



Republic of Mauritius

## **INTERNATIONAL TRADE DIVISION**

### **MINISTRY OF FOREIGN AFFAIRS, REGIONAL INTEGRATION AND INTERNATIONAL TRADE**

#### **REPUBLIC OF MAURITIUS**

#### ***QUESTIONNAIRE REQUESTING THE INITIATION OF A COUNTERVAILING INVESTIGATION CONCERNING IMPORTS OF***

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(insert product)

#### ***PRODUCT ORIGINATING IN OR EXPORTED FROM***

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(insert country(ies))

#### **APPLICANT:**

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(insert name of company(ies) filing the application)

**International Trade Division**  
**Ministry of Foreign Affairs, Regional Integration and International Trade**  
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## GLOSSARY

|                          |  |
|--------------------------|--|
| The Act                  | Trade (Anti-Dumping and Countervailing Measures) Act 2010  |
| CIF                      | Cost, insurance and freight  |
| CSO                      | Central Statistics Office of the Republic of Mauritius   |
| IA                       | International Trade Division, Ministry of Foreign Affairs, Regional Integration and International Trade of the Republic of Mauritius   |
| IP                       | Product imported from the country(ies) covered by the application  |
| ITD                      | International Trade Division, Ministry of Foreign Affairs, Regional Integration and International Trade  |
| Direct production cost   | Costs directly related to the production of the product, e.g. raw materials and components. Also called variable costs   |
| Fixed cost               | Costs that are fixed, i.e. costs that do not change along with changes in production volumes. Also called indirect production costs  |
| GATT                     | General Agreement on Tariffs and Trade   |
| Gross profit             | Difference between selling price and cost of production  |
| IP                       | Investigated product, i.e. the alleged subsidised product  |
| Indirect production cost | Costs indirectly related to the production of the product, e.g. direct labour (where the number of labour units does not change with changes in production volumes) and depreciation. Also known as fixed cost |
| MRA                      | Mauritius Revenue Agency   |
| Net profit               | Difference between selling price and total cost  |
| SCM Agreement            | WTO Agreement on Subsidies and Countervailing Measures   |
| WTO                      | World Trade Organisation   |

## INTRODUCTION

The applicant must fill this Application Questionnaire. It is highly recommended that before doing so, the applicant reads carefully the Guide provided separately. If after reading it, you still have doubts or questions, please contact without delay the investigating authority:

**Director, Trade Policy**  
**International Trade Division**  
**Ministry of Foreign Affairs, Regional Integration and International Trade**

Telephone: +230-2138236

Fax: +230-2126368

Email: [trade-defence-applications@mail.gov.mu](mailto:trade-defence-applications@mail.gov.mu)

Webpage: <http://www.gov.mu>

1. Countervailing proceedings are conducted in terms of the Trade (Anti-Dumping and Countervailing Measures) Act 2010 (the Act). Being a Member of the WTO, in applying the Act Mauritius must act consistently with Article VI of the General Agreement on Tariffs and Trade 1994 and the WTO Subsidies and Countervailing Measures Agreement.
2. The purpose of this questionnaire is to help the Mauritian industry bring together in a concise and logical form the information needed by the Investigating Authority, a body within the International Trade Division (ITD) of the Ministry of Foreign Affairs, Regional Integration and International Trade of the Republic of Mauritius (referred to as the IA) and headed by the Director, Trade Policy of the ITD, to decide whether or not to initiate a formal investigation. This application will also serve as a basis for further investigation.
3. If the applicant is an association on behalf of some or all of its members or a consulting firm acting on behalf of some Mauritian producers, note that many replies and information requested below will need to be provided separately by each Mauritian company supporting the application. This is for instance the case of the financial statements and the signed declaration of support. If you have any doubts on this matter, **please contact the IA immediately**.
4. **The IA can only proceed to initiate an investigation if it has *prima facie* proof of the existence and amount of subsidies, injury and of a causal link between them.** The application must therefore contain such a proof to the extent it is reasonably available to the applicant. Information provided should be in full and accurate.<sup>1</sup> Supporting documentary evidence from commercial or governmental sources, e.g. commercial invoices or offers, official trade and production statistics, shall be included in the application. **Mere statements unsubstantiated by proof will not be taken into consideration by the IA.**

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<sup>1</sup> According to section 75(1) of the Act “Any person who, for the purposes of this Act, furnishes to the Investigating Authority any information which is false or misleading in a material particular, shall commit an offence and shall, on conviction, be liable to a fine not exceeding 100,000 rupees and to imprisonment for a term not exceeding 2 years.”

5. The cooperation of the applicant and perhaps of other Mauritian producers of the like product will have to continue throughout the proceeding, should the investigation be initiated. In particular, a reply to an additional injury questionnaire updating information contained in the application will be required by the IA. Moreover, the IA will have to verify all the information provided by the applicant as well as other Mauritian producers. **In case that you are not in the position to accept these additional investigative steps, an investigation will have to be terminated without the imposition of measures.**
6. All cost related information should be reconcilable to the financial statements or management accounts.
7. This proceeding is to be conducted in English.
8. **It is advisable that you seek consultations with the IA prior to submitting your application to ensure that the application is properly documented.** This can prevent any undue delays owing to incomplete information and also prevent unnecessary costs incurred in printing the required number of copies of the application and burning CDs before the application is ready to be submitted properly.
9. The response to this application questionnaire, as well as to any other additional request formulated by the IA subsequently, is to be made **in hard copy and electronic form**, as indicated below:
  - **Hard copies:** Any document – whether questionnaire response and subsequent documents requested – submitted to the IA must include the **original plus three (3) copies of the original (in both confidential and non-confidential versions)**. The original document must be initialled in every page and the declaration of accurateness and completeness must be signed by the company’s responsible officer.
  - **Electronic submissions:** Confidential versions, and non-confidential summaries, of the questionnaire response and other documents for which the IA expressly requires that should be submitted electronically must be provided in any of the following formats:

| Document Type   | Formats supported   | Latest Version Supported |
|-----------------|---------------------|--------------------------|
| Word Processing | Microsoft Word      | Word 2007                |
| Spreadsheet     | Microsoft Excel     | Excel 2007               |
| Database        | Microsoft Access    | Access 2007              |
| Other           | Adobe Acrobat (PDF) | 7.0                      |
|                 | PowerPoint          | 2007                     |

**If you feel that you cannot present the information as requested, please contact the IA immediately.**

Electronic submissions must be made on CD-ROM, **free of viruses**. CD-ROMs must be labelled clearly indicating:

1. Party's name;
2. Product(s) concerned;
3. Type of information on the disc;
3. Software used; and
5. Whether the information is confidential or non-confidential.

**CD-ROMs must be write-protected.**

**Electronic (email) submission:** The application (including its annexures) may also be submitted by email. Such submission must be addressed to the Director, Trade Policy, at the following email address: [trade-defence-applications@mail.gov.mu](mailto:trade-defence-applications@mail.gov.mu). Please include the scanned pdf declaration of accurateness and completeness duly signed by the company's responsible officer. In the field "Matter" of the email, it should state: "Application for the initiation of a countervailing investigation concerning imports of [insert product] originating or exported from [insert the country(ies)]". Please bear in mind that even if you submit the application by email, you must also submit hardcopies of the application (see requirements above). Also note that submitting your questionnaire by e-mail may subject your firm's business proprietary information to transmission over an unsecure environment and to possible disclosure. If you choose this option, the IA warns you that any risk involving possible disclosure of such information is assumed by the submitter and not by the IA.

10. Any documents – whether hard copies or electronic submissions – not complying with the above formalities **may be returned** to the applicant and **not be used** by the IA.
11. A copy of this questionnaire is provided in electronic (Word) format. Tables and other Annexures are provided in Excel format.
12. **According to section 36(1) of the Act, the IA will treat in confidence all information for which such treatment is requested. Access to confidential information will be restricted to the officers in charge of the investigation.<sup>2</sup> The IA has means in place to ensure that only authorised personnel can have access to all documentation submitted as confidential.**
13. However, the IA is required by law to ensure that all interested parties to a countervailing investigation are given reasonable opportunity to have access to all **non-confidential** information relevant to the presentation of their case and that is used by the IA. For instance, the IA has the obligation to provide a copy of the non-confidential application to the government of the exporting country(ies) investigated and to the exporter(s) identified in the application.
14. Any information which is by nature confidential (e.g. business or trade secrets concerning the nature of a product, production processes, operations, production equipment, or machinery; information concerning the financial condition of a company which is not publicly available; information concerning the costs, identification of customers, sales, inventories, shipments, or amount or source of any income, profit, loss or expenditure related to the manufacture and sale of a product), or which if disclosed would be of significant competitive advantage to a competitor, or which if disclosed could have a significant adverse effect upon a person supplying the information or upon a person from whom the supplier acquired the information, or which is provided on a confidential basis by parties to an investigation will, **upon good cause being shown**, be treated as confidential by the IA.
15. Parties requesting that information be treated as confidential shall:
  - (a) **clearly** identify the information for which confidential treatment is requested;

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<sup>2</sup> If any party appeals a determination of the Investigating Authority, according to relevant Mauritian legislation, Courts may need to review portions of the confidential register. By submitting information to the IA, parties expressly accept that confidential information submitted by them may have to be disclosed to Courts under appropriate procedures.

- (b) provide **justification** for the request for confidential treatment; and
- (c) provide **a non-confidential version or non-confidential summary of the information for which confidential treatment is requested**, or if it is claimed that the information is not susceptible to such a summary, a statement of the reasons why such a summary is not possible. A non-confidential version should reproduce the original but have information considered to be confidential either omitted or summarised. Non-confidential versions should contain sufficient details to allow other interested parties a reasonable understanding of the information submitted on confidential basis. Annexure I to this questionnaire provides guidelines on how to prepare a non-confidential summary of the confidential information.

**Please Note:\*\*** If the IA finds that the request for confidentiality is not warranted and the supplier of the information is either unwilling to make the information public or to authorise its disclosure in generalised or summary form, it **may disregard** such information unless it can be demonstrated to their satisfaction from appropriate sources that the information is correct.

**\*\*** Information for which confidential treatment is **not** requested at the time it is submitted will be treated as non-confidential and **will be included in the public file** of the investigation. The public file is available for perusal or copying by any interested party or member of the public.

- 16. **You should indicate clearly in any submission, including this application, what information you consider to be confidential.**
- 17. It should be noted that if any further submissions are made, non-confidential versions are also required.

