

**A GUIDE TO THE COMPLETION OF AN
DUMPING
COMPLAINT**

BANGLADESH TARIFF COMMISSION
Dhaka, Bangladesh

PART I

Complainant's Questionnaire-Information	47
General Information	49
The Legislation	49
Documentation	49
Confidentiality	49
Issues that a Dumping Complaint Should Cover	50
Who May Complain	50
Specific Definitions	50
Dumping	50
Like Products	51
Domestic Industry	51
Injury	51
Retardation	51
Information Required	52
Complaint Process	52
Properly Documented Complaint	52
Initiation	52
Investigation Process	52
Undertakings	53
Non-Confidential Version of the Complaint	53

PART II

Drafting a Complaint	55
Use of the Questionnaire	55
<i>Questionnaire</i>	57
Imported product information	57
Bangladesh Industry	57
Export Price	58
Constructed Export Price	59
Normal Value	60
Example of Domestic Price Calculation	60
Example of Constructed Normal Value	62
Constructed normal value in the Exporting Country	62
Dumping Margin	62
Dumping Margin Calculation	62
Injury	63
Injury Assessment	63
Increased Volume of Imports	64
Price Effects in the Bangladesh Market	64
Sales and Output	64
Market Share	64
Profit and Loss	64
Costs of Production	65
Utilization of Production Capacity	65
Other Injury Factors	65
Other Factors	65

PART I

COMPLAINANT'S QUESTIONNAIRE-INFORMATION

GENERAL INFORMATION:

This is general information guide designed to assist producers in preparing a properly documented complaint that can be acted upon by the Bangladesh Tariff Commission (BTC). It is designed to illustrate what information is needed by the Bangladesh Tariff Commission for opening a formal investigation against allegedly dumped imports that are causing injury to the Bangladesh economy.

THE LEGISLATION:

Cases will be undertaken under the authority vested in the Chairman of the Bangladesh Tariff Commission as per the SRO No. 210-Law/95/1643/Customs dated 30-11-1995, issued in pursuance of section 3 of the SRO No.209-Law/95/1642/Customs dated 30-11-1995 in consonance with sub-section 6 of section 18(B) of Customs Act 1969.

Any action taken under the specific provision of the Legislation can become an international trade issue as the action represents an accusation that a trading partner is trading unfairly. To the extent possible, effort must be undertaken to demonstrate that any action undertaken is being completed according to the WTO requirements. In discharging the responsibility vested in him, the Chairman of the Bangladesh Tariff Commission will be assisted by his Commission employees.

The Chairman of the BTC as the person responsible and the BTC as the agency required to complete the activity will use the following Directive as the guidepost through the execution of the dumping casework. This document is not legally binding and is only meant as a guide and is intended to answer many of the questions that may arise during the drafting of a complaint.

DOCUMENTATION:

A complaint must be thoroughly documented and complainants must provide the best information available to them and, wherever possible, give supporting documentary evidence from commercial or publicly available sources.

All calculations should be explicitly shown as well as the sources of all the data used especially noting the period to which the data refers.

In the body of the complaint it is preferable to state only that which is absolutely necessary and place the rest of the information in annexes and tables having indicated them in the text itself.

All value figures must be converted to the same currency preferably taka.

CONFIDENTIALITY:

The Bangladesh Tariff Commission will strictly respect the confidentiality of all documents that are marked as confidential. All interested parties will, upon request, be provided with a copy of the complaint once a proceeding has been initiated. Therefore, complainants should provide two versions of the complaint—one that is the confidential version and a second that is the

non-confidential version. This non-confidential version should omit data that are confidential business secrets but it should show trends and or levels these data predict. The preparation of the non-confidential version will be outlined later in the document.

It is suggested that electronic versions of all documentation be provided.

