



# The Economics of antidumping

## TERA law & economics conference

Pr. Laurent BENZONI

Full Professor of Economics - Sorbonne University (Paris II)  
Founding partner TERA Consultants ; [benzoni@tera.fr](mailto:benzoni@tera.fr) ;

**TERA** Consultants  
39 rue d'Aboukir  
75002 PARIS  
Tél. + 33 (0) 1 55 04 87 10  
Fax. +33 (0) 1 53 40 85 15  
S.A.S. au capital de 200 000 €  
RCS Paris B 394 948 731

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# Agenda



- 1 Present the basics of the antidumping tests, as implemented by the DG Trade of the E.C.
- 2 Detail how economics can be best used within the framework of an antidumping case
- 3 Describe TERA's antidumping capabilities

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# Antidumping is one of the instruments used by the European Commission as part of its fair trade defense policy



## E.C. fair trade instruments

## Description

## Subject of the presentation

### Antidumping

- A company is dumping if it is exporting a product to the EU at prices lower than the “normal value of the product” (generally calculated as the domestic prices of the product or the cost of production) on its own domestic market.
- The European Commission is responsible for investigating allegations of dumping by exporting producers in non-EU countries. It usually opens an investigation after receiving a complaint from the Community producers of the product concerned, but it can also do so on its own initiative.

### Anti-subsidy

- The EU anti-subsidy rule defines a subsidy as "a financial contribution made by (or on behalf of) a government or public body which confers a benefit to the recipient".
- The EU may impose countervailing duties to neutralize the benefit of such a subsidy only if it is limited to a specific firm, industry or group of firms or industries.
- Export subsidies and subsidies contingent on the use of domestic over imported goods are deemed to be specific.

### Safeguards

- Safeguards are intended for situations in which an EU industry is affected by an unforeseen, sharp and sudden increase of imports.
- The objective is to give the industry a temporary breathing space to make necessary adjustments – safeguards always come with an obligation to restructure.

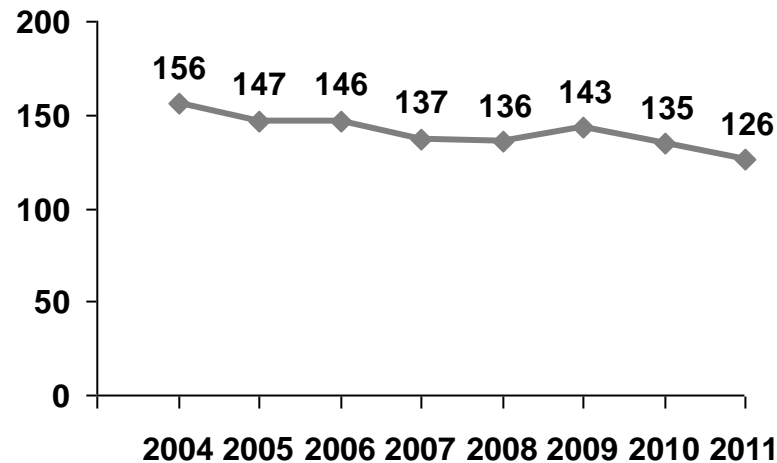
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The number of trade cases has been slightly decreasing over time, they now concern around 8 bn€ of imported goods each year



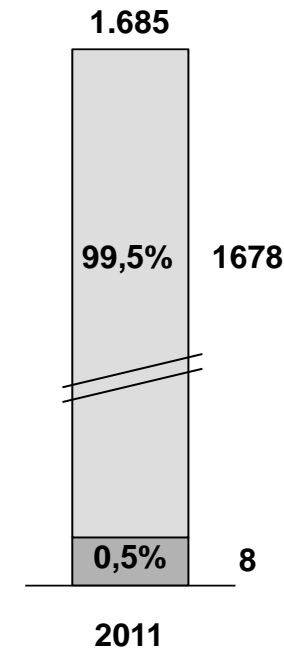
**Number of antidumping / antisubsidy cases in the E.U**