## SECTION A – GENERAL INFORMATION

### A-1 Identify your company

Name:  
Address:  
Tax ID No:  
Telephone No:  
Fax No:  
Webpage:  
E-mail Address:

### A-2 Identify the authorised contact person of your company

Name:  
Designation:  
Address:  
Telephone No:  
Fax No:  
E-mail address:

### A-3 Legal Representative

If you have appointed a legal representative to assist you in this proceeding, please provide following details about him/her:

Name:  
Address:  
Telephone No:  
Fax No:  
E-mail address:

Please submit an authorization (“Power of Attorney”) for the legal representative to act on your behalf. **A template is enclosed as Annexure A-3.**

### A-4 Corporate Information

A-4.1 Indicate the legal form of your company. Provide a copy of the company’s inscription in the official registry showing the existence of the company at the time of filing the application. **If there is any chance during the investigation, please inform the IA immediately.**

A-4.2 Provide a complete listing of all shareholders that hold more than 5% of the shares in your company in the following format:

| Name | Type of share | Number of shares | Percentage shareholding | Percentage of voting rights |
|------|---------------|------------------|-------------------------|-----------------------------|
| 1.   |               |                  |                         |                             |
| 2.   |               |                  |                         |                             |
| 3.   |               |                  |                         |                             |
| Etc. |               |                  |                         |                             |

A-4.3 Please indicate address(es) of all your offices involved in the administration, sales and production of the like product.

Office:  
Address:

A-4.4 Supply a detailed diagram outlining the overall internal hierarchical and organisational structure of your company. Please attach it as Annexure A-4.4.

A-4.5 Please provide your company's worldwide corporate structure and affiliations, including parent companies, subsidiaries or other related companies. Please attach it as Annexure A-4.5.

Are you related to 1) any of the exporters of product allegedly subsidised or 2) any of the importers of the like product in Mauritius? If so, state to whom you are related. According to Article 2 of the Act, relationship exists where:

- (a) one of them directly or indirectly controls the other;
- (b) both of them are directly or indirectly controlled by a third person; or
- (c) together they directly or indirectly control a third person,

provided that there are grounds for believing or suspecting that the effect of the relationship is such as to cause the producer concerned to behave differently from non-related producers, and one shall be deemed to control another when the former is legally or operationally in a position to exercise restraint or direction over the latter.

A-4.6 Provide, for all countries, the following information for subsidiaries and related companies. Also specify the activities of each related/subsidiary company.

| Name, address, telephone & fax numbers of related company | List of activities | Involved with the product under investigation (Yes/No) | Involved in production of the product under investigation (Yes/No) | Customer for the product under investigation (Yes/No) | Supplier of raw material for the product under investigation (Yes/No) | Your percentage of share in the company | Percentage of share of the company in your company |
|---|--------------------|--|--|---|---|---|--|
|   |                    |  |  |   |   |   |  |
|   |                    |  |  |   |   |   |  |
|   |                    |  |  |   |   |   |  |

A-4.7 Describe the nature of your relationship with those company(s). State whether you share any board members or senior executives with any of those entities. If so identify the persons and nature of their affiliations.

A-4.8 Specify in detail any financial or contractual links and joint ventures with any other company concerning production, sales, licensing, technical and patent agreements for the product under investigation.

**A-5 Range of products**

A-5.1 List all the products manufactured and/or sold by your company in Mauritius. If possible, please include a brochure of all your products.

**A-6 Accounting principles and cost accounting system**

A-6.1 State the financial year of your company.

A-6.2 Please indicate the address where the accounting records concerning the activities of the company are located. If they are kept in different locations please indicate which records are kept at which location.

A-6.3 For the three most recent complete financial periods, enclose copies of the following information:

- (a) Chart of accounts;
- (b) Audited accounts (consolidated and unconsolidated, if applicable) including balance sheet, profit and loss accounts and all reports, notes, footnotes and auditor's opinion to these documents. In the event that your company's accounts have not been audited, attach the financial statements that are required by your country's business law.
- (c) Internal financial statements, management reports, standard cost reviews, etc. which are prepared and maintained by your company for the product concerned.

A-6.4 Please describe the accounting principles and practices used by your company. Also provide a description of the cost accounting system used by your company.

Please explain the details or differences, if any, between your company's normal cost accounting system and the cost accounting system used to record the production costs of the products concerned and to complete the reply to this questionnaire.

A-6.5 Indicate whether any of the following extraordinary or non-recurring expenses or income are affecting the production and sales of the like product in the reported data. Provide details of the amounts concerned for any items marked 'yes' in the table below.

- Start-up or shut-down expenses
- Change of accounting principles
- Substantial write-off receivables, inventory, fixed assets etc.
- Restructuring expenses
- Any other items reported as extraordinary items
- Other (specify)

| YES | NO |
|-----|----|
|     |    |
|     |    |
|     |    |
|     |    |
|     |    |
|     |    |

| Description of the nature of the extraordinary or non-recurring items | 200x | 200x | 201x |
|---|------|------|------|
|   |      |      |      |

## SECTION B – IMPORTED PRODUCT/LIKE PRODUCT

### **B-1 Imported Product Information**

B-1.1 Provide a complete description of the allegedly subsidised product (the imported product or “IP”). Specifically provide details on the following:

- (a) Product name;
- (b) Physical appearance;
- (c) Technical characteristics;
- (d) Raw materials;
- (e) Production process;
- (f) End-use;
- (g) Tariff classification;
- (h) Applicable technical specifications or standards (national or international);
- (i) Any other information used to distinguish the product from similar products.

