

**INTERNATIONAL TRADE ADMINISTRATION
DEPARTMENT OF COMMERCE
GUIDELINES FOR PETITIONS REQUESTING RELIEF
UNDER U.S. COUNTERVAILING DUTY LAW**

These guidelines have been prepared in order to simplify the procedure for persons seeking to file a petition for relief under Title VII, Subtitle A, of the Tariff Act of 1930, as amended (19 U.S.C. 1671 ("the Act")). Any petition should contain the information set out below, to the extent it is reasonably available.¹ Upon receipt of a petition, following the applicable Department of Commerce (DOC) and International Trade Commission (ITC) regulations, the DOC (which is the "Administering Authority" for countervailing duty (CVD) investigations) will be able to consider the initiation of a CVD proceeding. Such a proceeding is administrative in nature and may result in the imposition of special countervailing duties on specific imports. If any questions arise in preparing a petition, please contact the Import Administration Petition Counseling and Analysis Unit at: (202) 482-1255.

Imports of foreign merchandise are liable for special countervailing duties only after:

- (1) a determination is made by the Assistant Secretary of Commerce for Import Administration that a countervailable subsidy is being provided with respect to the merchandise subject to the investigation; and
- (2) a determination is made by the ITC that an industry in the United States is being injured, threatened with injury, or that the establishment of an industry in the United States is materially retarded, by reason of imports of such merchandise. Please note that no injury investigation is required with respect to subsidized imports from a country which is not a Subsidies Agreement country.

Before filing a petition, applicants should consult the Act, pertinent DOC regulations (19 CFR Part 351), and pertinent ITC regulations (19 CFR Parts 201 and 207). These laws and regulations are available on the Internet at <http://ia.ita.doc.gov/> for the Department of Commerce and <http://www.usitc.gov/> for the ITC. The ITC also publishes the Antidumping and Countervailing Duty Handbook (USITC Publication 3121) which explains the petition and investigation process in detail. The Handbook is available at <ftp://ftp.usitc.gov/pub/reports/studies/PUB3482.PDF>.

Information required for a petition should be typed and documentation and supporting information should be included. Furthermore, those completing and submitting a CVD petition

¹ To satisfy the "reasonably available" standard, petitioner should consult all available sources, including libraries, press reports, embassies, and the U.S. Department of Commerce's Central Records Unit (which is located in room 1217 of the Department of Commerce Building at 14th and Constitution Ave, NW, Washington, DC 20230). In order to demonstrate that all available sources were sought, petitioner should describe in detail its methodology in seeking the required information.

should clearly indicate if information required by the statute and regulations listed above and detailed in these guidelines is unavailable and state the reasons for such unavailability.

Information for which business proprietary (confidential) treatment is requested must be identified by placing brackets around the proprietary information and clearly stating at the top of each page containing such information "Business Proprietary Treatment Requested." A summary or approximated presentation of the proprietary information should also be submitted, together with a statement of the basis for the proprietary treatment and, if necessary, an explanation of why a summary or approximation cannot be prepared. A summary of figures regarded as proprietary should be provided, expressed in a range of not more than 10 percent above or below the actual figures.

Any information submitted in the petition, or in support thereof, which is in a foreign language, must be accompanied by an English translation unless DOC waives this requirement, following a request by the petitioner.

A completed petition and cover letter should be furnished along with **ten** copies of the business proprietary version and **five** public versions, and should be addressed to:

Secretary of Commerce
Attention: Import Administration
APO/Dockets Unit
Room 1870
U.S. Department of Commerce
14th Street & Constitution Avenue, NW
Washington, DC 20230

Simultaneously², **14** copies of the petition and a cover letter that includes, if necessary, a request for proprietary treatment and a certification under oath that substantially identical information is not available to the public, should be sent to:³

Secretary
U.S. International Trade Commission
500 E Street, SW
Washington, DC 20436

Finally, we note that prior to the official filing of your petition, any communications with you on this matter will be treated as confidential information, and as such, we will not disclose any of this information to outside parties. In this regard, we refer you to section 702(b)(3)(C) of the Act, which provides:

² Please note: According to the ITC Regulations (see 19 CFR § 207.10) if a petition is filed with the ITC after 12:00 noon, the petition shall be deemed filed on the next business day.