ISSUES THAT A DUMPING COMPLAINT SHOULD COVER:

A dumping complaint should address the following:

- . General Information: Identification of the complainant, of the allegedly dumped products, and the country or countries of their origin, and of the other known parties concerned;
- . Prima facie evidence of dumping;
- . Prima facie evidence of alleged injury to Bangladesh industry;
- . Prima facie evidence of a causal link between the alleged dumping and the injury.

WHO MAY COMPLAIN:

An investigation shall not be initiated unless the Chairman has determined, on the basis of an examination of the degree of support for or opposition to the application expressed by the domestic producers of the like product, that the application has been made by or on behalf of the domestic industry. The application shall be considered to have been made "by or on behalf of the domestic industry" if it is supported by those domestic producers whose collective output constitutes more than 50 per cent of the total production of the like product produced by that portion of the domestic industry expressing either support for or opposition to the application. However, no investigation shall be initiated when domestic producers expressly supporting the application account for less than 25 per cent of total production of the like product produced by the domestic industry.

SPECIFIC DEFINITIONS:

Dumping:

Dumping occurs when foreign producers sell their products to an importer in Bangladesh at prices lower than that in their domestic market, or at prices below the cost of production. Foreign producer's domestic selling price is referred to as its "normal value" of the product and may, under certain conditions, be the cost of producing and selling the product and an amount for profit or the selling price to a third country.

Products are *dumped* if their *selling price* to an importer in Bangladesh is *less than* the good's *normal value*.

Like Products:

The term "like products" shall be interpreted to mean a product which is identical, i.e. alike in all respects to the product under consideration, or in the absence of such a product, another product which, although not alike in all respects, has characteristics closely resembling those of the product under consideration.

The product concerned is the imported product covered in the anti-dumping proceeding. The complainant is advised to provide a thorough description which clarifies any possible misunderstandings concerning the definition of the product concerned.

Domestic Industry:

Domestic industry refers to all of the domestic producers as a whole of the like products or to those of them whose collective output of the products constitutes a major proportion of the total domestic production of those products, except that:

- (i) when producers are related to the exporters or importers or are themselves importers of the allegedly dumped product, the term "domestic industry" may be interpreted as referring to the rest of the producers;
- (ii) in exceptional circumstances the territory of a Member may, for the production in question, be divided into two or more competitive markets and the producers within each market may be regarded as a separate industry if (a) the producers within such market sell all or almost all of their production of the product in question in that market, and (b) the demand in that market is not to any substantial degree supplied by producers of the product in question located elsewhere in the territory. In such circumstances, injury may be found to exist even where a major portion of the total domestic industry is not injured, provided there is a concentration of dumped imports into such an isolated market and provided further that the dumped imports are causing injury to the producers of all or almost all of the production within such market.

Injury:

Injury under this legislation means material injury to the domestic industry. The question of whether the dumped imports are causing injury to the Bangladesh industry must be based on sound evidence involving the volume of the dumped imports, their effect on prices and the resulting impact of these dumped prices on the Bangladesh producers of such products.

Retardation:

There is consideration being given to the impact of dumped imports on the retardation of the establishment of an industry. However, there must be evidence of a strong commitment to initiate production (mere plans are not enough) and the case may/may be explored. Currently, cases will only be undertaken for established industry.

INFORMATION REQUIRED:

An investigation will only be initiated when there is evidence that establishes reasonably that dumped imports have caused or are threatening to cause injury to Bangladesh production of like products.

The attached questionnaire is designed to facilitate the completion of the complaint by the producer and answer the questions presented in the sequence asked and provides documentation, data and evidence to support the complaint. Explanation should also be supplied to support any estimates that are offered.

COMPLAINT PROCESS

The complaint once received will go through the process as outlined below.

PROPERLY DOCUMENTED COMPLAINT:

The complaint must define the products that are subject of the complaint, allege the products are dumped and that the dumping is causing or threatening to cause injury. The complaint must provide reasonable details and the facts on which the allegations are based.

Complaint must contain satisfactory evidence to support the allegations of dumping. On the injury, the complainant must document the injury in sufficient details to establish it is occurring and is caused by the alleged dumping.