Attach a copy of the tariff description from the Mauritian Customs Tariff Schedule (Integrated Tariffs) 2007 as Annexure B-1.1(a).<sup>3</sup>

In case that there are different types or models of the allegedly subsidised product:

- (a) explain whether all types/models must be included in the definition of the product covered by the investigation;
- (b) indicate whether all types and models can be treated as part of a single product, and hence be investigated in a single proceeding. One important factor in this regard is whether different types/models are interchangeable from the point of view of users/consumers. Please provide any information available to you.

Attach copies of brochures showing the IP as Annexure B-1.1(b).

B-1.2 Indicate the country(ies) of origin of the IP.

### **B-2 Like Product Information**

B-2.1 Provide a diagram showing the process of production of the like product manufactured by the applicant.

B-2.2 If your product is manufactured from both Mauritian and imported inputs:

- (a) identify the imported inputs and describe their use in the like product; and
- (b) state whether at least one substantial process of manufacture occurs in Mauritius (for example by reference to the value added, complexity of process, or capital invested).

B-2.3 Provide a complete description of the like product (see the Guide for the definition of a like product) produced by the applicant.

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<sup>3</sup> This document can be accessed at <http://www.gov.mu/portal/sites/mra/index.htm>, click “Customs” and then on “Tariff information”.

B-2.4 Provide details on differences between the IP and the product that the applicant manufactures. Indicate how these differences affect substitutability, consumer preference and prices.

B-2.5 Attach copies of brochures showing the Mauritian product as Annexure B-2.5.

## SECTION C – INTERESTED PARTIES

### **C-1 Domestic industry**

- C-1.1 Provide the names and full contact details (address, telephone number) of all known Mauritian producers of the like product.
- C-1.2 Provide the names and full contact details (address, telephone number) of all known chambers and trade associations for the like product in Mauritius.
- C-1.3 Do any of the Mauritian producers import the IP? If yes, please provide details of the volume and value of all such imports during the last three years and the year to date.
- C-1.4 Are any of the domestic producers related to the exporters or importers of the alleged subsidised product? If yes, state the nature of such relationship.
- C-1.5 Provide the production data requested in the Excel format C-1.5. Note that:
- (a) Data must be provided concerning all producers of the like product in Mauritius;
  - (b) Data must be provided for the like product globally (not by type or model);
  - (c) If estimations are done, you have to explain how did you make such estimations.
- C-1.6 If the application is submitted on behalf of Mauritian producers by an association, a consulting firm etc., declarations of support from each producer must be submitted in the application. Annexure C-1.6 contains the format for such declarations.

### **C-2 Other interested parties**

- C-2.1 Provide the names and full contact details (address, telephone number) of all known exporters and foreign manufacturers of the IP, i.e. in the country(ies) alleged to be granting subsidies.
- C-2.2 Provide the names and full contact details (address, telephone number) of all known importers of the IP in Mauritius.
- C-2.3 Provide the names and full contact details (address, telephone number) of all known Mauritian users of the IP.

## SECTION D – SUBSIDISATION

### D-1 Introduction

Part V of the Act contains the rules applicable to the initiation of countervailing investigations. These investigations shall normally be initiated following an application submitted by, or on behalf of, the Mauritian producers of the like product. Sections 24 and 25 of the Act detail the information that shall be submitted in the application. These requirements will be developed in section D-2 below.

### D-2 Subsidies which can be countervailed

According to Section 25 of the Act, for each programme covered by the application the applicant shall provide information, in the sense of proof, regarding each of the following elements:

- 1) Existence of a **financial contribution**;
- 2) From a **government or any public body** in the territory of the country(ies) covered by the application; and
- 3) The financial contribution confers a benefit to its recipient.

In addition to the above requirements, the applicant must prove that each programme is **specific**.

#### D-2.1 List of incentives

A list of all programmes that, according to the applicant's information, the producers/exporters of the country(ies) covered by this application are using shall be included.

#### D-2.2 Financial contribution

Article 1.1(a)(1) and (2) of the WTO SCM Agreement contains a list of the types of financial contributions against which action can be undertaken under the terms of that Agreement and the national legislations of WTO Member countries. Section 2 of the Act, when defining the term "subsidy", states that financial contribution "does not include the amount of any duty or internal tax imposed on goods by the government of the country of origin or country of export from which the goods, because of their exportation, have been exempted or have been or will be relieved by means of a refund or drawback".

The applicant shall argue, supporting its assertions with relevant evidence, that each programme covered by the application constitutes a financial contribution under Article 1.1(a)(1) and (2) of the WTO SCM Agreement.

#### D-2.3 Of a government or any public body

Section 2 of the Act sets forth that government "means the government of that country and includes any provincial, state, municipal or other local or regional government in that country or any person, agency or institution acting for, or on behalf of, or under, the authority of any law passed by those governments". No definition is provided of the term "public body".

For each programme listed under section D-2.1 above, the applicant will have to identify which authority or public body confers the financial contribution. Evidence of assertions will have to be included in the application.

#### D-2.4 Benefit

Both the WTO SCM Agreement and the Act require that the applicant prove that each programme covered by the application confers a benefit to the producers/exporters in the country(ies) targeted through the application. In order to prove the existence of a benefit, the relevant benchmark is the market place. Thus for instance, if the programme consists of loans provided by a public bank the determination of whether this programme confers a benefit to the recipients of the loans will require the applicant to obtain information regarding the interest rates for the loans provided by the public bank and the loans applied by private banks in the exporting country (in similar circumstances).

