

International Procurement Instrument (IPI) – Complaint form to be sent to:

TRADE-EU-INTERNATIONAL-PROCUREMENT-INSTRUMENT@ec.europa.eu

This form is for lodging a complaint in the context of the REGULATION (EU) 2022/1031 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 23 June 2022 on the access of third-country economic operators, goods and services to the Union's public procurement and concession markets and procedures supporting negotiations on access of Union economic operators, goods and services to the public procurement and concession markets of third countries (International Procurement Instrument – IPI)

Info: The International Procurement Instrument provides for the initiation of an investigation into third country measure or practice only when they are related to procurement procedures not covered by a commitment from the third country concerned vis-à-vis the EU. The barriers related to public procurement procedures covered by international commitments do not fall in the scope of the International Procurement Instrument.

Please note that the fields marked with an asterisk are mandatory.

1. IDENTITY OF THE COMPLAINANT AND CONTACT DETAILS*

1.1. First name

1.2. Last name

1.3. Email

1.4. Telephone (including the country dialling code)

1.5. Correspondence address

1.6. Please indicate whether the complainant is

- A Member State of the European Union (EU); or,
- An EU interested party, ie a EU person or EU entity whose interests might be affected by a third-country measure or practice, such as undertakings, associations of undertakings or a main cross-industry organisation representing social partners a EU level

1.7. In case the complainant is an entity:

- Name of the entity and details (if possible, also of known national and European associations, and of other known operators in the EU of the industry concerned)
- Legal representative(s) of the entity
- Is the entity directly concerned by the production of goods or the provision of services, which are the subject of the third-country measure or practice?
- Business activity of the entity
- In the case of entity representing interests of economic operators/economic sectors, please describe which economic operators/sectors you represent
- Please explain how the interest of the entity is affected by the third-country measure or practice

- Please illustrate the economic importance (using quantitative or qualitative indicators) of public procurement contracts for the business activity of the entity/economic sector concerned
- EU Member State(s) of activity

1.8. Please indicate whether you agree that the Commission reveals your identity. If not, please specify the reasons.

Confidentiality: If you do not wish your identity or certain documents or information to be disclosed, please indicate this clearly, identify the confidential parts of any documents and give your reasons. In the absence of any indication about confidentiality of your identity or certain documents or information, those elements will be treated as non-confidential and may be shared with other interested parties.

2. INFORMATION ABOUT THE COMPLAINT*

- 2.1. Title/ short description of the complaint
- 2.2. Category of measure¹
- 2.3. Third country imposing the measure or practice
- 2.4. Member State(s) affected
- 2.5. Complaining industry/ Member State

3. MEASURE /PRACTICE: FACTUAL DESCRIPTION OF THE THIRD-COUNTRY MEASURE OR PRACTICE*

- 3.1. Please describe the activity and subject matter of the third-country measure or practice.
- 3.2. Please describe the nature of third-country measure or practice (law, regulation, guideline, administrative measure, practice or combination thereof) and explain at what level it has been taken (e.g. central/federal level, regional/local level) Please provide information about the institution/authority, which applied the measure or practice in question.
- 3.3. Please provide the text of the measure and if possible an English translation (attachment possible). Please provide any supporting document/evidence demonstrating the measure or practice².
- 3.4. If the source is a legal text (or a draft), please indicate whether the measure is in force, and if so, when it entered into force (or if not, when it is expected to be approved/to enter into force).
- 3.5. Please indicate if domestic products/services and/or economic operators are subject to the same treatment. If yes, please provide details.

¹ The OECD paper on a taxonomy for government procurement barriers provides for a comprehensive mapping of public procurement barriers: <https://www.oecd-ilibrary.org/docserver/5bfb44c3-en.pdf?expires=1661440931&id=id&accname=guest&checksum=E6A44A8BDEF26C9A5867D9135B0D6245>

² As a general rule, all information or data contained in the complaint must be copyright free. If a report, study, market survey, press article etc. covered by copyright are used, a prior agreement of the copyright holder should be obtained.