The complaint will be assessed quickly and the complainant advised in writing and, if the complaint is not considered properly documented, indicate the additional information required.

When the complainant is advised that his complaint has been accepted, suitable notification will be provided to the country of export of the products.

INITIATION:

When the complaint is considered as being properly documented, it will be analyzed and, if the analysis indicates that there is evidence of dumping and injury that is caused by the dumping and the complaint is supported by the industry, an investigation will be initiated.

INVESTIGATION PROCESS:

The investigation will be carried out by the BTC and information will be requested from the foreign producers, the exporters and the importers. The information shall be furnished within 30 days or within such extended period as the Chairman of the BTC may allow on sufficient cause being shown.

If the information verifies the original complaint and reveals no significant dumping or the volume of the dumped products is negligible, the investigation will be terminated. The investigation will also be terminated if the evidence does not prove that the dumping is causing the injury.

If the products are found to be dumped by significant margins and if the evidence discloses reasonable indication of injury and if the imposition of provisional duties are required to prevent the injury; any products released after the preliminary determination will be subject to provisional anti-dumping duty equal to the margin of dumping.

Should the dumping be confirmed, a more definitive decision indicating the actual margin of dumping and anti-dumping duty to be levied will be given.

UNDERTAKINGS:

After the preliminary decision on the dumping undertakings to increase the selling prices of the products exported to Bangladesh may be accepted.

The undertaking must either completely eliminate the dumping or eliminate the injury.

NON-CONFIDENTIAL VERSION OF THE COMPLAINT:

Disclosure of information to all interested parties requires that all information on the complaint, the reports from the investigation must be available in a non-confidential format. As noted above, it is the responsibility of the complainant to provide their complaint in a non-confidential format. For the aspects that are non-confidential, the complainant must provide proof as to the need for keeping the information confidential.

PART II

DRAFTING A COMPLAINT

USE OF THE QUESTIONNAIRE

QUESTIONNAIRE:

The following outlines the requirements for the completion of a properly documented complaint.

IMPORTED PRODUCT INFORMATION:

In response to this question the complainant must provide the following:

- Complete description of the alleged dumped products, including information on its size, quality, category and uses of such products along with any applicable technical specifications or standards (national or international) and the tariff classification numbers, custom classification, custom duty, import policy (including advance licensing provision).
- Country (ies) of origin of alleged dumped products.
- Whether such products are shipped to Bangladesh through third countries.
- Volume and value of such dumped products imported into Bangladesh from each country (ies) alleged to be dumping the products for the past three fiscal years and current year to date, for which data is available.
- Volume and value of such products from other countries, not alleged to be dumping the products, for the past three fiscal years and current year to date, for which data is available.
- Name (s) and address (es) of known exporters and manufacturers of the alleged dumped products.
- Name (s) and address (es) of known importers of the alleged dumped products in Bangladesh.
- Name (s) and address (es) of known users of the alleged dumped products in Bangladesh, if available.
- Name (s) and address (es) of association of the users of the alleged dumped products in Bangladesh, if available.

BANGLADESH INDUSTRY:

This section is required to ensure that the complaint is being filed on behalf of an existing industry that meets the accepted definition of an industry. The Complainant should:

- Name (s), address (es), contact person, telephone numbers, and fax numbers of Bangladeshi producers of the subject products who are lodging the complaint.
- Name (s) and address (es) of Bangladeshi producers other than complainant along with their production (volume and value) of subject products during the last three fiscal years and the current year to date, for which data is available.

