERTAKING OF PROPOSED EXPERT
WITNESS**

SUBJECT MATTER -----

FILE No. -----

ACKNOWLEDGEMENT AND UNDRTAKING OF EXPERT

1. As a proposed expert witness to the Kenya Trade Remedies Agency (KETRA)/ as an expert witness who has been recognized as such by the Agency, I, -----
-----(*name and address of proposed expert*), hereby acknowledge and undertake the following:
 1. I have a duty to assist KETRA impartially on matters relevant to my area of expertise, and I will provide such assistance.
 2. In providing any report or evidence to KETRA, I have a duty to KETRA to give fair, objective and impartial evidence.
 3. My opinion is impartial in the sense that it reflects an objective assessment of the questions at hand.
 4. My opinion is independent in the sense that it is the product of my own independent judgment, uninfluenced by who has retained me or the outcome of the litigation.
 5. My opinion is unbiased in the sense that it does not unfairly favour one party's position over another.
2. I understand the breadth and scope of these duties and am able and willing to carry them out.
3. I acknowledge that, if I am recognized as an expert by KETRA, any evidence or opinion that I will give may be assessed and weighed accordingly by KETRA in its deliberative processes.

(Date)

(Signature of proposed expert witness)

CERTIFICATE OF DESTRUCTION

CERTIFICATE OF DESTRUCTION

=====

In respect of confidential information disclosed to the firm noted below and pursuant to the terms and conditions in the request for disclosure, declaration and undertaking and in regards to the proceeding(s) listed below, I ----- (name of counsel referred to in the request for disclosure declaration and undertaking) hereby confirm that:

- a. all hard-copy documents and materials have been destroyed;
- b. all electronic-copy documents and materials have been destroyed. Where applicable, deleted from any server, and washed from any automatic back-up server(s), any protected documents or information provided to me in electronic format;and
- c. notes, charts and memoranda based on such documents andmaterials have been destroyed.

Specify herein below the proceeding(s) including the type of proceeding(s), sections of law (if relevant), product, country of export, date proceeding(s) initiated, parties to proceedings:

Dated at..... this..... day of
..... 20.....

Signature: -----

Name of counsel: -----

Name of Firm: -----

NB: The completed certificate of destruction must be sent to the Agency within 10 days of the close or termination of any investigation, or filing of notice of change of counsel or judicial review period.



**DISCLOSURE UNDERTAKING FOR
EMPLOYEES OF AND PERSONS UNDER
CONTRACT TO KETRA**

For employees of and persons under contract to KETRA

DISCLOSURE UNDERTAKING UNDER SECTION 27.3, 28, 34, 38 and 41 OF THE KENYA TRADE REMEDIES ACT NO. 32 of 2017

FOR OFFICIAL USE ONLY

Disclosure Undertaking No. _____

DECLARATION

I,

_____/ an
employee of or
Name (please print)

a person under contract to the _____ section of
KETRA,
(Name of Department)

hereby declare that:

- a. I ordinarily reside in Nairobi, Kenya;
- b. I have read and understand the above referenced sections of the Act. I understand every person who contravenes or fails to comply with the relevant sections of the Act and the Disclosure Undertaking is liable, if found guilty of an offence punishable on conviction, to a fine not exceeding Kenya Shillings Five Million or to imprisonment for a period not exceeding 5 years, or to both; and

UNDERTAKING

I hereby undertake:

- to use the information disclosed under the terms and conditions of this Undertaking exclusively for duties performed in respect of inquiries or investigations under the Kenya Trade Remedies Act No.32 of 2017, for which such information was so disclosed;
 - not to divulge information disclosed under the terms and conditions of this Undertaking, except to a person granted access to such information by the written decision of KETRA or to personnel of the KETRA;
 - not to reproduce documents and materials containing information disclosed under the terms and conditions of this Undertaking, except, on the authorization of the Executive Director, at the request of a person who, for the purpose of relevant proceedings in an investigation has access to such information pursuant to a decision of the Agency or at the request of personnel of the Agency;
- d. to report promptly to the Agency any violation of a Disclosure Undertaking;