For each programme covered by the application, the applicant will therefore have to present evidence showing that the programme confers a benefit to its recipient.

#### D-2.5 Specificity

Section 2 of the Act sets forth that “specific subsidy” means a “means a subsidy which is specific to an enterprise, group of enterprise, industry or group of industry”. To assess whether specificity exists, Article 2 of the WTO SCM Agreement sets forth useful guidelines. The above provisions cover both *de jure* and *de facto* specificity. Export and import-substitution subsidies are *de jure* specific subsidies.

For each programme included in the application, the applicant will have to submit *prima facie* evidence that the subsidy is specific to a company, or a group of companies; to an industry, or to a group of industries; to a region, or to several regions in the jurisdiction of the exporting country; or that the subsidy is contingent upon export results or upon the use of domestic over imported goods.

#### **D-3 Calculation of the amount of subsidy and of the subsidy rate**

The applicant must submit a calculation of the subsidy amount – result of adding up the subsidy amounts of each programme covered by the application – and explain the basis for this calculation. The subsidy amount must be calculated in monetary units or *ad valorem* percentages per unit of imported subsidised products. For more details on how to compute the subsidy amount and rates, please refer to the Guide.

## SECTION E – MATERIAL INJURY

### E-1 Introduction

In order to determine whether there are reasonable indications to justify the initiation of a countervailing investigation, the IA must have at its disposal data showing the negative impact that the alleged subsidised imports have on the applicant. These data concern, first, the volume and prices of the allegedly subsidised products and, second, the negative impact that these imports have on the applicant. For certain factors such as sales volume and prices, the applicant's data must cover a period of three years, while for others such as price undercutting, data must cover a shorter, but recent and representative period of time. Certain factors are considered to be relevant in all cases, such as sales volume, prices and profitability, and hence the applicant must provide them in all cases.

The most important injury factors are as follows:

- Consumption in Mauritius;
- Volume and market share of the alleged subsidised imports;
- Price of allegedly subsidised imports;
- Price undercutting;
- Production, production capacity and capacity utilisation of the applicant;
- Sales volume, market share and exports of the applicant;
- Sales price of the applicant in Mauritius;
- Cost of production of the applicant;
- Profitability of the applicant on sales in Mauritius;
- Employment of the applicant;
- Investment of the applicant;
- Stock variation of the applicant.

It is **not** required that all of the above factors show a negative performance for a finding of material injury. For instance, while sales volume might have increased in volume terms, the applicant might have lost a considerable volume of business due to lower prices of the allegedly subsidised imports.

The applicant may also submit other information that it considers relevant in order to show that it is suffering injury. Countervailing duties can also be imposed where no actual material injury is yet felt, provided that a threat thereof can be proven.

When preparing the information requested in the following sections, please note the following:

- **Geographical scope:** All data requested below on injury indicators – unless otherwise indicated – refers exclusively sales in Mauritius.
- **Product:** The injury determination must be based exclusively on data for the like product manufactured and sold by the applicant (see section B of the Guide). Only where such separate identification of that production is not possible, the effects of the allegedly subsidised imports can be assessed by the examination of the production of the narrowest group or range of products, which includes the like product, for which the necessary information can be provided. If data are

determined on the basis of estimates, the applicant must explain the basis for such estimates.

- **Data for some types or models of the like product:** If the like product can be divided into many different types or models and some injury factors cannot be submitted for all of them, or if the evolution of data is not considered to be relevant, the applicant may only submit data for a representative sample of types or models. The selection of certain types or models will nonetheless have to be justified.
- **Period for submission of data:** As stated above, the period of investigation is normally three years. However, for certain factors such as price undercutting the data may cover a shorter, but recent and representative period of time (e.g. one year). To the extent possible, use calendar year periods. This however, may not be possible if the application is for instance filed in October as the last complete year period finished too far away from the data of submission of the application. In this case, data for the first half of the year would normally need to be provided.
- **Reporting unit of measurement:** Several factors require information on “volume”.<sup>4</sup> Throughout the application, the volume must be reported in one and the same unit of measurement, whether it is kilograms, tonnes, units, litres, etc. This will depend on the nature of the product at stake. If information is available in different units of measurement, the applicant must convert those units into a single one. The conversion rates, including the source, must be clearly stated in the application, as submitted.
- **Residual tariff heading:** There are cases where the allegedly subsidised product is classified under a tariff heading which includes imports of other goods. In those circumstances, the applicant will have to estimate the volume of imports of the allegedly subsidised product. Export statistics of the exporting country may assist, as well as other commercial information.

Where more than one Mauritian producer intends to submit the application, each producer must provide **separately** a reply to this section of the Application Questionnaire. This is needed because the IA will have to verify the information provided by each company separately. In order to avoid releasing confidential information to your Mauritian competitors, each applicant company may **submit its own reply to this section directly to the IA**. The IA will accumulate the data from all applicant companies to assess the overall impact of the imports on all the applicant companies.

**You must provide the information requested below in written and electronic form, using the Excel formats which are provided together with this Word document.**

## **E-2 Injury information**

The applicant must submit information on each of the following factors and indices:

### **E-2.1 Consumption in Mauritius**

This information is necessary because the development of production, volume of sales and market share must be compared against consumption of the like product in Mauritius. It is also relevant for the purposes of assessing the existence of a causal link.