- Whether viable substitutes exist for the product. If so, please provide complete information about the substitutes and their degree of substitutions, if available.
- Subject products (including size, type, range, models) that petitioner (s) produces. Details of products that petitioner (s) is/are capable of producing. Details of products the petitioner(s) may purchase to complement the product line.
- Does any of the petitioner(s) import and/or export the subject products. If yes, please provide details of country-wise volume and value of imports and exports during the last three fiscal years and in the current year to date, for which data is available.
- Are any of the petitioners related to the exporters or importers of the alleged dumped product. If so, the nature of such relationship.
- What are the differences in the petitioner(s) product and the alleged dumped product, if any? It would be appropriate to quantify the impact of such differences, if any, on prices.
- Please indicate any difference in the production process employed by the petitioner(s) and the exporters. It would be appropriate to quantify the impact of such differences, if any, on prices.
- Volume of Bangladeshi production with a separate breakdown of that of petitioner(s) and of the other Bangladeshi producers not party to this complaint for the last past three fiscal years and current year to date, for which data is available.

EXPORT PRICE:

The export price of the product(s) should be quoted in the complaint, as it is required to establish if the product(s) is dumped.

In most cases the export price is the price charged for the product(s) by the exporter to the importer. Evidence of the export price may be obtained from the individual invoiced transactions or written offers, salesmen reports or from official statistics for imports from the country concerned.

The export price of product(s) sold to an importer in Bangladesh, notwithstanding any invoice or affidavit to the contrary, is an amount equal to the lesser of:

a) the exporter's sale price for the product(s), adjusted by deducting:

. charges or expenses incurred in preparing the product(s) for shipment to Bangladesh that are additional to those charges and expenses generally incurred on sales in the exporter's home market e.g., export packing;

. any duty or tax imposed on the product(s) by the laws of Bangladesh to the extent that the duty or tax is paid by or on behalf or at the request of the exporter; and

. any other expenses resulting from the exportation of the product(s), or arising from their shipment from the country of export, e.g. ocean freight, insurance, inland freight, wharfage and docking charges, documentation fees, and

b) the price at which the importer has purchased or agreed to purchase the product(s), adjusted by deducting all charges, expenses, duties and taxes described immediately above.

Establish the export price of the allegedly dumped product(s) as accurately as possible. If there are several different products, types or models, calculate export prices for a representative sample of models, types, grades etc.

Evidence is required to support the export prices calculated, e.g. price lists, invoices, sales correspondence, examples of competing prices against which you have lost sales.

If you cannot supply these details, determine the export price starting with the importer's resale price in Bangladesh of the allegedly dumped products.

If there is a relationship between the exporter and the importer, the deductive method of determining the export price starting with the importer's resale price in Bangladesh may be the more accurate method of determining export price.

CONSTRUCTED EXPORT PRICE:

The complainant has the price paid by a retailer to a wholesaler/importer that is related to an exporter (1000 taka). From this price an estimate of the net ex-factory export price must be obtained by deducting the relevant items, that are as follows:

1. Wholesaler's price	Taka	1000
2. Deductions:		
General Selling and Administration (GS&A)	.....	5%
Transport	.....	2%
LC Commission/Financial Cost	.....	2%
Profit	.....	10%
3. Sub-total of Deductions (Calculation 1000/1.19)	.....	840.34
4. Net VAT (1 minus 3 @ 15%) (1000-840.34=159.66@15%)	.....	23.95
5. Landed Cost (1 minus 3 to 4)	.....	816.05
6. Other Charges (including DSC, LF, AIT, etc.)		8%
7. VAT 15%		
8. Regulatory Duty		5%
9. Supplementary Duty		5%
10. Custom Duty		15%
11. Landing Charge		1%
12. Insurance		1%
	(Calculation	861.05/1.50)

13. C & F (5 minus 6 to 12) 574.03

14. Freight 10%
(Calculation $574.03/1.10$)

15. FOB (13 minus 14) 521.84

16. Transport 2%

17. GS&A 2%

18. Exporter's Duty, if any 10%

19. Packing 2%

20. Commission, if any 1%

(Calculation $521.84/1.17$)

21. Net Ex-factory Export Price (15 minus 16 to 20).... 446.02

NORMAL VALUE:

The normal value is generally the domestic sales price at which the product(s) in question is sold in the country of export to unrelated purchasers as long as these sales are at a profit.