-nb of cases, 2004/2011-



**Value of imported goods in the E.U.**

-bn€, %, 2011-



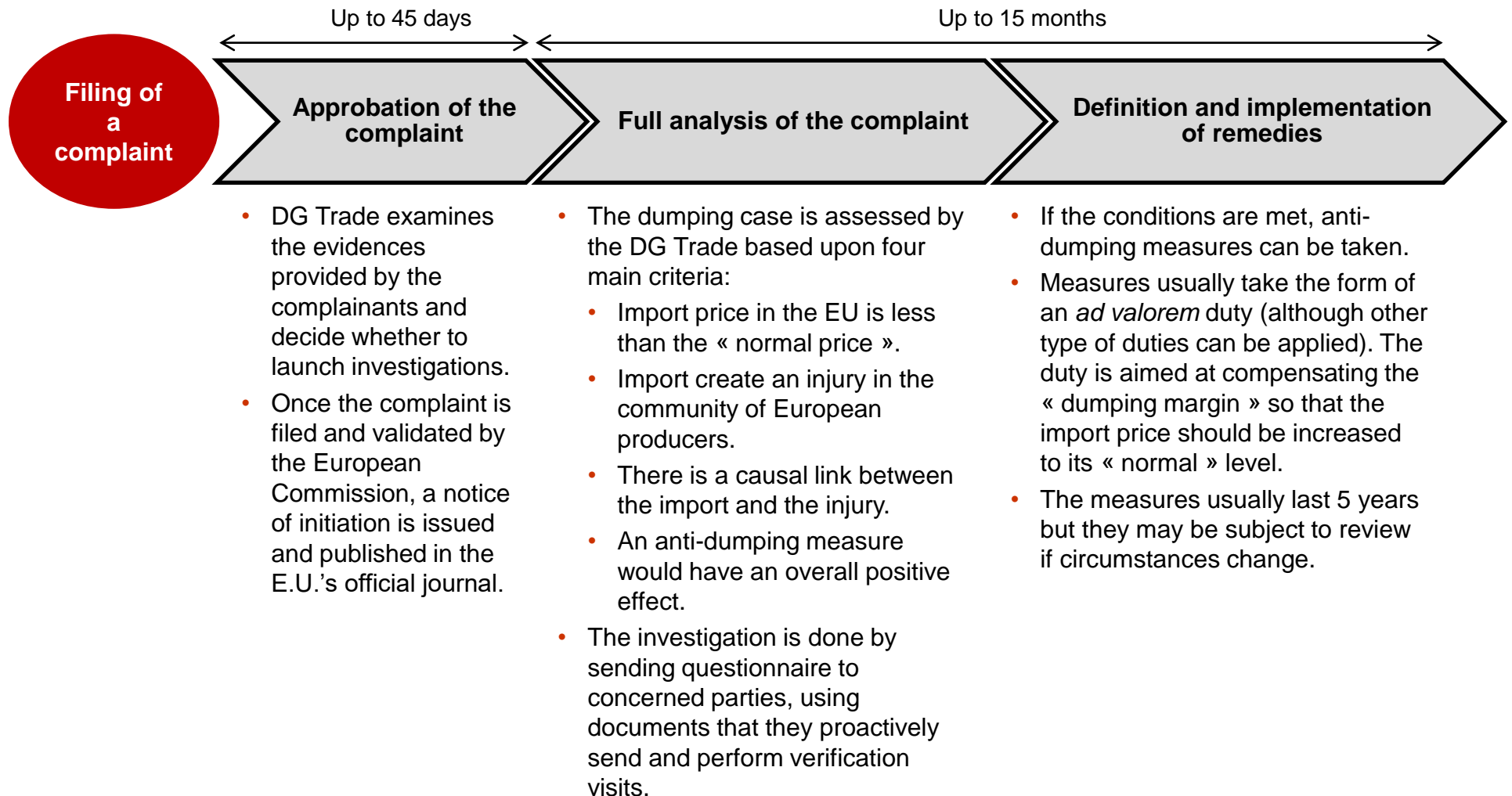
Imported goods facing a trade complaint

**New high profile cases have been recently filed (e.g. solar panels), the European antidumping activity might increase in the near term**