³ In addition, if the petitioner has requested that portions of the document be treated as proprietary information, 4 copies of a public version of the document must be submitted to the ITC. These copies should be marked "Public Inspection."

NONDISCLOSURE OF CERTAIN INFORMATION.—The administering authority {Commerce} and the Commission shall not disclose information with regard to any draft petition submitted for review and comment before it is filed

19 U.S.C. § 1671a(b)(3)(C).

COUNTERVAILING DUTY PETITION GUIDELINES

IMPORTED PRODUCT(S) SUBJECT TO THE PETITION:

COUNTRY(IES) FROM WHICH IMPORTED:

SECTION A: GENERAL INFORMATION

- (A-1)** Provide the name, address, and telephone number of the appropriate contact person for the petitioner and any person, firm, or association represented by the petitioner (see 19 CFR §§ 351.202(b)(1) and 207.11(b)(2)).

- (A-2)** Have you filed within the past 12 months or are you now filing or planning to file for other forms of import relief involving the merchandise in question? If so, explain the type(s) of import relief sought and the status of such efforts (see 19 CFR § 351.202(b)(4)).

- (A-3)** Identify the industry and its members on whose behalf the petition is being filed (see 19 CFR § 351.202(b)(2)).

- (A-4)** Identify all of the producers or worker groups in the industry, and state whether each party supports, opposes, or is neutral regarding the petition. If a position is unknown, please indicate such. In addition, provide the production volume or value of each producer or worker group supporting the petition during the most recently completed calendar year, and the percentage of total domestic production each represents. See section 702(c)(4)(A) of the Act and 19 CFR § 351.202(b)(3). This information should be presented in chart form. See example below.

Name of producer or group	Address, telephone number, and name of contact person	Support (S) Oppose (O) Neutral (N)	Production Volume or Value	Percent of Total U.S. Production

- (A-5)** Explain how the percentage of domestic production was calculated in (A-4), above.
- (A-6)** Explain whether any of the producers listed in **(A-4)** are related (see section 771(4)(B)(ii) of the Act) to foreign producers, or are importers of the subject merchandise (see sections 702(c)(4)(B)(i) and (ii) of the Act).

SECTION B: DESCRIPTION OF IMPORTED GOODS, EXPORTERS, AND IMPORTERS

- (B-1)** Provide a detailed description of the imported merchandise, including technical characteristics and uses. Explain any differences between the imported merchandise and that produced by U.S. firms. Please supply available catalogues, sales literature, or other illustrations (see 19 CFR § 351.202(b)(5)).
- (B-2)** Provide the tariff classification(s) (*i.e.*, Harmonized Tariff Schedule (HTS) item numbers) of the imported merchandise (see 19 CFR § 351.202(b)(5)). If this information is not readily available to you, please call the Department of Commerce at the number given on page 1 for assistance.

(B-3) Provide the name of the country or countries from which the merchandise is being, or is likely to be, imported. If the merchandise is produced in a country other than that from which it is exported, also indicate the name of the country in which it is produced (see 19 CFR § 351.202(b)(6)).

(B-4) Provide names, addresses, and telephone numbers of the foreign producer(s) and/or exporter(s) of the merchandise believed to be benefitting from a countervailable subsidy. Also, provide the volume and value of each firm's exports of the merchandise to the United States during the most recent 12-month period. This information should be presented in chart form. See example below.

Name, address, and telephone number of foreign producer/exporter	Volume of exports to the United States (specify unit)	Value of exports to the United States (in U.S. dollars)	Percent of cited country's total export volume to the United States

(B-5) Provide the names, addresses, and telephone numbers of persons/firms believed to be importing the merchandise into the United States (see 19 CFR §§ 351.202(b)(9) and 207.11(b)(2)). This information should be presented in chart form. See example below.