Example of Domestic Price Calculation:

When the complainant has obtained evidence of a retail price of the product in the domestic market of the exporting country (i.e. 150 units of currency in the exporting country), from this retail price an estimate of the net ex-factory price must be obtained by deducting the relevant items, for example as follows: GST (15%), retailer's margin (10%), wholesaler's margin, transport and insurance (15%).

Retail Price* in the country of export ...150.00

General Sales Tax (GST)= 15% (calculation $150/1.15$) 130.43, equals net sales price

Retailer's margin*= 10% (calculation $130.43/1.10$) 118.58, equals the wholesaler's price

Wholesaler's margin, transport, insurance*= 10% (calculation $118/1.10$)...107.80, equals ex-factory price

Exchange rate is 0.9 currency units of exporting country = 1 taka

Normal value is therefore $107.80/0.9 = 119.78 - 40.00$ (taxes imposed on inputs for production) = 79.78 taka

Thus the normal value is 79.78 taka

* information obtained from various sources or in annexes attached.

When this method cannot be used the normal value can be estimated using constructed values or selling prices to a third country.

The export price and normal value of product(s) must be compared at the same level of trade and using unit sale and in the same time period. Allowances need to be made for differences in terms and conditions between a sale made in the exporter's domestic market and an export sale.

Provide the gross and net selling price of the allegedly dumped products in the country of export. Where several products, types or models are involved, provide a representative sample to correspond to the export prices outlined above. Evidence is needed to support the normal values e.g. price lists, invoices, discount schedules or any other satisfactory evidence etc.

For gross and net selling prices outlined above specify the trade level(s) of the purchaser in the country of export e.g. end-user, wholesaler, retailer.

If there are differences that could affect price between the domestic sales and export sales e.g. terms of sale, level of trade please provide them.

If normal value cannot be obtained as outlined above, estimate the normal value using either:

- . estimated total cost of the products in the country of export/origin i.e. costs of materials, direct labour and factory overhead, general selling and administrative expenses (G.S.A.) and a reasonable amount for profit; or
- . the selling prices by the exporter for sales made to a third country.

Example of Constructed Normal Value:

Constructed normal value in the Exporting Country:

Product XXX, Brand type AA

Manufacturing Costs:

Raw materials: assume 1 tonne.....	395
a. raw material A (300 taka per tonne)* minus Taxes	
- raw material B (25 taka per tonne)* minus Taxes	
- raw material C (70 taka per tonne)* minus Taxes	
Labour:	50
- skilled labour (30 taka per tonne)*	
- unskilled labour (20 taka per tonne)*	
Energy (200 kWh at 0.05 taka per kWh)*	10
Other Manufacturing Costs (rent, depreciation, maintenance, repair)	45
Sub-total Manufacturing costs	500
General, Selling and Administrative Costs* (financing, selling, insurance, R & D, Patents, royalties, advertising, warranties)	100
Total cost per tonne	600
An amount for profit	48
Total Constructed Normal Value	648

* these figures were obtained from internationally available reports and others are contained in annexes as required.

Include information on how estimates were determined and the information on which the estimates were based. [you could also use your own factory's cost of production adjusted for differences in technology, equipment, labour, raw material costs, or economies of scale between your operation and those of the exporter]

DUMPING MARGIN:

Provide the difference between the normal value and the export price of each product, model, or type. Ensure the export price and the normal value are in the same currency.

Price comparison: Obtain the difference between the normal value (net ex-factory) and the export prices (net ex-factory) after allowance has been made for differences affecting price comparability.

From the information on Export Price and Normal Value obtained, as outlined above:

- Ex-factory normal value119.78
- Ex-factory export price :..... 91.2
- Dumping Margin28.58
- Dumping Margin as % of export price(119.78-91.2/91.2*100) = 31.34%

INJURY:

This is an important aspect of the dumping casework. And for the dumping case to stand there has to be support for the injury aspect of a complaint.