- to inform the Agency immediately of any changes in the facts referred to in this Undertaking;
 - to keep confidential and to protect the information disclosed under the terms and conditions of this Undertaking in the following manner:
 - i. I will store all documents and materials containing information disclosed under the terms and conditions of this Undertaking in a locked vault, safe or other secure storage device when these documents and materials are not being used, and
1. I will not take any document or material containing information disclosed under the terms and conditions of this Undertaking from the offices of the Agency, except, under lock or seal, in the ordinary course of the business of the Agency pursuant to the direction of the Executive Director; and
- to return to the Executive Director all documents and materials containing information disclosed pursuant to a any decision to disclose in respect of proceeding in investigations, including notes, charts and memoranda based on any such information, upon completion of the proceeding.

DATED at _____, _____ this _____ day of _____ 20 ____

Signature of the employee of or person under contract to the Agency

Name (please print)

Position title

Address

LETTER OF AUTHORISATION LEGAL REPRESENTATION

SUBJECT MATTER : _____

FILE No. _____

LETTER OF AUTHORISATION FOR LEGAL REPRESENTATION

The Executive Director
Kenya Trade Remedies Agency
P.O. Box -----
NAIROBI

RE:

On behalf of..... , I notify the Kenya Trade Remedies Agency (KETRA) that the Counsel named below has been authorised to represent us in all matter related to the KETRA proceedings in relation to the matter referred above.

We authorise the counsel named below to access all communication and documentation related to our company in the matter referred above notwithstanding the confidentiality of their contents, and to make submissions on our behalf.

NAME OF COUNSEL: _____

LAW FIRM: _____

ADDRESS OF FIRM: _____

TELEPHONE: _____

EMAIL: _____

Our counsel may, at their discretion, be assisted by any of their associates.

Yours sincerely,

Signature
Name
Title

**REQUEST FOR DISCLOSURE
DECLARATION AND UNDERTAKING**

SUBJECT MATTER -----

FILE No. -----

**REQUEST FOR DISCLOSURE, DECLARATION AND UNDERTAKING
COUNSEL AND CONSULTANT**

I,.....(*name*)act as counsel on record
for.....(*name and address of
the party that is represented*) a party to the proceedings under the
Kenya Trade Remedies Act (KETRA)ordinarily practicing under -----
..... (*name and address of law firm*):

In this capacity, I request authorization to access the confidential
information which has been placed on the record of the above-noted
proceedings.

DECLARATION

I hereby declare that:

1. I am ordinarily resident in Kenya.
2. I have read and understood section 28 of the Kenya Trade Remedies Act relating to the disclosure of confidential information to authorised counsel.
3. I am not a director, servant or employee of the party for which I act, or of any other known participant in these proceedings.
4. That I have been authorised to legally represent (*name of the party*) in the above-mentioned proceedings. Attached herewith is a copy of the said Letter of Authorisation for Legal Representation.
5. I have read and understood the offence of breach of confidentiality under Section 38 and the punishment thereof in section 41 of the Kenya Trade Remedies Act.

UNDERTAKING

I hereby undertake:

1. to use the information disclosed under the terms and conditions of this Request for Disclosure, Declaration and Undertaking exclusively for duties performed in respect of the subject proceedings;
2. not to divulge information disclosed under the terms and conditions of this Request for Disclosure, Declaration and Undertaking except to personnel of the Kenya Trade Remedies Agency concerned with this particular proceeding, unless written permission to disclose such information to other parties has been provided by the Director General, Kenya Trade Remedies Agency;
3. not to reproduce , in any manner, information disclosed under the conditions of this undertaking without prior written approval by the Agency, with the exception of documents that are printed directly from any electronic media issued by the Agency under the condition that they be destroyed in accordance with clause 5 below;
4. not to copy to a computer, storage device or shared repository any information disclosed under the conditions of this undertaking and contained on any electronic media issued by the Agency, without prior written approval by the Agency;
5. to ensure the secure storage, transmission and transportation of any information disclosed under the terms and conditions of this Request for Disclosure, Declaration and Undertaking;
6. to destroy all hard copy and electronic files, documents and materials containing information disclosed under the terms and conditions of this Request for Disclosure, Declaration and Undertaking, including notes, charts and memoranda based on such information and to notify the Director General, through the Certificate of Destruction that such documents and materials have been destroyed within the earlier of thirty days of the completion of the proceedings, or within thirty days of the end of my participation in these proceedings. In the case of an appeal or judicial review related to these proceedings, destruction may be postponed with written approval of the Director General;
7. if the party that I represent files a notice of change of Counsel on record, within 10 days after filing that notice:

