



8 February 2013

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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 AGREEMENT**

NEW ZEALAND

*Supplement*

The following communication, dated 7 February 2013, is being circulated at the request of the Delegation of New Zealand.

In December 2012 the New Zealand parliament passed the Dumping and Countervailing Duties Amendment Act 2012 which resulted in amendments to the Dumping and Countervailing Duties Act 1988 (the principal Act). The amendments provide for importers to apply for a refund of anti-dumping duty paid in excess of the margin of dumping, set out the process to be followed and the evidence that must be provided to support such an application, require that the Ministry of Business, Innovation and Employment provide a report to the Minister of Commerce on the application and allow the Minister of Commerce to approve the refund of any excess anti-dumping duty paid by an importer.

Specifically, the amendments by the Act to the principal Act are that a new section 14A is inserted which provides as follows:

**14A Refund of excess anti-dumping duty paid**

- (1) An importer may apply to the Minister for a refund of excess anti-dumping duty paid in respect of goods imported during an importation period.
- (2) Excess anti-dumping duty is paid if the total amount of anti-dumping duty in respect of all goods imported during the importation period exceeds the difference between:
  - (a) the export prices of those imported goods; and
  - (b) the normal values of those imported goods.
- (3) An application for a refund under subsection (1) must:
  - (a) be made no later than 6 months after the end of the importation period; and
  - (b) be addressed to the Secretary; and
  - (c) be in the form (if any) required by the Secretary; and
  - (d) be accompanied by the documentary evidence specified in subsection (4); and
  - (e) state the total amount of refund of excess anti-dumping duty sought for the importation period.

- (4) An application for a refund must be accompanied by documentary evidence of the following matters in respect of each importation of the goods into New Zealand during the importation period:
  - (a) the date of importation; and
  - (b) the amount of anti-dumping duty paid in respect of the goods; and
  - (c) the export price of the goods; and
  - (d) the normal value of the goods.
- (5) After receiving an application, the Secretary may require the applicant to provide any further information relating to the application that the Secretary considers necessary.
- (6) As soon as practicable after receiving an application and any further information required under subsection (5), the Secretary must provide a report to the Minister.
- (7) If the Minister, after considering the application and Secretary's report, is satisfied that excess anti-dumping duty has been paid by the applicant in respect of goods imported during the importation period, the Minister may require Customs to refund that excess anti-dumping duty.
- (8) In this section, **importation period** means a period of 6 months that:
  - (a) commences on 1 April and ends on 30 September in the same year; or
  - (b) commences on 1 October and ends on 31 March the following year.

#### **Purpose of Amendments**

This amendment puts in place a new statutory regime for assessing and paying refunds of anti-dumping duty paid in excess of the margin of dumping as required under Article 9.3.2 of the Anti-Dumping Agreement. The assessment and payment of such refunds previously relied on Ministerial and Cabinet directives under other legislation governing the use of public financial resources.

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