

GENERAL AGREEMENT ON

RESTRICTED

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TARIFFS AND TRADE

Committee on Subsidies and
Countervailing Measures

RESPONSES TO SUPPLEMENTARY QUESTIONS FROM THE
UNITED STATES ON NEW ZEALAND'S COUNTERVAIL LEGISLATION

The following are responses to supplementary questions posed by the United States and circulated in SCM/W/193.

References to "the Act" in the responses, are to the Dumping and Countervailing Duties Act 1988, which has replaced Part VA of the Customs Act 1966 (SCM/1/Add.15/Rev.2) as the legislation governing anti-dumping and countervailing duty actions. The text of the Act has been circulated in SCM/1/Add.15/Rev.3.

The New Zealand authority responsible for the administration of the Act is the Ministry of Commerce. The Ministry is cognizant of New Zealand's obligations as a signatory to the Subsidies Code, and as a matter of policy applies the Act consistently with those obligations.

It is not the practice of the New Zealand authorities to provide responses of a hypothetical nature in relation to matters which may be the subject of judicial review. This position is reflected in the responses to a number of the questions raised.

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Question: Section 3(1)

In its response, New Zealand indicates that the definition of domestic industry would in all cases exclude importers of the allegedly dumped or subsidized goods. How might the New Zealand authorities then deal with a situation in which a firm that accounts for a majority of the domestic production of the like product was also an importer of the like product? What if this firm were the only domestic producer or, alternatively, what if it opposed the filing of a complaint brought by another domestic producer accounting for only a minimal portion of domestic production?

Response:

Where a firm which accounts for any proportion of domestic production imports the allegedly subsidized goods then it will be excluded if it imports like goods which are not allegedly subsidized. Accordingly, a firm will be excluded if it imports the allegedly subsidized goods even if it accounts for the majority of domestic production, and even if such a firm opposes the filing of a complaint by a minor producer, but will not be so excluded if the imports of like goods are not allegedly subsidized. A firm which is the only domestic producer but is also importing allegedly subsidized goods is unlikely to lodge a complaint against itself.