- a. To destroy all documents disclosed under the conditions of this undertaking and to file with the Agency a certificate of destruction pertaining to such documents, or
 - b. Upon consent from the Agency, to entrust such documents to any counsel replacing me in the proceedings who has signed a declaration and undertaking and has been granted access to such information; and
 - c. To return to the Agency, by courier or hand delivery, all electronic media issued by the Agency.
8. to inform the Director immediately of any changes to the facts referred to in the Declaration or of any violation or suspected violation of the Undertaking.

Dated at thisday
of.....20...

Signature: _____
Name: _____
Name and address of firm: _____

Telephone: _____
E-mail: _____

Request for disclosure declaration and undertaking-2

REQUEST FOR DISCLOSURE, DECLARATION AND UNDERTAKING

Request for disclosure of information to Authorised persons pursuant to section 28 of the Kenya Trade Remedies Act and Section 3.3 of the Anti-Dumping Regulations

I, [name], ordinarily practicing under [name and address of law firm], act as counsel for [name and address of the party that is represented], a party to the proceedings under the Kenya Trade Remedies Act (KETRA) regarding the [specify the proceedings, product, country of export, and date proceedings were initiated].

In this capacity, I request authorization to access the confidential information which has been placed on the record of the above-noted proceedings.

Part 1: Declaration

I declare that:

6. I have read and understood section 28 of the Kenya Trade Remedies Act and Section 3.3 of the Anti-Dumping regulation relating to the disclosure of confidential information to authorised counsel.
7. I am not a director, servant or employee of the party for which I act, or of any other known participant in these proceedings.
8. That I have been authorised to legally represent (name of the party) in the above-mentioned proceedings. Attached herewith is a copy of the said Letter of Authorisation for Legal Representation.
9. I have read and understood the offence of breach of confidentiality under Section 38 and the punishment thereof in section 41 of the Kenya Trade Remedies Act.

Part 2: Undertaking

I undertake:

10. to use the information disclosed under the terms and conditions of this Request for Disclosure, Declaration and Undertaking exclusively for duties performed regarding the above-noted proceedings;
11. not to divulge information disclosed under the terms and conditions of this Request for Disclosure, Declaration and Undertaking except to personnel of the Kenya Trade Remedies Agency concerned with

this particular proceeding, unless written permission to disclose such information to other parties has been provided by the Director General, Kenya Trade Remedies Agency;

12. to ensure the secure storage, transmission and transportation of any information disclosed under the terms and conditions of this Request for Disclosure, Declaration and Undertaking;
13. to destroy all hard copy and electronic files, documents and materials containing information disclosed under the terms and conditions of this Request for Disclosure, Declaration and Undertaking, including notes, charts and memoranda based on such information and to notify the Director General, through the Certificate of Destruction that such documents and materials have been destroyed within the earlier of thirty days of the completion of the proceedings, or within thirty days of the end of my participation in these proceedings. In the case of an appeal or judicial review related to these proceedings, destruction may be postponed with written approval of the Director General;
14. to inform the Director immediately of any changes to the facts referred to in the Declaration (Part 1) or of any violation or suspected violation of the Undertaking (Part 2).

Dated at this day of..... 20.....

Signature: _____
Name: _____
Name and address of firm: _____

Telephone: _____
E-mail: _____

Interim Review-2

KETRA

REGULATIONS ON INTERIM REVIEW OF DUMPING AND DUMPING MARGIN

Article 1 With a view to ensuring fairness, justice and openness of antidumping interim review, these Rules are formulated in accordance with provisions of the Kenya Trade Remedies Act.

Article 2 Kenya Trade Remedies Agency (KETRA) shall be responsible for implementation of these Rules.