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<sup>4</sup> Volume must **not** be confused with value, whether in Mauritian Rupees, USD or any other currency.

Real and/or apparent consumption can be based on market studies, statistical data compiled by the Government of Mauritius, etc or it can be calculated as follows:

|    |   | 200x | 200x | 201x |
|----|---|------|------|------|
| a) | Volume of total sales in Mauritius of products manufactured in Mauritius by:<br>- The applicant<br>- Other domestic producers |      |      |      |
| b) | Total imports   |      |      |      |
| c) | Real consumption in Mauritius (a+b)   |      |      |      |

Source: [insert]

a) “Volume of total sales in Mauritius” of products manufactured in Mauritius results from adding up the sales of the like product by all the Mauritian producers, regardless of whether they file, support, or oppose the application. In part, this can be estimated. If a portion of production is consumed internally by the applicants (used in the production of downstream products produced by the same applicant), provide data on captive consumption.

b) “Total imports” result from adding up all imports of the good covered by the application, regardless of whether they are exported, or originate, in the country(ies) covered by the application. These data may be obtained from CSO statistics. If the tariff heading includes other products, imports of the good covered by the application will have to be separated from other imports.

#### E-2.2 Volume and market share of the alleged subsidised imports

This volume cover only the imports of the allegedly subsidised product exported, or originating, in the country(ies) covered by the application. These data must be expressed in a common unit throughout the Application Questionnaire.

The applicant must calculate the market share as a percentage of consumption globally for all countries covered by the application in Mauritius and then, separately, for each exporting country covered by the application:

$$\frac{\text{Volume of the alleged subsidised imports from country "A"}}{\text{Consumption in Mauritius}} * 100$$

#### E-2.3 Prices of the allegedly subsidised imports

The development of import prices can be an indicator of injury to the applicant.

Depending on the nature of the information available, there are three possible alternative methodologies to calculate the development of the prices of imported products. This does not mean however that the applicant may not use other methodologies:

- Generally, the CSO data indicate the average CIF import price on a per unit basis, as well as the tariffs to be paid for each import transaction;
- It is also possible to assess the development of imports by selecting a sample of types or models of the product allegedly subsidised, provided the sample is representative. This methodology may be especially adequate where the product is not homogeneous;
- Other sources of information may be private or public studies, market studies, salesmen reports, export statistics of the country(ies) concerned, etc.

Note that the development of resale price in Mauritius is only **indicative** of import prices and, in and of itself, it is not sufficient to determine the price of imports.

#### E-2.4 Price undercutting, price suppression and price depression

In order to determine if there is price undercutting or if the prices of the alleged subsidised imports have suppressed or depressed the applicant's prices, it is essential to compare the sales price of the allegedly subsidised product and the sales price of the applicant for the like product.

This comparison must cover a recent period of time (normally twelve months).

Three different ways to present evidence are suggested, albeit other may be proposed by the applicant. The comparison must concern, if possible, the same – or similar – types or models, at the same level of trade (e.g. retail level, wholesaler, etc.), and at approximately the same time:

- Documentary evidence (list of prices, price quotations, invoices, salesmen reports, etc.) that an imported product has been sold in the Mauritian market at a price lower than that of the applicant's price.
- As stated previously, in addition the applicant may consider necessary to compare certain representative types or models. In such a case, the applicant must justify the selection of the sample.
- A comparison may be based on CSO import statistics, using the average import CIF price, Mauritian border, and the ex-works price of the applicant. However, this option would not be viable where the allegedly subsidised product is classified under a tariff heading which covers other products.

The undercutting margin must be expressed as a percentage of the sales price of the applicant in Mauritius, using the following formula:

$$\frac{\text{Sales price of the applicant} - \text{sales price of the allegedly subsidised imports}}{\text{Sales price of the applicant}} * 100$$

#### E-2.5 Impact of imports on the applicant

##### E-2.5.1 Production, production capacity and utilisation of capacity

Provide data on the total volume of production of the applicant. Report separately production for captive use.

Indicate if the applicant has purchased significant volumes of the product at stake to other Mauritian producers, countries covered by this application or third countries. If this is done regularly, the applicant must explain why it does so.

Provide information on the actual (not theoretical) production capacity. If in the same production line products other than those covered by the application are produced, please explain how did you determine the production (e.g. using an allocation method).

Capacity utilisation results from dividing the production volume by the actual production capacity.

##### E-2.5.2 Sales, market share and exports

Indicate the applicant's volume of sales in Mauritius, on the one hand, and exports to third markets, on the other. Separate domestic sales by the level of trade of the customers. Report separately captive sales.

### E-2.5.3 Sales price

Report the average sales price at which the applicant sells the like product in Mauritius. The formula for calculating the average sales price is as follows:

$$\frac{\text{Net turnover value for sales of the like product in Mauritius}}{\text{Net sales volume of the like product in Mauritius}}$$

As stated above, where the product is heterogeneous – i.e. where different models or types have different production costs and consequently different selling prices – the applicant may provide separate price data for a representative sample of types or models of the like product. To the extent possible, these should be the same types or models used for calculating the effects of imports on the applicant's prices (see section E-2.4 above).

Market studies or other price data sources may be useful to the assessment of this factor.