Name, address, and telephone number of U.S. importer	Volume of imports (specify unit)	Value of imports (in U.S. dollars)	Percent of total U.S. import volume from cited country

SECTION C: SUBSIDY INFORMATION

(C-1) Provide the statutory or other authority under which the alleged countervailable subsidy is provided (e.g., Export Promotion Act, Section 355 of the Income Tax Act).

(C-2) Indicate the manner in which the alleged countervailable subsidy is provided (e.g., short-term loans, grants, tax exemptions).

- (C-3)** Identify how the subsidy program is either an export subsidy, an import substitution subsidy or is limited to a certain enterprise, group of companies, or industry within the country in question.
- (C-4)** State the value of the alleged countervailable subsidy received and used by the producers and/or exporters of the merchandise.

SECTION D: CRITICAL CIRCUMSTANCES INFORMATION

Prior to the issuance of the DOC preliminary determination, exporters may attempt to ship to the United States large quantities of the products being investigated in order to escape the pending countervailing duty. The Act provides a petitioner with the opportunity to seek relief from such imports. We refer to such a situation as "critical circumstances." An allegation of critical circumstances can be made at any time during an investigation up to 20 days before the DOC's final determination. The following information need only be supplied when critical circumstances are alleged (see 19 CFR § 351.202(b)(11)).

- (D-1)** Describe in detail the material injury to your industry due to the increased level of imports (e.g., lost sales, decreased capacity utilization, company closures). Provide supporting documentation.
- (D-2)** Provide information which you feel indicates that there have been massive imports of the merchandise over a relatively short period of time (i.e., an analysis comparing import values and volumes for the 3 months before and the 3 months after the filing of the petition).
- (D-3)** Describe how the merchandise benefits from an export subsidy (e.g., tax-exempt status provided only to exporters) or import substitution subsidy.

SECTION E: INJURY INFORMATION

Section 207.10 of the ITC's *Rules of Practice and Procedure* sets forth its requirements concerning the filing of CVD petitions and section 207.11 sets forth its requirements concerning the content of such petitions (19 CFR §§ 207.10 and 207.11). As stated in section 207.11(b)(1) of the *Rules*,

The petition shall allege the elements necessary for the imposition of a [CVD] duty under section . . . 731(a) of the Act and contain information reasonably available to the petitioner supporting the allegations.

The factors the ITC is to consider in making its determination are set forth in section 771(7) of the Act (19 USC § 1677(7)) and CVD petitions should address these factors in making the "injury" allegations. The data specified in sections E-1 through E-4 may be useful in this regard.

Section 207.11(b)(2) of the *Rules* further provides that--

The petition shall also include the following specific information, to the extent reasonably available to the petitioner: (i) identification of the domestic like

product(s) proposed by petitioner; (ii) a listing of all U.S. producers of the proposed domestic like product(s), including a street address, phone number, and contact person(s) for each producer; (iii) a listing of all U.S. importers of the subject merchandise, including street addresses and phone numbers for each importer; (iv) identification of each product on which the petitioner requests the Commission to seek pricing information in its questionnaires; and (v) a listing of all sales or revenues lost by each petitioning firm by reason of the subject merchandise during the three years preceding filing of the petition.

Items (ii) and (iii) are covered in parts A and B of this guide. Information on the other items should be presented in connection with the injury allegation.

(E-1) Report the quantity and value of imports of the allegedly subsidized merchandise from the country(ies) supplying such imports, and imports of like or similar merchandise from all countries in the 3 most recent calendar years and in the most recent partial-year periods for which data are available (see 19 USC §§ 1677(7)(B)(i) and 1677(7)(C)(i)). This information should be presented in chart form. See example below.