Article 3 These Rules apply, during the period that anti-dumping measures are effective, to reviews on the necessity of whether to continue those measures under the original form and at the original level given the facts that the normal value and export price have changed since the anti-dumping measures entered into force (hereinafter referred to as "interim review").

Article 4 KETRA may initiate an interim review upon application.

Provided that where KETRA does not receive an application for interim review but has reasonable ground for interim review, it may initiate an interim review on its own initiative.

Article 5 Domestic industries or natural person, legal person and other organizations representing the domestic industry (hereinafter referred to as "domestic industry"), or exporters and producers of the exporting countries (regions) concerned, and domestic importers may all be entitled to file an application with KETRA for interim reviews.

Article 6 The application for an interim review shall be filed within 30 days from the date after each single year has elapsed following the anti-dumping measures entering into force.

Provided that an application for an interim review on the determination of the previous review shall be filed within 30 days from the date after one year has elapsed following the determination of review entering into force.

Article 7 The exporters and producers applying for interim reviews shall be the one who have exported to Kenya the product subject to the anti-dumping measures (hereinafter referred to as "product under investigation") within a period of 12 months prior to the application.

The export referred in the previous Paragraph of this Article shall be made in sufficient quantities so as to constitute the basis to determine export prices. Such quantities shall be established on the basis of transaction volume under the normal commercial conditions of the product under investigation.

Article 8 Where the original anti-dumping measure is the imposition of anti-dumping duty, the export which is not subject to the anti-dumping duty shall not be the basis for the application of interim reviews.

Article 9 The application for an interim review submitted by exporters or producers shall be in a written form, and signed by the legal representative or his/her authorized person, and shall include the following evidence and materials:

- i. Applicant's name, address and other relevant information;
- ii. Data of domestic sales made by the applicant 12 months prior to the application;
- iii. Data of exports to Kenya made by the applicant 12 months prior to the application;
- iv. All adjustments necessary for calculation of dumping margin and preliminary result of dumping margin calculation;
- v. Other information that applicant considers necessary to address.

The submission of materials mentioned in Subparagraphs (i) to (iv) of the above Paragraph of this Article should be, with respect to the content and the form, in line with requirements specified in the original anti-dumping questionnaire.

Article 10 The application filed by the exporters and producers for an interim review shall be classified into confidential version (if the applicant requests for confidentiality treatment) and non-confidential version, one original application and 6 copies shall be submitted for both the confidential version and the non-confidential version respectively.

Article 11 KETRA shall, within 7 working days upon the receipt of the application for the interim review from exporters or producers, notify the applicant of the original antidumping investigation; the original applicant may, within 21 days after being notified, make comments on whether such review shall be initiated.

Article 12 Where domestic industry files an application for an interim review, the evidence and materials provided by the domestic industry concerning dumping and the applicant's standing shall be in conformity with provisions of KETRA Regulations on Initiation of Antidumping Investigations”.

Article 13 The application for an interim review filed by the domestic industry may cover all exporters and producers in all or only a proportion of exporting countries (regions) involved in the original anti-dumping investigation, or it may also limit expressly the scope of review to some specified exporters and producers.

Article 14 The formality of the application for an interim review filed by the domestic industry shall be in line with Article 10 of these Rules.

Article 15 Upon the receipt of the application for an interim review filed by the domestic industry, KETRA shall, within 7 working days, provide to the representative institute of the exporting countries (regions) concerned in Kenya a non-confidential version and a non-confidential summary of the confidential information of the application for the review.

Article 16 The exporters and producers may comment on whether a review shall be initiated within 21 days after KETRA has provided to the representative institute of the exporting countries (regions) concerned in Kenya the non-confidential version and the non-confidential summary of the confidential information of the application for the review.

Article 17 The application for interim review filed by importers shall comply with relevant provisions specified in Articles 9 and 10 of these Rules concerning application for interim reviews filed by the exporters and producers.

Article 18 Where the importer is not related to the exporters and producers concerned, and thereby cannot immediately obtain the evidence and materials concerning the normal value and export price specified in Article 9 of these Rules, or the exporters and producers concerned do not agree to provide the above-mentioned evidence and materials to the importer, the importer in question shall provide a statement made by the exporters and producers, in which the exporters and producers concerned have explicitly expressed that the dumping margin has been reduced or eliminated, and the relevant evidence and materials will be submitted directly to the KETRA under the form and the content as required and specified within 30 days from the date on which the application for the review is filed by the importer.

