

# GENERAL AGREEMENT ON

RESTRICTED

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# TARIFFS AND TRADE

Special Distribution

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Committee on Anti-Dumping Practices

Original: English

## QUESTIONS RAISED BY CANADA ON THE ANTI-DUMPING LEGISLATION OF NEW ZEALAND<sup>1</sup>

### Question No. 1: Definition of Dumping

Dumping is defined in Section 186A in relation to goods "imported into New Zealand or intended to be imported into New Zealand". This wording suggests a broad interpretation of the concept of "introduced into the commerce of another country" prescribed in Article 2:1 of the Code. This question has also been discussed on several occasions by the Committee. What criteria will be applied to determine when a product is "intended" to be imported? Will the New Zealand authority require the existence of a formal contractual arrangement to import the good?

### Question No. 2: Institutional Arrangements

The injury determination will be conducted by the Minister in parallel to the determination of the existence of dumping. While there is no requirement in the Code for two separate investigating authorities, there is value in a separated system for transparency reasons. Why did New Zealand choose not to have a separate adjudicative body for the injury determination? Will reasonable opportunity be provided to exporters/importers to argue their case? In this connection, will special procedures be instituted to ensure the process is as open and transparent as possible? Will counsel for exporters/importers get access to confidential information pertaining to complainants? What appeal mechanisms are available to parties to an anti-dumping action?

### Question No. 3: Reviews

Sections 186(5) and (6) put an onus on the Minister to review decisions on its own initiative or upon request of an interested party. The legislation does not, however, prescribe a specific time period. Is it the intention of the New Zealand authorities nonetheless to conduct a periodic review of the margin of dumping, and if so, how frequently? Some signatories have included in their legislation sunset clauses whereby an order would automatically lapse after a specific period of time unless a review has confirmed the continuation of the injury finding. Is it the intention of the New Zealand authorities to adopt such a measure?

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<sup>1</sup>ADP/1/Add.15