Source of Imports	Year 1 (earliest)	Year 2	Year 3	January - _____ ¹	
				Year 3	Year 4 (latest)
	Quantity (specify units)				
Total, all countries					
Cited country ²					
Cited country ³					
Cited country ⁴					
Cited country ⁵					
	Value (1,000 dollars)				
Total, all countries					
Cited country ²					
Cited country ³					
Cited country ⁴					
Cited country ⁵					

¹ Specify month

² Specify country

³ Specify country

⁴ Specify country

⁵ Specify country

(E-2a) Report the petitioner's capacity, production, domestic sales, export sales, and end-of-period inventories of U.S.-produced merchandise like or most similar to the allegedly subsidized imports in the 3 most recent calendar years and in the most recent partial-year periods for which data are available (see 19 USC § 1677(7)(C)(iii)). This information should be presented in chart form. See example below.

Item	Year 1 (earliest)	Year 2	Year 3	January - _____ ¹	
				Year 3	Year 4 (latest)
	Quantity (specify units)				
Capacity ²					
Production					
Domestic sales					
Export sales					
Ending inventories					
	Value (1,000 dollars) ³				
Domestic sales					
Export sales					

¹ Specify month.

² Define basis (*i.e.*, number of shifts per day, days per year, etc.)

³ F.o.b. plant, net of all discounts and allowances.

(E-2b) For all U.S. producers (including the petitioner), report or estimate aggregate capacity, production, domestic sales, export sales, and end-of-period inventories of U.S.-produced merchandise like or most similar to the allegedly subsidized imports in the 3 most recent calendar years and in the most recent partial-year periods for which data are available

(see 19 USC § 1677(7)(C)(iii)). This information should be presented in chart form. See example below.

Item	Year 1 (earliest)	Year 2	Year 3	January - _____ ¹	
				Year 3	Year 4 (latest)
	Quantity (specify units)				
Capacity ²					
Production					
Domestic sales					
Export sales					
Ending inventories					
	Value (1,000 dollars) ³				
Domestic sales					
Export sales					

¹ Specify month in the blank provided.

² Define basis (*i.e.*, number of shifts per day, days per year, etc.)

³ F.o.b. plant, net of all discounts and allowances.

(E-3) For the petitioner and, in aggregate, for all U.S. producers (including the petitioner), estimate the number of production and related workers employed in the production of merchandise like or most similar to the allegedly subsidized imports, and the hours worked by those employees, in the 3 most recent calendar years and in the most recent partial-year periods for which data are available (see 19 USC § 1677(7)(C)(iii)). This information should be presented in chart form. See example below.

Item	Year 1 (earliest)	Year 2	Year 3	January - _____ ¹	
				Year 3	Year 4 (latest)
	Petitioner				
Number of production and related workers					
Hours worked (1,000 hours)					
	All U.S. producers				
Number of production and related workers					
Hours worked (1,000 hours)					

¹ Specify month.

(E-4) For the petitioner and, in aggregate, for all U.S. producers (including the petitioner), report (or estimate) the specified income-and-loss data on U.S. operations producing merchandise like or most similar to the allegedly subsidized imports in the 3 most recent calendar years (or accounting years if easier¹) and in the most recent partial-year periods for which data are available (see 19 USC § 1677(7)(C)(iii)). If you cannot provide the specified income-and-loss data for U.S. operations producing the merchandise like the imported products, report data on the next larger category of operations which includes that merchandise, estimate the share of the total accounted for by the subject product, and identify the other products that are included. This information should be presented in chart form. See example below.

(In thousands of dollars)

Item	Year 1 (earliest)	Year 2	Year 3	January - _____ ²	
				Year 3	Year 4 (latest)
	Petitioner				
Net sales					
Cost of goods sold					
Gross profit/(loss)					
SG&A expenses					
Operating income/(loss)					
	All U.S. producers				
Net sales					
Cost of goods sold					
Gross profit/(loss)					
SG&A expenses					
Operating income/(loss)					

¹ If you report petitioner data on an accounting-year basis, please specify the date that year ends.

² Specify month.

(E-5) List the names, addresses and telephone numbers of firms to which you have lost sales as a result of their purchasing the allegedly subsidized imports.

(E-6) Provide information on any other factors relevant to possible injury or threat of injury to the U.S. industry producing merchandise like or most similar to the allegedly subsidized imports (see 19 USC §§ 1677(7)(C)(iii) and 1677(7)(F)).