Article 19 The evidence and materials which the exporters and producers concerned submit according to Article 18 of these Rules shall comply with provisions of Article 10 of these Rules.

Article 20 KETRA shall, within 7 working days upon the receipt of the application for the interim review from importer, notify the applicant of the original antidumping investigation; the original applicant may, within 21 days after being notified, make comments on whether such review should be initiated.

Article 21 KETRA shall normally make a decision of whether to initiate a review investigation within 60 days upon the receipt of the application for the interim review.

Article 22 Having found, through examination, that the application for the interim review and the attached evidence and materials are not in conformity with provisions of these Rules, KETRA may require the applicant provide additional information and make amendment within a specified period of time. If the applicant fails to provide additional information and make amendment within the time limit, or after being supplemented or amended, the application does not yet comply with the requirements under these Rules, KETRA may reject the application, and notify the applicant in writing and give reasons for that rejection.

Article 23 KETRA shall give a Public Notice upon its decision made to initiate an interim review. The Public Notice shall contain the following information:

- Description of the product to be investigated;
- Name of exporters, producers to be investigated and name of the countries (regions) or countries (regions) of origin;
- Date of initiation of the review;
- Investigation period for review;
- Summary of grounds on whether dumping margin is increased or reduced, or eliminated;
- Time limit for interested parties to comment and to submit the relevant information;
- Intent of the investigating authority to carry out an on-the-spot verification;
- Potential result for non-cooperation by relevant interested parties.
- Ways to contact the investigating authority.

Article 24 Where exporters and producers file an application for interim review, the investigation of the review shall be limited only to the normal value, export prices and

dumping margin of the product under investigation of the applicant.

Article 25 Where the domestic industry files an application for interim review, the investigation of the review shall cover the normal value, export prices and dumping margin of the product under investigation of all exporters and producers concerned of the countries (regions) specified in the application. Those exporters and producers, whose dumping margins were determined as zero or *de minimis* in the original anti-dumping investigation, shall also be subject to the review investigation.

Where the domestic industry files an application for interim review only on some individual exporter and producer in exporting countries (regions) of the original antidumping investigation, KETRA may focus its investigation only on the normal value, export prices and dumping margin of the product under investigation of the aforesaid exporter and producer.

Article 26 Where the importer applies for an interim review, the investigation of the review shall be limited only to the normal value, export prices and dumping margin of the product under investigation of the exporters and producers who have stated to submit relevant evidence and materials to KETRA.

Article 27 The period of investigation for an interim review is the 12 months prior to the submission of the application for the review.

Article 28 In case where the number of exporters and producers, the type of products or transactions is so large that it would be unduly burdensome and thereby would impede the investigation to be completed timely to determine a separate dumping margin to each individual exporters and producers or to investigate all types of products or all transactions, KETRA may use sampling method for the investigation.

Article 31 During the investigation of interim review, where the export price is constructed on the basis of the price at which the imported product is resold to the first independent purchaser, and where the exporters or producers provide sufficient evidence to prove that the anti-dumping duty has been duly reflected in the price at which the imported products are resold to the first independent purchaser and in the price for the consequent sales in Kenya, KETRA shall not deduct the amount of anti-dumping duty paid while calculating the constructed export price.

Article 32 KETRA may conduct an on-the-spot verification on the accuracy and completeness of the information and materials provided by the exporters and

producers.

Article 33 Preliminary determination does not need to be made in interim reviews. However, after having got preliminary conclusion of the investigation, KETRA shall disclose facts and reasons on which the preliminary conclusion is based and shall give no less than 10 days to the interested parties for making comments and submitting additional information.

Article 34 The review applicant shall not withdraw its application after the preliminary conclusion of the investigation for interim review, the facts and reasons on which such preliminary conclusion are based have been disclosed.

Article 35 The exporter may offer a price undertaking within 15 days after the preliminary conclusion of the investigation for interim review, the facts and reasons on which the preliminary conclusion are based have been disclosed.