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# The management of an antidumping case can be divided into 3 main steps

## Antidumping process



## Economics can be fruitfully used during the “full analysis of the complaint” phase, to evaluate the 4 main criteria

### Antidumping criteria

#### A dumping practice took place

- The test requires to compute the “normal price” of the product and compare it with the actual import price.
- A product is considered as being dumped if its export price to the EU is less than its “normal value” - 2%

#### The European competing producers have suffered an injury

- There must be material injury to the Community industry producing the like product

#### There is a causal relationship between the dumping and the injury

- The dumped imports must be a cause of the injury.
- They need not be the only cause - other factors might also contribute.

#### The imposition of the anti-dumping measure is not against the Community interest

- The overall European economic interests must be taken into account, including the domestic industry producing the product concerned, importers, Community industries that use the imported product and will ultimately pay a higher price and end users

### Description

### Role of economics

- Calculation of the “normal price”
  - Benchmark method
  - “cost based” method
- Identification of the “relevant market”
- Proof and order of magnitude of the injury: suffered by the European market players (evolution of market share, price, profitability, productivity, return on investment, etc.)
- Assessment of the importance of foreign dumping as a cause of the injury vs. other potential causes (increase of European production costs, technology switch, new European entrants, etc.)
- Cost/Benefit analysis proving that the overall impact of the antidumping measure is positive.

# The dumping test is based on a comparison between the import price and a « normal price » calculated using benchmark or cost based methods



## Calculation methodology

## Description

## Technical difficulties

### Benchmark method

- The “normal price” is calculated based upon the market price of comparable products:
  - It is generally the product price in the exporter’s country
  - When not applicable, the product price in some other country can also be used as a proxy for the normal price, if the conditions are “comparable” (method used in the Chinese bicycle case).

- Objective differences in the sales condition could justify price differences (ex: if the domestic volume is much more important than the volume exported in the EU)
- Product could be sold at marginal price in certain countries, depending on the commercial strategy
- In non market-economy countries, price might not be relevant.

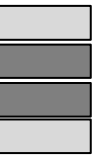
### Cost based method

- The “normal price” is calculated as the “relevant costs” plus a “reasonable margin”
  - The relevant cost include the production costs plus a “reasonable” amount of SG&A costs
  - No precise indication is given to establish the reasonable profit margin

- Cost calculation
  - Long term vs. short term
  - Incremental vs. average
  - Methodology to allocate common costs between products in a multi product firm
- Profit calculation
  - Profit indicator (EBIT margin, ROCE, IRR, etc.)
  - Choice of the “normal profit level”: benchmark vs market modeling.

If need be, it could be envisioned to use other methods to establish the “normal price” (e.g. methods used in a competition law context, as the market modeling method)

