

Reprint  
as at 31 July 2019



## Trade (Anti-dumping and Countervailing Duties) Act 1988

Public Act 1988 No 158  
Date of assent 29 November 1988  
Commencement see section 1(2)

Act name: amended, on 29 November 2017, by section 5(1)(a) of the Trade (Anti-dumping and Countervailing Duties) Amendment Act 2017 (2017 No 21).

### Contents

	Page
Title <i>[Repealed]</i>	4
1 Title and commencement	4
<b>Part 1</b>	
<b>General provisions</b>	
1A Purpose	4
1B Overview	4
1C Status of examples	5
2 Application <i>[Repealed]</i>	5
3 Interpretation	5
3A Meaning of industry	10
3B Meaning of goods of Australian origin	10
3BA Meaning of goods of Singaporean origin	10
3BB Transitional, savings, and related provisions	10
3C Act to bind the Crown	10
3D Enforcement of Act	11

---

#### Note

Changes authorised by subpart 2 of Part 2 of the Legislation Act 2012 have been made in this official reprint.  
Note 4 at the end of this reprint provides a list of the amendments incorporated.

**This Act is administered by the Ministry of Business, Innovation, and Employment.**

<b>Part 2</b>		
<b>Notice and access to information</b>		
3E	Notice and written advice	11
3F	Access to relevant information	11
<b>Part 3</b>		
<b>Dumping, subsidy, and material injury</b>		
4	Export price	12
5	Normal value	14
6	Export price and normal value	16
7	Amount of subsidy	17
8	Material injury	18
9	Form of notice <i>[Repealed]</i>	20
<b>Part 4</b>		
<b>Investigation</b>		
<i>Application</i>		
10	Application for investigation	20
10A	Start of investigation	21
<i>Investigation steps</i>		
10B	Investigation steps	22
<i>Step 1: dumping, subsidy, and material injury</i>		
10C	Step 1: investigation	22
10D	Step 1: determination	23
10E	Determining rate or amount of anti-dumping or countervailing duty	24
<i>Step 2: public interest</i>		
10F	Step 2: investigation	24
10G	Step 2: procedure	25
10H	Step 2: determination	26
<i>Termination of investigations</i>		
11	Termination of investigations	26
12	Preliminary determination <i>[Repealed]</i>	28
<b>Part 5</b>		
<b>Anti-dumping and countervailing duties</b>		
13	Imposing anti-dumping or countervailing duty	28
13A	Period of anti-dumping or countervailing duty	29
13B	Natural disasters or emergencies	29
14	Anti-dumping and countervailing duties <i>[Repealed]</i>	30
14AA	Temporary suspension of anti-dumping duties on residential building material <i>[Repealed]</i>	30
14A	Refund of excess anti-dumping duty paid	30

---

15	Price undertakings	31
16	Provisional measures	33
17	Date on and from which duty payable	34
17A	Duty may be levied retrospectively to cover period of provisional measures if certain conditions met	35
17B	Duty may be levied retrospectively to cover period of up to 60 days before provisional measures if certain conditions met	35
<b>Part 6</b>		
<b>Review and reassessment</b>		
Subpart 1—Full review		
<i>Full review: purpose, start, and stages</i>		
17C	Purpose of full review	37
17D	Start of full review	37
17E	Full review stages	38
<i>Full review stage 1: dumping, subsidy, and material injury</i>		
17F	Full review stage 1: investigation	38
17G	Full review stage 1: determination	39
<i>Full review stage 2: public interest</i>		
17H	Full review stage 2: investigation	39
17I	Full review stage 2: procedure	40
17J	Full review stage 2: determination	41
<i>Full review: continued imposition of duty</i>		
17K	Full review: continued imposition of duty	41
Subpart 2—Limited review		
17L	Purpose of limited review	42
17M	Start of limited review	42
17N	Limited review: investigation	42
17O	Limited review: determination	43
Subpart 3—Reassessment		
17P	Purpose of reassessment	43
17Q	Start of reassessment	44
17R	Reassessment of rate or amount of duty	44
17S	Reassessment determination	44
Subpart 4—New exporter reassessment		
17T	Purpose of new exporter reassessment	45
17U	Start of new exporter reassessment	45
17V	New exporter reassessment of rate or amount of duty	45
17W	New exporter reassessment determination	46
17X	Imposition of duty during new exporter reassessment	46

	Subpart 5—Termination	
17Y	Termination of anti-dumping or countervailing duty	47
	<b>Part 7</b>	
	<b>Third country anti-dumping duties</b>	
18	Third country anti-dumping duties	47
19	Savings <i>[Repealed]</i>	49
20	Consequential amendments <i>[Repealed]</i>	49
	<b>Schedule 1</b>	50
	<b>Transitional, savings, and related provisions</b>	

**Title** *[Repealed]*

Title: repealed, on 29 November 2017, by section 4 of the Trade (Anti-dumping and Countervailing Duties) Amendment Act 2017 (2017 No 21).

**1 Title and commencement**

- (1) This Act is the Trade (Anti-dumping and Countervailing Duties) Act 1988.
- (2) This Act shall come into force on 1 December 1988.

Section 1 heading: amended, on 29 November 2017, by section 5(2) of the Trade (Anti-dumping and Countervailing Duties) Amendment Act 2017 (2017 No 21).

Section 1(1): amended, on 29 November 2017, by section 5(3) of the Trade (Anti-dumping and Countervailing Duties) Amendment Act 2017 (2017 No 21).

## Part 1

### General provisions

Part 1 heading: inserted, on 29 November 2017, by section 6 of the Trade (Anti-dumping and Countervailing Duties) Amendment Act 2017 (2017 No 21).