### E-2.5.4 Cost of production

Cos of production must be understood to include not only the manufacturing cost, but also an amount for selling, general and administrative costs related to the production and sales of the like product in Mauritius. Cost of production may be supplied for the like product as a whole, or if the product is not heterogeneous, also separately for a representative sample of types or models.

To facilitate reporting and verification, it is recommended that cost data in a manner that resembles as closely as possible that used by the applicant in its own financial and cost accounting records.

### E-2.5.5 Profitability

Generally, the average profitability of the applicant may be determined in the following manner:<sup>5</sup>

$$\frac{\text{Profits (loss) on sales of the like product in Mauritius}}{\text{Net sales turnover of the like product in Mauritius}} \quad *100$$

Data are in all cases before taxes.

The comments made in earlier sections regarding the approach to be followed where the like product can in fact be sub-divided in several different types or models are equally valid to this section. If separate profitability data is provided for different types or models, please ensure consistency with earlier sections in terms of types or models sampled.

Indicate the minimum margin of profitability that the industry producing the like product in Mauritius should achieve in order to ensure its long-term survival. Please justify your reply.

### E-2.5.6 Employment

Report data on employment (or an estimate thereof) involved in the production, administration and sales of the like product.

### E-2.5.7 Investments

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<sup>5</sup> If the applicant considers it appropriate to use a different approach, explain the reason for that when submitting the application.

Report any investments made related to production, administration and sales of the like product.

#### E-2.5.8 Stocks

Report the volume and value of stocks of the like product. Indicate whether stocks traditionally vary in different seasons.

#### E-2.5.9 Other relevant factors and indices

There are additional factors and indices for which the IA needs to have information. This includes among others return on investment, wages, growth, ability to raise capital or investments, and cash flow. Information on these factors may also indicate that the applicant is suffering injury. Thus, if the applicant considers it pertinent, information on these factors may also be submitted in the application.

#### E-2.5.10 Other injury factors

The applicant may submit comments, supported by evidence, on any other matters that it may consider relevant for the purpose of showing that it is suffering injury (see also section F below on causal relationship).

#### E-2.6 Threat of material injury

Where the applicant's situation still does not show **actual** material injury, it may nonetheless argue that its situation will continue deteriorating in the near future in case no action is taken against the allegedly subsidised imports. The Act allows the IA to impose countervailing measures where the applicant successfully shows that such imports pose a real threat of causing material injury to it.

The determination of threat of material injury must be based on facts and not merely on allegations. For this reason, should you allege threat of material injury, you must provide evidence showing that the injury is clearly foreseen and imminent. The following is a list of factors that may be relevant to a threat of injury determination:

- **The nature of the subsidy(ies) in question and the trade effects likely to arise therefrom:** For instance, if a subsidy programme is contingent upon export performance, the exporter must export in order to be able to benefit from the subsidy. Hence, such a type of subsidy may indicate increased volume of exports to the Mauritian market;
- **Percentage of increase of the allegedly subsidised product:** A significant rate of increase of subsidised imports into the domestic market may indicate the likelihood of substantially increased importations in Mauritius;
- **Prices of imports:** The arrival of products at prices which have a significant depressing or suppressing effect on the applicant's prices may indicate the likelihood of substantially increased importations in Mauritius;
- **The exporters' production capacity:** The existence of sufficient freely disposable or an imminent, substantial increase in capacity of the exporters may indicate the likelihood of substantially increased subsidised exports to Mauritius;
- **The exporters' inventories:** The built-up of significant volumes of inventories in the exporting country is a factor that may indicate the likelihood of substantially increased subsidised exports to Mauritius;
- **Changes of the export markets:** Structural changes in the internal market of the country(ies) covered by the application (decrease in consumption, technical developments, investments, opening to foreign producers, etc) can contribute to an increase on exports at subsidised prices;
- **Obstacles to exports to third countries** (such as countervailing, anti-dumping or safeguard measures, technical barriers to trade, sanitary and phytosanitary

measures etc): When such situations occur, exporters should logically redirect their exports to other markets, including Mauritius.

In addition to the above factors, the applicant must also submit information with respect to all the factors examined in sections E-2.1 a E-2.5 above.

E-2.7 Material retardation

Mauritian companies potentially interested in producing a product may be discouraged to do so due to imports of an allegedly subsidised product. When this occurs, those companies may apply for countervailing relief alleging material retardation in the establishment of a domestic industry. Any such application will nonetheless have to clearly document the efforts undertaken to establish a Mauritian industry to produce the allegedly subsidised product.

## SECTION F – CAUSALITY

In addition to providing the data establishing subsidisation and material injury on a *prima facie* basis, the applicant must also demonstrate that there is a causal link between the alleged subsidised imports and the claimed material injury suffered by the domestic industry. This does **not** mean that the subsidised imports should be the sole reason for any injury suffered. Causality is usually shown by the coincidence in time of the increasing low priced imports with the deterioration of the situation of the applicant as shown by the development of the injury factors outlined above.

Please provide the information requested in the Excel format entitled “Section F”.

**F-1 Link between subsidisation and injury**

Submit your reasons for claiming that the alleged subsidised imports are the cause of your material injury. Refer to matters such as the increase in imports of the IP compared to decreases in your sales volumes, price undercutting by the IP and other factors that can directly link injury to the alleged subsidies.