# The measure of the injury and the causality of the dumping practice can be assessed using econometrics



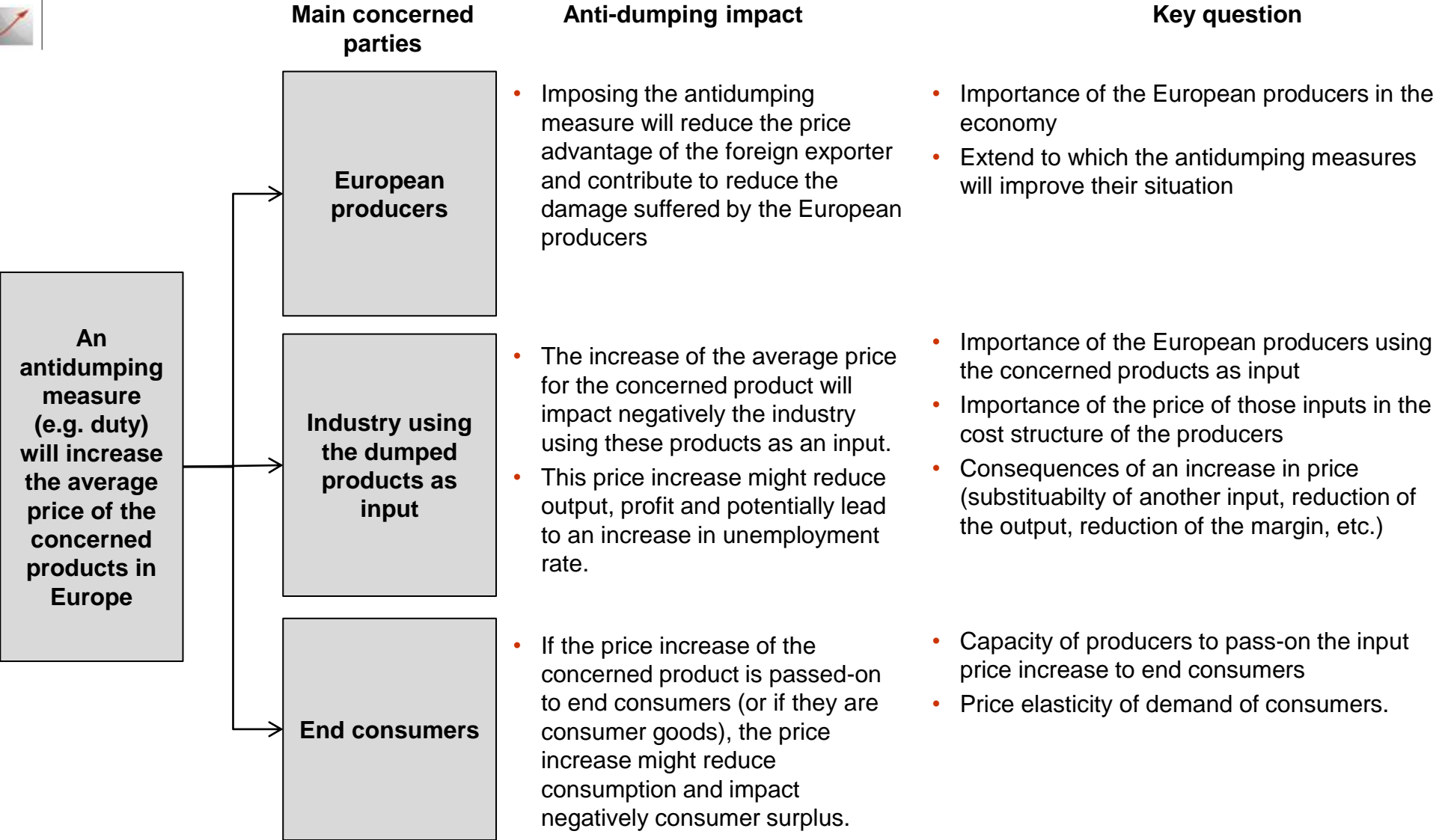
## Key steps in the causality analysis



- Identification of the « relevant market », that is all the European producers that are likely to be hurt by the dumping.
- Proof of the injury;
  - The fact that the import price is lower than the price of the domestic producers cannot be used as a sole proof (material differences can explain a difference in prices, e.g. a better service)
  - Other economic criteria must be used: evolution of profit margin, output, capacity utilization, return on capital, etc.
- An understanding of the main underlying market drivers is necessary to understand all possible causes for the injury suffered by the European producers.
- Key drivers include: a change in the cost structure of the European producers (e.g. a change in the price of a key input); a change in the European competitive intensity; the development of new competing products; a decrease in the overall demand, etc.
- An econometric model can be set up to test the causality between the increase in the import volumes due to the dumping and the injury suffered by the European producers.
- Various type of model can be used depending on the quantity and quality of available data.



