



23 August 2017

(17-4495)

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Committee on Anti-Dumping Practices
Committee on Subsidies and Countervailing Measures

Original: English

**NOTIFICATION OF LAWS AND REGULATIONS UNDER
ARTICLES 18.5 AND 32.6 OF THE AGREEMENTS**

NEW ZEALAND

Revision

The following communication, dated 20 August 2017, is being circulated at the request of the delegation of New Zealand.

Pursuant to Article 18.5 of the Agreement on Implementation of Article VI of the General Agreement on Tariffs and Trade 1994, and Article 32.6 of the Agreement on Subsidies and Countervailing Measures, New Zealand is notifying the amendments to its anti-dumping and countervailing duties legislation as outlined below.

In May 2017 the New Zealand Parliament passed the *Trade (Anti-dumping and Countervailing Duties) Amendment Act 2017* (the Amendment Act).¹ This made a number of amendments to the *Trade (Anti-Dumping and Countervailing Duties) Act 1988* (the Principal Act).²

The changes introduced by the Amendment Act are:

- (1) Inserting a new public interest test as an additional step in a dumping or subsidy investigation (including a third country dumping investigation) and a full review of an anti-dumping or countervailing duty.
- (2) Inserting a power to defer, not impose, terminate, or suspend an anti-dumping or countervailing duty in situations involving natural disasters or emergencies.
- (3) Extending the current suspension of anti-dumping duties on residential building materials by two years and one month.
- (4) Clarifying procedures for investigations, reviews, and the imposition of duties.
- (5) Making other minor drafting changes to modernise and simplify the Principal Act.

Inserting a new public interest test as an additional step in investigations and full reviews

The responsible Ministry (currently the Ministry of Business, Innovation and Employment) will conduct a public interest test if it has concluded an investigation and the responsible Minister (currently the Minister of Commerce and Consumer Affairs) has determined that there is dumping or subsidisation causing material injury to the domestic industry. This test will consider the effects

¹ <http://www.legislation.govt.nz/act/public/2017/0021/latest/DLM6863006.html>.

² <http://www.legislation.govt.nz/act/public/1988/0158/latest/DLM137948.html?src=qs>.

of the imposition of duties in terms of a list of factors including affordability and availability of product for consumers and downstream industries, and the financial performance of the domestic industry.

The test contains a presumption in favour of imposing duties. If the test reveals that the costs of the imposing a duty would materially outweigh the benefits then the responsible Minister must decline to impose a duty.

Officials will also conduct a public interest test following any full review of a duty currently in place.

The public interest test provision will commence on 29 November 2017 (six months after the passing of the Amendment Act).

Inserting a power to defer, terminate, suspend or not impose a duty in situations involving natural disasters or emergencies

The responsible Minister may suspend or terminate existing duties, or defer or not impose new duties, if the users of the affected product have been significantly impacted by a natural disaster or emergency.

The definition of emergency is linked to the *Civil Defence and Emergency Management Act 2002*.

Extending the current suspension of anti-dumping duties on residential building material by two years and one month

In 2014 Parliament placed a temporary suspension on anti-dumping duties on residential construction materials until 31 May 2017 to improve the affordability of housing construction.

The Amendment Act extends this suspension for a further two years and one month until 30 June 2019.

Clarifying procedures for investigations, reviews and imposition of duties

The Amendment Act clarifies a number of sections of the Principal Act including the existing procedure for investigations, the notice and access to information provisions, how the rate or amount of a duty is determined, and certain provisions on reviews and reassessments.

These clarifications include changing the authority to conclude and determine the result of reviews from the responsible Ministry to the responsible Minister, and allowing for a more streamlined process in establishing new duties for new exporters.

Making other minor drafting changes to modernise and simplify the principal Act

The Amendment Act makes minor drafting changes to the Principal Act, including renaming the Principal Act from the *Dumping and Countervailing Duties Act 1988* to the *Trade (Anti-dumping and Countervailing Duties) Act 1988*, restructuring the Principal Act into parts, inserting a purpose section and an overview section, and modernising and simplifying the language.
