THE ANTIDUMPING LAW OF NEW ZEALAND

New Zealand producers filed 42 antidumping petitions between 1995 and 2005. Of the 22 antidumping determinations by the New Zealand government during this period, 77 percent resulted in the imposition of antidumping duties.

Legal Procedures

Any interested party may file an antidumping petition with the Trade Remedies Group (the Group) of the Ministry of Economic Development on behalf of the domestic industry.\(^1\) After initiating an investigation, the Group undertakes simultaneous investigations into (1) whether foreign products are imported at a price lower than the normal value and (2) whether those imports are causing or threatening to cause material injury to the domestic industry, or the establishment of an industry has been or is being materially retarded. The Minister of Commerce (the Minister) determines whether or not to impose antidumping duties based on the results of the Group’s investigation.

The Group normally calculates the dumping margin as the difference between the weighted average normal value and the weighted average import price over the period of investigation. The Group determines the normal value using one of the three methods. Whenever possible, the normal value is calculated using the sales price in the exporting country’s home market. However, if there are an insufficient quantity of sales in the exporting country’s domestic market, the export price is directly or indirectly influenced by the buyer, or another situation arises that does not permit using domestic sales in determining normal value, the Group calculates the normal value using one of two alternative methods. The Group may calculate a “constructed” normal value using the exporting country’s cost of production plus a reasonable amount for selling, general and administrative costs and profits. Alternatively, the Group may use the prices of sales from the exporting country to a selected third country. If any interested party fails to provide sufficient information within a reasonable time limit, the Group may make its determination on the basis of “all available information,” which includes the information submitted in the petition and by interested parties.

When determining whether the foreign imports are causing or threatening to cause material injury to the domestic industry, or materially retarding the establishment of an industry, the Group considers the volume of dumped imports, the effect of the dumped imports on prices of the like products in New Zealand’s market, and the consequent impact of the dumped imports on relevant New Zealand industry.\(^2\) The Group specifically considers the magnitude of the margin of dumping and its impact on actual and potential decline in output, sales, market share, productivity, return on investments, inventories, employments, wages, and growth in the domestic industry. To ensure that the injury to the domestic industry is caused by the dumped

\(^1\) An antidumping investigation may be initiated if New Zealand producers who support the petition account for at least 25 percent of total New Zealand production of the like goods produced for domestic consumption and have collective output of more than 50 percent of the total production of such goods produced for domestic consumption by those producers who either support or oppose the petition.

\(^2\) “Like products” are defined as goods that are identical to the goods under investigation or which have characteristics closely resembling those goods.
imports, the Group also examines other factors that may have injured the industry. These factors include the volume of goods imported at a “normal value,” contraction in demand or changes in the pattern of consumption, competition between overseas and domestic producers, developments in technology, and the export performance and productivity of domestic producers.

The Minister may impose provisional antidumping measure if there is sufficient evidence of dumping and material injury to the domestic industry after 60 days passes from date of the initiation of the investigation. Within 150 days of the initiation of the investigation, the Group must inform all interested parties of the essential facts in the investigation and the conclusions that will likely form the basis of a final determination. The Minister must then make a final determination and determine the value of the antidumping duties that will be imposed within 180 days of the initiation of the investigation. Antidumping duties cannot exceed the margin of dumping calculated by the Group during its investigation. If there is insufficient evidence of dumping or material injury to the domestic industry, the Minister terminates the investigation before making a final determination. All decisions must be published in the New Zealand Gazette.

If an exporter promises to revise its prices and stop exporting at “dumped” prices in an undertaking agreement, the Minister may terminate the antidumping investigation without applying any antidumping duties. When the investigation is terminated due to faulty information or the exporter fails to uphold the undertaking agreement, the Minister may reinitiate the investigation and impose provisional antidumping measures.

The antidumping duty or undertaking agreement is usually lifted after five years. The Group may initiate a review of the antidumping duty or undertaking at the request of interested parties, or on its own initiative. The Group may also initiate a reassessment of the value of the antidumping duty when necessary. The modified antidumping measure or undertaking that is imposed as a result of a review or reassessment is effective for five years from the date of the modification. However, the Minister may publish a notice and terminate the imposition of any antidumping duty in whole or in part before the end of five years.

New Zealand’s antidumping regulations afford some countries special treatment. Specifically, Australia and New Zealand have agreed to dispense with all antidumping actions for goods produced in either country. In December 2000, the New Zealand government and the Singapore government signed the New Zealand/Singapore Closer Economic Partnership Agreement in which they agreed that:

(1) cases will be dismissed if the dumping margin is less than de minimus, or five percent of the export price for goods from Singapore compared to two percent for all other countries;
(2) cases will be dismissed if the volume of dumped imports from Singapore is negligible, or less than five percent of total imports of like goods into New Zealand compared to three percent for all other countries; and

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3 A review involves a re-examination of material injury and the need for the continued imposition of antidumping duties. It must be completed within 180 days of the date the review is initiated.
4 A reassessment is a re-examination of the rate or amount of antidumping duty, including the formula used to calculate such a rate or amount. There is no time limit for completing a reassessment.
(3) antidumping duties imposed upon goods from Singapore will be lifted after three years compared to five years for all other countries.

**Compliance with the WTO Antidumping Agreement**

China's antidumping procedures have never been challenged at the World Trade Organization.