If KETRA decides to accept the price undertaking offered, KETRA shall, submit a proposal to the Kenya Revenue Authority, who shall make a decision thereof upon the proposal submitted by KETRA. Such decision shall be published in the Public Notice by KETRA.

Article 36 The interim review shall be completed within 12 months from the date of its initiation.

Article 37 KETRA shall, 15 days prior to the end of the review investigation, submit a proposal to the Kenya Revenue Authority for retaining, amending or removing the anti-dumping duty, and shall, according to the decision made by the Kenya Revenue Authority, give a Public Notice before the review investigation is ended.

Article 38 During the course of interim review, the original anti-dumping measures shall remain in force. The determination of the review shall enter into force from the date on which the Public Notice for the determination of the review is given, without retroactive assessment.

Article 39 Where an investigation of interim review, having been applied by exporters, producers and importers concerned one year prior to the expiration of the anti-dumping measure, is not completed at the end of the validity of the anti-dumping measure, meanwhile, neither the domestic industry applies for sunset review nor KETRA decides to initiate such sunset review on its own initiative, KETRA shall give a Public Notice to terminate the ongoing interim review and the application of the anti-dumping measure.

Article 40 Where an interim review, having been applied by domestic industry one year prior to expiration of the anti-dumping measures, is not completed by the expiration of the anti-dumping measure, KETRA may regard it as the domestic industry has already filed an application for sunset review, and may initiate the sunset review by giving a Public Notice. KETRA may combine the interim review and sunset review and make a determination simultaneously.

Article 41 KETRA shall be responsible for interpretation of these Rules.

Article 42 These Rules shall enter into force from the

ANTI-CIRCUMVENTION

**STATEMENT OF COMPLAINT FOR ANTI-CIRCUMVENTION REVIEW
OF
MEASURE(S) _____**

(statement should be on the applicant's letterhead)

(date)

Director General,
Kenya Trade Remedies Agency

NAIROBI

I, (name), (position title), of (name of company), certify that the information and evidence submitted in this complaint to the Kenya Trade Remedies Agency is true, accurate and complete.

(Company name or association) is a (producer, importer, or exporter) of (name of products).

This complaint concerns the circumvention of (identify the measure(s)) by the importation of (name of product) and contains the information listed below:

I believe that the information contained in this application provides reasonable grounds for review of the measure and is complete and correct to the best of my knowledge.

INSTRUCTIONS

- For further information regarding the requirements for filing a Statement of Complaint for Anti-Circumvention Review, parties are advised to consult the Second Schedule to the Kenya Trade Remedies Act and the relevant parts of the Regulations thereto.
- Parties should be prepared to substantiate all information submitted. Any worksheets used in preparing the application should therefore be retained to facilitate verification by the Agency.
- Some questions require attachments to be provided. The attachment numbering sequence should refer to the question answered and as contemplated in the various sections below.
- Substantiate your answers with catalogues, flow charts, brochures and other literature/samples and attach them as Annexure.

A. Identity of the Complainant

Provide the complete name, address, email address and telephone number of the party that is making the complaint and identify the representative that the KETRA should contact for more information.

Provide a statement indicating whether the complainant is an importer, exporter or producer of goods that are subject to the measure(s) allegedly being circumvented or of like goods (i.e. identical or similar goods) in relation to those subject goods.

B. Applicable Measure being Circumvented

Provide details of the current measure of the government that is allegedly being circumvented including the definition of the goods that are subject to the measure.

- indicate the tariff classification
- the countries and/or companies affected
- specified date of publication of the measure

This may include more than one measure.

C. Allegations of Circumvention and Supporting Information

Provide an itemized explanation of the allegations in regards to circumvention for example:

- describe the change in trade pattern,
- identify the principle cause of the change in trade pattern
- indicate the prescribed activity that is occurring,
- explain how the imports are undermining the remedial effects of a measure,
- minor modifications of the product subject to anti-dumping duty,
- absorption of anti-dumping duty by exporter or importer etc

Parties are encouraged to include any information that supports these allegations. For assistance in determining what information to provide, parties should refer to the anti-circumvention factors in the relevant Regulations.

