

QUESTIONS RAISED BY CANADA ON THE COUNTERVAILING  
DUTY LEGISLATION OF NEW ZEALAND<sup>1</sup>

1. It is noted that the injury investigation will be conducted by the Minister, as well as the investigation of the alleged subsidization. While it is recognized that there is no requirement in the Code for two separate investigating authorities, there is value in a separated system, for reasons of transparency. Why did New Zealand choose not to have a separate adjudicative body for the injury determination? Will special procedures be instituted to ensure the process is as open and transparent as possible? What appeal mechanisms are available to parties to a countervail action?

2. Section 186 H (6) provides for the consultations envisaged by Article 3:1 of the Code but there does not appear to be a provision for notification of the exporting country's government when a request for initiation of investigation is received from the domestic producer by the Comptroller. How will the exporting country be notified of such action?

3. Section 186 H (4) (b) provides for the access to non-confidential information relevant to the interested parties presenting their cases during the course of the investigation. Does the legislation envisage counsel for those interested parties having access to pertinent third party confidential materials/submissions?

4. The provisions of Sections 186 L (5) and (6) put some onus on the Minister to review the need for the continued imposition of the countervailing duty, but there are no specified sunset clauses for the expiration of a decision/finding after a certain period of time unless a review has confirmed the need for the continuation of the injury finding. Was the inclusion of such a sunset provision considered, and if so, what was the rationale for its exclusion?

5. Do the provisions of Section 186 M envisage price undertakings only? Is it the intention of the New Zealand legislation to allow for undertakings in countervail investigations which offer the reduction or elimination of the subsidy or which offer limitations on the quantity of the subject goods exported to the investigating country?

6. It is generally noted that the New Zealand legislation seems to give broad discretion to the Minister in the determination of the amount of the subsidy. Is it the intention of New Zealand to introduce Regulations which would provide further interpretive guidance, and if so, when will these be submitted to the Committee for review?

<sup>1</sup>SCM/1/Add.15 + Rev.2