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

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NOTIFICATION OF CHANGE OF LAWS AND REGULATIONS UNDER ARTICLE 18.5 OF THE AGREEMENT ON THE 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

Supplement

The following communication, dated 4 February 2003, has been received from the Permanent Mission of New Zealand.

In December 2000 the New Zealand Government and the Singapore Government signed the New Zealand/Singapore Closer Economic Partnership Agreement (the Agreement).

Some minor amendments to the Dumping and Countervailing Duties Act 1988 (the principal Act) were required, to give effect to the provisions in the Agreement that apply if a question of Singapore exports being dumped into New Zealand arises.

The New Zealand/Singapore Closer Economic Partnership Act 2000 (the Act) amends the principal Act. The principal Act now makes specific provision for the termination of investigations into the dumping of goods of Singaporean origin, and for when anti-dumping duty and countervailing duty ceases to be payable on goods of Singaporean origin.

Specifically, the amendments by the Act to the principal Act are:

Section 3:

Section 3 of the Act is a technical section establishing that in Part 1 of the Act, the Dumping and Countervailing Duties Act 1988 is the principal Act.

Section 3 states:

In this Part, the Dumping and Countervailing Duties Act 1988 is called “the principal Act”.

Section 4:

Section 4 of the Act inserted section 3BA into the principal Act. The function of section 3BA is to define goods of Singaporean origin.

Section 3BA states:

For the purposes of this Act, goods of Singaporean origin means goods falling within the classes of goods for the time being entitled to be entered under the Tariff at the rates and exemptions provided for Singapore, or, if no rates or exemptions are provided in relation to particular goods for Singapore, that would be entitled to be entered under the Tariff if rates and exemptions were provided in relation to those particular goods.

Section 5:

Section 5 of the Act amended section 11 of the principal Act by:

- Inserting section 11(2)(a)(i), which raises from 2 per cent to 5 per cent the *de minimis* dumping margin for goods of Singaporean origin when considering if there is sufficient evidence of dumping to justify proceeding with an investigation;
- Inserting section 11(2)(a)(ii), which covers goods of any other origin for which the normal *de minimis* provisions of less than 2 percent will apply; and
- Inserting section 11(2A), which applies Article 5.8 of the Agreement on the Implementation of Article IV of the General Agreement on Tariffs and Trade 1994. Section 11(2A)(a) provides that the first reference in Article 5.8 to 3 per cent be read as 5 percent. Section 11(2A)(b) provides that if the volume of dumped imports of Singaporean origin is found to account for less than 5 per cent of imports of like goods into New Zealand, the volume of goods will normally be regarded as negligible.

The relevant part of section 11 states:

- (2) For the purposes of subsection (1)(a) of this section, evidence of dumping or subsidisation shall be insufficient where,—
- (a) in the case of dumping, the margin of dumping is,—
- (i) in the case of goods of Singaporean origin, less than 5% (expressed as a percentage of the export price); or
- (ii) in the case of goods of any other origin, less than 2% (expressed as a percentage of the export price); or]
- ...
- (2A) For the purposes of subsection (2)(c), in applying Article 5.8 of the Agreement on the Implementation of Article VI of the General Agreement on Tariffs and Trade 1994, annexed to the WTO Agreement, in relation to goods of Singaporean origin,—
- (a) the first reference in Article 5.8 to “3 per cent” must be read as a reference to “5 per cent”; and
- (b) accordingly, if the volume of goods of Singaporean origin dumped is found to account for less than 5% of the total imports of like goods into New Zealand, the volume of goods dumped must normally be regarded as negligible.]

Purpose:

These amendments raised the standard WTO *de minimis* dumping margin and negligible import level provisions as per Article 5.8 of the Agreement on the Implementation of Article IV of the General Agreement on Tariffs and Trade 1994, for goods of Singaporean origin.

It should be noted, however, that if investigations involve two or more countries (of which Singapore is one) then the standard provisions of Article 5.8 of the Agreement on the Implementation of Article IV of the General Agreement on Tariffs and Trade 1994 will apply when determining if countries which individually account for less than 3 percent of the imports of like products in the importing Member, collectively account for more than 7 per cent of the imports of the like product in the importing Member.

Section 6:

Section 6 of the Act amended section 14 of the principal Act by:

- Omitting the expression "5 years" and substituting the words "the specified period" in section 14(9); and
- Inserting section 14(9A), which defines the "specified period".

The relevant part of section 14 states:

- (9) Anti-dumping duty or countervailing duty applying to any goods shall cease to be payable on those goods from the date that is [the specified period] after—
- (a) The date of the final determination made under section 13 of this Act in relation to those goods; or
 - (b) The date of notice of any reassessment of duty given under subsection (6) of this section, following a review carried out under subsection (8) of this section,—

whichever is the later, unless, at that date, the goods are subject to review under subsection (8) of this section

- (9A) In subsection (9), specified period means,—
- (a) in the case of goods of Singaporean origin, 3 years; and
 - (b) in the case of goods of any other origin, 5 years.]

Purpose:

This amendment reduced from 5 years to 3 years the period after which anti-dumping or countervailing duties cease to be payable on goods of Singaporean origin, unless those goods are subject to a review.