# The cost / benefit analysis of an antidumping measure must be done taking into account all concerned parties



# TERA Consultant’s experience in trade, regulation, antitrust and transfer pricing economics allow us to help complainant or defender in trade cases



## Technical issues

## TERA added value

**Normal price calculation**

- **Cost based method:** TERA’s consultants have an extensive experience in cost analysis and common cost allocation as it is a fundamental skill in **regulatory economics** (calculation of regulated tariffs and margin squeeze tests)
- **Benchmark.** TERA’s consultants have a significant experience in statistical benchmarking and identification of comparable transactions, which is a key skill in **transfer pricing** (as the OECD’s arm’s length price should be calculated by benchmark)

**Causality between dumping and damage**

- **Financial analysis:** our **litigation support** activity (damage calculation) allowed our consultants to develop strong financial skills that can be used to measure the damage that has been suffered by a group of producers.
- **Econometrics:** Our **antitrust** practice gave us an extensive experience in advanced econometrics and data analysis technics (time-series models, multivariate models, sampling, principal component analysis, etc.) as well as a capacity to handle large databases.

**Global impact of the antidumping measure**

- Our activity of **public policy assessment** lead us to develop an expertise in cost benefit analysis as well as multi-attribute value functions.

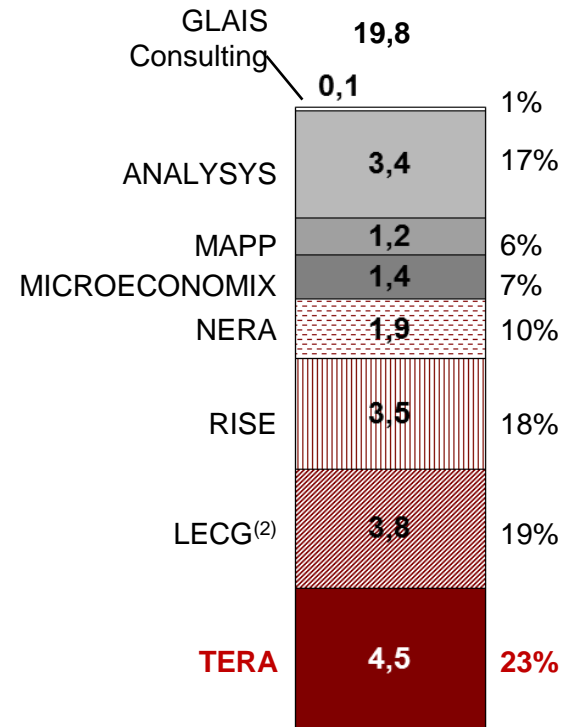
TERA Consultants provides large businesses and law firms with economic consulting services and expert testimony in the areas of trade, antitrust, regulation and transfer pricing.

### TERA Consultant

- **Created in 1995** by Laurent Benzoni, full professor at Paris II University and economic expert in competition and regulation economics.
- The company first focused on regulation, mainly in the telecommunication industry. It then developed into connex areas in a very wide range of industries:
  - Antitrust
  - Litigation support, incl. Trade litigation
  - Transfer pricing
- TERA has posted a continuous growth since its inception, it now includes 6 partners, 25 **consultants** and generated a 2012 Turnover of **5 M€**

### Economic Consulting market structure<sup>(1)</sup>

Main actors of economic consulting in France  
- M€, 2009 -



Note (1) : Market sized based upon the T/o of the French subsidiaries of the main consulting companies, excluding CRA and Sorgem (unpublished accounts) (2): In Europe, the economic consulting business of LECG has been purchased by Compass Lexecon in 2011

Source: annual reports, Diane database, TERA analysis

## Contact information



**Laurent Benzoni**

[benzoni@tera.fr](mailto:benzoni@tera.fr)

+33 (0)1 55 04 87 12

**TERA Consultants**

39, rue d'Aboukir

75002 Paris

France

[www.tera.fr](http://www.tera.fr)

[info@tera.fr](mailto:info@tera.fr)

Tel : + 33 (0) 1 55 04 87 10

Fax : +33 (0) 1 53 40 85 15

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