Trade Barriers Regulation – Filing a complaint

What is the purpose of a Trade Barriers Regulation (TBR) complaint?

In order to result in a TBR investigation, a TBR complaint must demonstrate clearly that there is preliminary evidence that trade barriers or unfair trading practice contrary to international rules in another country is causing commercial harm to a European operation, either within the EU or in that country.

The complaint must show material injury such as financial losses, reduced profit margins, redundancies, or lack of investment, a surge in imports or fall in exports. If the complaint is accepted and a TBR investigation launched the Commission will seek to use bilateral contacts, WTO dispute settlement or other dispute settlement procedures to remove the trade barrier.

Who can file a TBR complaint?

EU businesses acting either individually or through their industry associations can lodge a TBR complaint. Any EU Member State may also lodge a complaint.

Companies who are considering to launch a complaint, are strongly encouraged to first contact EU Trade services informally before filing a complaint. This is in practice an essential step in order to allow the orderly processing of the complaint, and – provided that the conditions are met – the eventual launch of an investigation.

Drafting a TBR complaint

Filing a TBR Complaint is not a complex procedure. However, a complaint must contain the necessary technical information and data to allow the European Commission to assess whether a TBR investigation is warranted.

The complaint must be submitted in triplicate to the European Commission.

A complaint must include the following:

- Identification of the complainant and of its activities, including general information on production, turnover and number of employees;
- Definition of the goods, services or intellectual property rights affected by the trade barrier;
- Data on trade flows in which the complainant is involved as producer, transformer, importer or exporter;
- Evidence of the existence of the trade barrier. The complaint should include factual description of the damaging trade practice with a copy, if possible, of all the pertinent legislation or regulations. When the trade practice is not supported by legislation or regulation, the complainant should provide as prima facie evidence of its claim letters or faxes from sales agents, importers or clients confirming the existence of the trade practice. This should include a summary of the evolution of the offending practice over time. If any action has been taken against this barrier in the past, this should be noted;
- Indication of how this trade barrier breaches international trade rules. However, complainants do not need to develop a fully-fledged legal analysis.
Evidence that the trade barrier results or threatens to result in adverse trade effects or injury. Injury refers to effects on the EU market, whereas adverse trade effects refers to economic losses on third country markets. Threat of injury or of adverse trade effects may occur when, for instance, the contested trade practice has been adopted but not yet implemented. In order to show that injury or adverse trade effects exist, and that they are caused by the challenged obstacle to trade, evidence must be given on the basis of the illustrative list of factors indicated in Article 10 of the TBR. These can include statistical data on the affected trade flows, data showing a loss of market share or other commercial injury.

The European Commission has prepared a model TBR complaint that shows the different elements that must be covered in complaints.

Contacting the European Commission

Before a complaint is lodged, the complainant is invited to make informal contact with the European Commission.

The first contact point should be the Market Access Unit of DG Trade, which will provide advice on the relevance of the issue and on the best way to handle the case.

If a TBR Complaint is to be submitted, officials in DG Trade’s TBR unit can provide assistance. The procedure should not involve any particular costs for the complainant.

Contact information

You can contact us by mail at trade-TBR@ec.europa.eu

Or by post:

European Commission
Directorate-General for Trade
Unit F/2
Legal Aspects of Trade Policy
TBR Secretariat
B-1049 Brussels
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