There must also be a "causal link" between the injury being suffered by the Bangladesh industry and the dumped imports. It must be made clear that the injury experienced is directly attributable to the alleged dumped imports.

Three areas must be examined in relation to injury.

These are:

. the volume of the dumped imports including the extent to which there has been or is likely to be a significant increase in the volume of dumped imports of the products either in absolute terms or in relation to production in Bangladesh;

. the effect of the dumped imports on prices of the like products in the Bangladesh market including the existence of price undercutting, the extent to which the dumped imports have depressed prices for the products in Bangladesh or are threatening to do so and the extent to which price increases for the products which otherwise would have occurred have been prevented;

. the impact of the dumped imports on the relevant Bangladesh industry, including the economic impact on the industry demonstrated by the following:

- price effects;
- decline in output;
- lost sales;
- loss of market share;
- decline in profitability;
- decline in utilization of production capacity;
- reduced return on investments;
- adverse effects on cash flow, inventories, employment, wages growth, investments and the ability to raise capital.

All information in this section should relate only to the Bangladesh sales of the like products in Bangladesh. Export sales and Bangladesh sales of imported products and their effect on prices, profits etc. should be excluded unless specifically requested.

INJURY ASSESSMENT:

Please submit an injury summary preferably in table format for a number of years (past three years) summarizing volume changes, revenue changes, cost of production, gross profits, selling and administration costs, cost of sales, and by unit the revenue, cost of production, gross profit, selling and administration, cost of sales and an net profit.

This summary should be completed for Bangladesh sales of the like products, produced in Bangladesh for the last three fiscal years and the current year to date, for which data is available.

INCREASED VOLUME OF IMPORTS:

Provide details of imports of the alleged dumped products both in value and quantity for the last 3 fiscal years and the current year to date, for which data is available. When complaint involves more than one country, provide the above information for each country.

PRICE EFFECTS IN THE BANGLADESH MARKET:

Price undercutting occurs when an exporter offers to sell at a lower price than the price for the comparable product of Bangladesh.

Price erosion and price depression occur when selling prices of the Bangladesh product are reduced to meet dumped import prices.

Price suppression occurs when price increases for the Bangladesh product that would have otherwise occurred are prevented.

Outline the extent to which the prices of the dumped imports are undercutting prices of Bangladesh products.

Outline the extent to which selling prices have been depressed. Provide supporting evidence such as price lists, invoices etc.

SALES AND OUTPUT:

Give the name of customers to whom sales have decreased, and provide the value and quantity of the lost sales. Provide an explanation establishing that any lost sales are due directly to the dumped imports. Provide details on any decreased output of the like products, and provide a statement of value and quantity of export sales over the past few years.

MARKET SHARE:

Provide a statement of the sales, value and quantity in the Bangladesh market for the last three complete years and year to date covering:

- . for your company
- . other Bangladesh producers
- . imports of the allegedly dumped imports
- . imports from other sources.

PROFIT AND LOSS:

Provide how the sales of the like products produced by your companies in the domestic market have been affected in terms of net profit. Indicate what is the minimum acceptable gross profit margin for the like products produced by your company providing specific information for each model or type. Please comment on how gross profit has been affected.

COSTS OF PRODUCTION:

Provide an explanation of how costs of production of your product have been affected.

UTILIZATION OF PRODUCTION CAPACITY:

Provide the capacity utilization rate for the last three fiscal years and current year to date, for which data is available.

OTHER INJURY FACTORS:

Provide statements to support allegations of injury or threat of injury by addressing the actual and potential effects on the following:

- . inventories
- . employment .
- . decline in return to investment
- . cash flow
- . ability to raise capital on investments
- . productivity

OTHER FACTORS:

Please provide a statement on any other factors, which are or may be having an effect on the industry of Bangladesh. This might include strikes, changes in consumer demand, technological advances, reduction or increases in export markets environmental regulations etc.