D. Description of the Goods

- Precisely describe the goods whose importation is alleged to circumvent the measure. Include a description of their physical characteristics, their uses, their packaging, and, if any, their technical specifications and their trade name.

If available, provide product literature for the goods including any promotional material.

- Indicate the country where the goods are produced and where they are exported from.
- Indicate if the allegations are in respect of goods imported from a particular exporter or in respect of all such goods imported from a particular country.
- Provide the HS classification numbers used when the goods are imported into domestic market.

E. Other Parties

Identify the importers of the goods, if known, and provide their complete name, address, email address and telephone number.

Identify the producers or exporters of the goods, if known, and provide their complete name, address, email address and telephone number.

Identify the domestic producers of like goods, if known, and each association of such domestic producers, and provide their complete name, address, email address and telephone number.

F. Any Other Information

Written complaints may lead to an anti-circumvention investigation. Any relevant information that supports allegations of circumvention should be included in the complaint to enable KETRA to effectively assess the complaint.

Name: _____

Signed: _____

Position: _____

INTERIM REVIEW

**APPLICATION FOR INTERIM REVIEW/WITHDRAWAL OF
MEASURE(S) _____
UNDER PARAGRAPHS 24 OR 52 OF THE SECOND SCHEDULE TO
THE KENYA TRADE REMEDIES ACT NO. 32 OF 2017**

(Statement should be on the applicant's letterhead & dated)

In accordance with paragraphs 24 or 52 of the Second Schedule to the Kenya Trade Remedies Act No. 32 of 2017 and Parts IV A and B of the Anti-Dumping/Countervailing Regulations, I request that the Agency initiate a review of the above referenced measure in respect of the goods the subject of this application to;

- A. **VARIABLE FACTOR REVIEW: Revise the level of the measure** because one or more of the variable factors relevant to the taking of the measures as originally determined have now changed.

In this case the factors that I consider to have changed are;
(indicate which one(s))

1. Normal value
2. Export price
3. Non injurious price
4. Subsidy level

The variable factors review is in relation to:

1. A particular exporter (if so provide name and country details)
2. Exporters generally

OR

- B. **REVOCATION REVIEW: Revoke or withdraw the measure** because the measures are no longer warranted

In this case the measure I consider should be revoked is:

1. The dumping duty notice
2. The countervailing duty notice
3. The undertaking

The revocation review is in relation to:

1. A particular exporter (if so provide name and country details)
2. Exporters generally

DECLARATION

I, (name), (position title), of (name of company), certify that the information and evidence submitted in this complaint to the Kenya Trade Remedies Agency is true, accurate and complete.

(Company name or association) is a (producer, importer, or exporter) of (name of products).

This complaint concerns the change of circumstances relating to (identify the measure(s)) on the importation of (name of product) and contains the information listed below.

I believe that the information contained in this application provides reasonable grounds for review of the measure and is complete and correct to the best of my knowledge and belief.

Name: _____

Signed: _____

Position: _____

Company: _____

Date: _____

INSTRUCTIONS

- For further information regarding the requirements for filing an application for interim review or revocation/withdrawal of measures, parties are advised to consult the relevant Schedule to the Kenya Trade Remedies Act and the relevant parts of the Regulations thereto.
- Parties should be prepared to substantiate all information submitted. Any worksheets used in preparing the application should therefore be retained to facilitate verification by the Agency.
- Some questions require attachments to be provided. The attachment numbering sequence should refer to the question answered and as contemplated in the various sections below.
- Substantiate your answers with catalogues, flow charts, brochures and other literature/samples and attach them as Annexure. It is in the interest of the applicants to provide as much relevant, accurate and comprehensive evidence support of the application as possible.
- The Agency’s client support section may provide information about procedures and the information required in the application form. Contact the team on:

Phone: _____

Email: _____

G. Identity of the Applicant

Provide the complete name, address, email address and telephone number of the party that is making the application and identify the representative that the KETRA should contact for more information.

Provide a statement indicating whether the applicant is an importer, exporter or producer of goods that are subject to the measure(s) being reviewed or of like goods (i.e. identical or similar goods) in relation to those subject goods.

