

GENERAL AGREEMENT ON

TARIFFS AND TRADE

RESTRICTED

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Committee on Anti-Dumping Practices

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Committee on Subsidies and
Countervailing Measures

LEGISLATION OF NEW ZEALAND

(Questions Posed by the United States of America)

Section 186A(1) - "Dumping":

- Could New Zealand clarify, by way of illustration or definition, what the term "goods...intended to be imported" is meant to encompass?

Section 186A(1) - "Industry":

- The exclusion of importers from the definition of domestic industry appears to be an absolute one. Could there not be circumstances under which a firm may have imported the product under investigation and yet still be legitimately considered as part of the domestic industry -- e.g., when the ratio of the firm's imports to its production of the like product is negligible? How would New Zealand authorities treat a domestic firm which is related to an exporter under investigation but which does not import the product being investigated?

Section 186A(1) - "Subsidized goods":

- Why is there a separate notation for the reduction or remission of freight in paragraph (b) when transportation subsidies are specifically noted in the preceding paragraph (a)?

Section 186A(4)(e)-(g):

- What is meant by the term "direct or indirect control"? Could New Zealand provide examples of how direct or indirect control might be identified in the course of an investigation?

Section 186B(2):

- Could New Zealand provide examples of the possible bases or methodologies for determining the export price under the circumstances described in this subsection?

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Section 186C:

- When an exporter has no home market sales, or none that can be used for comparison purposes, what is the theoretical basis for establishing normal value on the basis of home market sales by other sellers of like products rather than on the basis of the exporter's sales to third country markets? Why should the home market experience of other producers provide a better indication of whether a particular firm may be dumping, especially when that firm's actual experience in a third country market may be available?

Section 186C(2) (a) (ii):

- Could New Zealand clarify what is meant by the phrase "the situation in the relevant market is such that sales in that market that would otherwise be relevant for the purpose of determining a price... are not suitable for use in determining such a price"?

Section 186C(2):

- The language of this section seems to imply that constructed value is generally preferred over sales to third country markets in determining normal value, when sales in the home market cannot be used. Would such a preference exist in practice?

Section 186M:

- Subsection (1) allows for the acceptance of undertakings when the foreign government or exporter commits to "conduct future export trade to New Zealand...to avoid causing or threatening material injury..." Subsection (2) refers specifically to price increases in an undertaking. Is this section intended to apply to both anti-dumping and countervailing duty proceedings? Are price undertakings the only form of undertakings provided for? If not, why is there no reference to other forms, such as cessation of exports or, in the case of countervailing duty investigations, the limitation or elimination of the subsidy?

Section 186P:

- It is unclear whether this section is intended to refer to the application of anti-dumping and countervailing duties on behalf of third country industries, or only anti-dumping duties. In addition, there is no reference to obtaining the agreement of the CONTRACTING PARTIES in doing so. Could New Zealand clarify these points?