3.6. Please explain the context in which this measure or practice was adopted and any specific motivations behind it. Please provide supporting documents/evidences in this respect.

3.7. Please indicate whether you consider that the measure or practice is inconsistent with any relevant legal provisions in agreements to which the EU and the third country are party to (WTO GPA or Free Trade Agreement rules, other rules or principles i.e. transparency, non-discrimination, proportionality...)

4. ECONOMIC/SYSTEMIC IMPACT - FACTUAL DESCRIPTION OF HOW THE MEASURE OR PRACTICE AFFECTS THE INDUSTRY (PROVIDE SUPPORTING EVIDENCE AND SOURCES USED)

4.1. Goods/works/services/concession affected by the measure or practice (provide the CPV code³ for the product/the service affected)

4.2. Description of the third country market for the specific goods/works/services/concession mentioned above. If known, please indicate any European sectorial associations, individual companies and the EU Member State(s) from where such products/services are exported (attachment possible)

4.3. Please explain the economic damage caused to the economic operator/sector (including, if possible, based on usual business indicators such as production, exports, total sales, etc.) and if possible, an estimate of the material impact (e.g. value of affected trade in those specific CPV codes concerned by the measure, percentage of trade or investment affected by the measure or practice compared to total exports of the sector to that country, proportion of sales of goods/services affected by the measure or practice in the activity performed by the economic operator/sector concerned, etc.).

4.4. Please explain how the measure or practice represents a serious and recurrent impairment of access of Union economic operators, goods, or services to the public procurement or concession markets of the third country.

4.5. Please indicate any other consideration you see worth mentioning, including how it affects wider EU interests (attachment possible).

5. BIDDING EXPERIENCE

5.1. Please indicate if you have participated in a public procurement/concession procedure in the EU for the award of goods / services / works/concessions as identified in section 4.1 of this form.

Please indicate if you have been awarded a contract in the EU for the goods/works/services/concessions identified in section 4.1 of this form.

5.2. Please indicate if you have participated in a public procurement procedure/concession in a third country for the award of goods/ services/works/concession as identified in section 4.1 of this form.

Please indicate if you have been awarded a contract in a third country for the goods/works/services/concession identified in section 4.1 of this form.

³ <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32008R0213>

5.3. Please indicate if you have participated in a public procurement procedure in the third country concerned by the complaint for the award of goods/ services/works/concession as identified in section 4.1 of this form.

Please indicate if you have been awarded a contract in the third country concerned by the complaint for the goods/works/services/concession identified in section 4.1 of this form.

6. ACTIONS

6.1. Please indicate, if possible, the actions already undertaken or planned by Member States/industry (such as contacts with other Commission services, with Member States/associations/with the third country) and the state of play, including the replies received so far.

6.2. Please indicate if you are aware that the measure or practice also affects industry from a third country and if they have sought help from their government. Please provide information on the state of play.

6.3. Please indicate if any company/industry association/other has taken action in front of the appropriate national authorities (including domestic courts) of the country concerned to seek relief against the measure or practice. In the affirmative:

- Indicate the type of action and the authority in front of which it has been taken;
- Indicate the outcome of the action;
- If you consider that the outcome is not appropriate, explain why;
- If you consider the outcome is appropriate, please explain how the country concerned has failed to implement it.

7. CONFIDENTIALITY*

7.1. The Commission will treat information received on a confidential basis where there are reasonable grounds justifying such confidential treatment. If you wish to treat any part of the complaint and supporting documents as confidential, please request this explicitly and give reasons for the request. The complaint or any documents, which contain confidential information, must be labelled 'Sensitive'.

7.2. All confidential information shall be accompanied by a non-confidential summary thereof. The summary shall be in sufficient detail to permit a reasonable understanding of the substance of the information submitted in confidence. The non-confidential version of the complaint or any other documents, which do not contain confidential information, must be labelled 'Open for interested parties'