Provide details of other parties supporting this application

Describe your interest as an affected party.

H. Applicable Measure being Reviewed

Provide details of the current measure of the government that is allegedly being reviewed including the definition of the goods that are subject to the measure.

1. indicate the tariff classification
2. the countries and/or companies affected
3. specified date of publication of the measure

This may include more than one measure.

I. Reasons for Review and Supporting Evidence

Provide a detailed statement setting out your explanations of changed circumstances/factors

Indicate the amount by which that factor is likely to have changed since measures were last imposed and evidence in support

Provide your opinion of what the causes of the change are and whether these causes are likely to persist.

Changed Variable Factors

Normal value

Evidence of changed normal values may be current price lists for domestic sales; quotations or invoices relating to domestic sales; or published information on the domestic selling prices. Or, where a normal value had been based on domestic costs and profit an estimate may be made of the changes that have occurred in the cost to make and sell the goods sold in the exporter's domestic market (plus any profit).

Export Price

Evidence of changed export prices can be current price lists or sales invoices for export sales, or published information. If this information is unavailable the current free on board (FOB) export price could be estimated by deducting the relevant expenses and an amount for profit from the current selling price in the domestic market.

Where it is determined that there is insufficient or unreliable information to ascertain an export price due to an absence or low volume of exports of goods to the domestic market, the export price may be constructed. When making this determination, the Agency will have regard to the previous volumes of exports of those goods, patterns of trade for like goods or factors affecting patterns of trade for like goods that are not within the control of the exporter. In order to assist the Agency in this case, the applicants must provide to provide additional information.

Non-injurious price

Changed non-injurious prices (normally expressed at FOB level) may be demonstrated by evidence of changes in the unsuppressed selling price in the domestic market; or changes to the various charges and expenses incurred upon importation and subsequent re-sale in the domestic market.

Anti-Dumping Measures are no longer Warranted

An applicant is seeking a review on the grounds that the measures are no longer warranted must provide a detailed statement setting out the reasons.

Relevant evidence may be:

evidence that there is no current dumping or subsidisation; provide evidence that there is no dumping or subsidization and why dumping or subsidization is unlikely to recur if measures were revoked/withdrawn

- evidence that any current dumping or subsidisation is not causing injury; Provide evidence that there is no current injury, and there is unlikely to be a recurrence of injury if the measures were to be revoked
- evidence that the measures are having no effect and there is no current injury; and
- an assessment of why a recurrence or continuation of the dumping and subsidisation and of the injury is unlikely were the measures to be revoked (while there may be no current dumping or subsidisation this does not, of itself, mean that the measure must be revoked).

Evidence could examine why the domestic industry was no longer suffering material injury or why there was no causal link between the dumping or the subsidisation and the material injury. Evidence that there is no longer a domestic industry represents the simplest case for revocation.

If the Agency is not satisfied that there appear to be reasonable grounds for the applicants' assertions then the application must be rejected. The supporting evidence in support of the review request should show the changed circumstances are since the time the last notice was published or undertaking accepted.

Parties are encouraged to include accurate, relevant and comprehensive information that supports these allegations. For assistance in determining what information to provide, parties should refer to the relevant Regulations.

J. Description of the Goods

- Precisely describe the goods the subject of the application to

review the measure. Include a description of their

physical characteristics, their uses, their packaging, and, if any, their technical specifications and their trade name.

If available, provide product literature for the goods including any promotional material.

- Indicate the country where the goods are produced and where they are exported from.
- Indicate if the review is in respect of goods imported from a particular exporter or in respect of all such goods imported from a particular country.
- Provide the HS classification numbers used when the goods are imported into domestic market.

K. Other Parties

Identify the importers of the goods, if known, and provide their complete name, address, email address and telephone number.

Identify the producers or exporters of the goods, if known, and provide their complete name, address, email address and telephone number.

Identify the domestic producers of like goods, if known, and each association of such domestic producers, and provide their complete name, address, email address and telephone number.

L. Any Other Information

Applications may lead to investigation. Any relevant information that supports the review/revocation should be included in the complaint to enable KETRA to effectively assess it.