**F-2 Other factors causing injury**

Indicate any other factors that contributed to the injury experienced by the domestic industry. This might include among others natural disasters, strikes, changes in consumer demand, technological advances, contraction of the market or decreased exports.

## ANNEXURE I

### GUIDELINES FOR COMPLETING THE NON-CONFIDENTIAL VERSION OF THE APPLICATION

When completing the application destined for inspection by interested parties (non-confidential version of the application) you should bear in mind that all the parties registered as interested parties in this investigation will have access to it. The reply destined for inspection by interested parties should be sufficiently detailed to permit a reasonable understanding of the substance of the information submitted as confidential. When completing the application destined for inspection by interested parties you may act as follows:

1. Use the completed 'confidential version' of the application as a basis/template. Identify all information in the 'confidential' application, which you consider is not confidential, and copy it to the file destined for inspection by interested parties.
2. After this, check again whether the information you did not copy to the response destined for inspection by interested parties is really confidential. If you still consider it to be confidential, you must give the reasons why, item by item, and summarise the confidential information in a form destined for inspection by interested parties. If, in exceptional circumstances, it is not possible to even summarise the confidential information, give reasons why giving a summary is not possible.

#### Examples on how to summarise confidential information.

- **When the information concerns numbers for various years you can use indices.**

Example of **confidential** information:

| 2001      | 2002      | 2003      |
|-----------|-----------|-----------|
| MUR20.000 | MUR30.000 | MUR40.000 |

The summary destined for inspection by interested parties could be indexed as follows:

| 2001 | 2002 | 2003 |
|------|------|------|
| =100 | 150  | 200  |

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

Example of **confidential** figure: "My cost of production is MUR300 per tonne."

The summary destined for inspection by interested parties could be as follows:

"My cost of production is MUR330 per tonne" (+ footnote saying: "actual numbers have been amended by a margin of maximum +/- 10%, to protect confidentiality").

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

Example of **confidential** information: "TRADING COMPANY Ltd, told me that the prices of imports were 20% lower."

The summary destined for inspection by interested parties could be as follows:

"[One of my customers], told me that the prices of imports were 20% lower."

## ANNEXURE A-3

### AUTHORISATION LETTER

I, the undersigned, on behalf of [insert name of the company], hereby appoint the following person/firm to represent us before the International Trade Division, Ministry of Foreign Affairs, Regional Integration and International Trade of the Republic of Mauritius (the IA), for the purpose of requesting the initiation of a countervailing investigation concerning imports of [insert product], originating in, or exported from, [insert country(ies)]:

[Insert Name, address, telephone, fax number of the person/firm who may represent you]

[insert name of person/firm] is authorised, *inter alia* for the following:

- 1) To receive communications containing confidential and/or non-confidential information and data from the IA.
- 2) To make submissions on our behalf.
- 3) To appear for, and on, our behalf in hearings and any other meetings with the IA.
- 4) Other (please specify)

(Please strike off whichever activity is not authorised)

Date \_\_\_\_\_

Place \_\_\_\_\_

\_\_\_\_\_  
(Signature)

\_\_\_\_\_

(Name/Designation)

**Note:**

- 1) The Chief Executive Officer of the Company or the proprietor of the firm filing response to this questionnaire should sign this letter.
- 2) This authorisation letter should be printed under the letterhead of the Company.
- 3) Please attach the resolution of the Board of the Company approving the submission of the application.

## ANNEXURE C-1.6.1

**[This certificate should be produced and signed on your company's letterhead by an officer who has authority to submit information on behalf of the company]**

### **DECLARATION OF SUPPORT TO AN APPLICATION FOR THE INITIATION OF A COUNTERVAILING INVESTIGATION CONCERNING IMPORT OF [INSERT SUBJECT PRODUCTS] ORIGINATING IN, OR EXPORTED FROM, [INSERT COUNTRY(IES)]**

I, the undersigned, confirm that **[INSERT NAME OF COMPANY]** supports the application for the initiation of a countervailing investigation concerning imports of **[INSERT SUBJECT PRODUCT]** originating in, or exported from, **[INSERT SUBJECT COUNTRY]**.

For the purpose of determining industry standing, **[INSERT NAME OF YOUR COMPANY]** produced **[INSERT NUMBER OF UNITS PRODUCED]** (in units, in kilograms, etc.). During the period **[INSERT PERIOD]**. **[INSERT NAME OF COMPANY]** is not importing **[INSERT SUBJECT PRODUCT]** from **[INSERT SUBJECT COUNTRY]**, nor it is related with any company in Mauritius importing that product.

**[INSERT NAME OF YOUR COMPANY]** is willing to cooperate with the International Trade Division, Ministry of Foreign Affairs, Regional Integration and International Trade of the Republic of Mauritius, in its examination of whether the Mauritian industry producing and selling the like product is suffering material/threat of material injury caused by the subsidised imports from **[INSERT SUBJECT COUNTRY]**.

I, **[INSERT NAME & SURNAME]**, **[POSITION]** of **[INSERT NAME OF YOUR COMPANY]** certify that the information submitted to the International Trade Division, Ministry of Foreign Affairs, Regional Integration and International Trade of the Republic of Mauritius herewith is accurate and complete.

Signed \_\_\_\_\_

**(Insert City)** (Republic of Mauritius), **(Insert date)**

Telephone #: **[INSERT TELEPHONE NUMBER]**

Fax #: **[INSERT FAX NUMBER]**

Address: **[INSERT ADDRESS]**