**1A Purpose**

The purpose of this Act is to enable New Zealand to apply anti-dumping and countervailing duties in accordance with its obligations as a party to the WTO Agreement. Anti-dumping and countervailing duties are intended to prevent material injury or the threat of material injury to an industry, or the establishment of an industry being materially retarded, due to dumped or subsidised goods being imported into New Zealand.

Section 1A: inserted, on 29 November 2017, by section 6 of the Trade (Anti-dumping and Countervailing Duties) Amendment Act 2017 (2017 No 21).

**1B Overview**

- (1) This section is a guide to the general scheme and effect of this Act, but does not affect the interpretation or application of the other provisions of this Act.
- (2) In this Act,—

- (a) this Part specifies the purpose of this Act and defines terms and expressions used in this Act:
- (b) Part 2 contains procedural provisions about notice and access to information:
- (c) Part 3 contains provisions related to export prices, normal values, and material injury:
- (d) Part 4 contains provisions related to investigations (including a public interest test):
- (e) Part 5 contains provisions regarding how an anti-dumping or a countervailing duty is imposed:
- (f) Part 6 contains provisions about review and reassessment as follows:
  - (i) subpart 1 describes full reviews (including a public interest test):
  - (ii) subpart 2 describes limited reviews:
  - (iii) subpart 3 describes reassessments:
  - (iv) subpart 4 describes new exporter reassessments:
  - (v) subpart 5 contains a provision regarding the termination of anti-dumping or countervailing duties:
- (g) Part 7 contains provisions regarding third country anti-dumping duties.

Section 1B: inserted, on 29 November 2017, by section 6 of the Trade (Anti-dumping and Countervailing Duties) Amendment Act 2017 (2017 No 21).

### 1C Status of examples

- (1) An example used in this Act is only illustrative of the provisions to which it relates. It does not limit those provisions.
- (2) If an example and a provision to which it relates are inconsistent, the provision prevails.

Section 1C: inserted, on 29 November 2017, by section 6 of the Trade (Anti-dumping and Countervailing Duties) Amendment Act 2017 (2017 No 21).

## 2 Application

*[Repealed]*

Section 2: repealed, on 29 November 2017, by section 7 of the Trade (Anti-dumping and Countervailing Duties) Amendment Act 2017 (2017 No 21).

## 3 Interpretation

- (1) In this Act, unless the context otherwise requires,—

**chief executive** means the chief executive of the Ministry

**Customs or the Customs** has the meaning given to Customs by section 5(1) of the Customs and Excise Act 2018

**day**, except in sections 13A(1), 17, 17B(4), 17K(2), 17O(3) to (5), 17S(4), and 17W(4), means any day of the week other than a day in the period beginning

with 25 December in any year and ending with 15 January in the following year

**dumping**, in relation to goods, means the situation where the export price of goods imported into New Zealand or intended to be imported into New Zealand is less than the normal value of the goods as determined in accordance with the provisions of this Act, and **dumped** has a corresponding meaning

**emergency** has the meaning given to it in section 4 of the Civil Defence Emergency Management Act 2002

**exporter** has the meaning given to it in section 5(1) of the Customs and Excise Act 2018

**foreign country** means any country other than New Zealand

**foreign Government** means—

- (a) the Government of a foreign country:
- (b) a provincial, State, municipal, local, or regional Government or authority of a foreign country:
- (c) a body that exercises authority for an association of foreign countries:
- (d) a person, agency, or institution acting for, or on behalf of, a Government or body referred to in paragraph (a) or paragraph (b) or paragraph (c)

**full review stage 1** means stage 1 of a full review as described in sections 17F and 17G

**full review stage 2** means stage 2 of a full review as described in sections 17H to 17J

**goods** means all kinds of movable personal property, including animals

**importer** has the meaning given to it in section 5(1) of the Customs and Excise Act 2018

**investigation step 1** means step 1 of an investigation as described in sections 10C to 10E

**investigation step 2** means step 2 of an investigation as described in sections 10F to 10H

**like goods**, in relation to any goods, means—

- (a) other goods that are like those goods in all respects; or
- (b) in the absence of goods referred to in paragraph (a), goods which have characteristics closely resembling those goods

**Minister** means the Minister of the Crown for the time being responsible for the administration of this Act

**Ministry** means the department of State that, with the authority of the Prime Minister, is responsible for the administration of this Act

**new exporter** means an exporter who—

- (a) exports goods into New Zealand that are subject to an anti-dumping or a countervailing duty imposed under this Act; and
- (b) did not export those goods into New Zealand during the period of the original investigation that led to the duty being imposed; and
- (c) is not related to an exporter who did export those goods into New Zealand during the period of the original investigation that led to the duty being imposed

**notified parties** means—

- (a) the Government or Governments of the country or countries of the export of goods to which the notice relates; and
- (b) exporters and importers known by the chief executive to have an interest in those goods; and
- (c) the applicant in relation to those goods; and
- (d) where the Minister or the chief executive is taking action under section 18, the Government of the third country on behalf of whom the Minister or the chief executive is taking action

**shipment** has the meaning given to it in section 2(1) of the Tariff Act 1988

**specific subsidy** means a subsidy that is specific to an enterprise or industry, or a group of enterprises or industries, within the jurisdiction of a foreign Government

**specified period** means (other than in section 14AA),—

- (a) in the case of goods of Singaporean origin, 3 years; and
- (b) in the case of goods of any other origin, 5 years

**subsidised goods** means goods in respect of the production, manufacture, growth, processing, purchase, distribution, transportation, sale, export, or import of which a specific subsidy has been or will be paid, granted, authorised, or otherwise provided, directly or indirectly, by a foreign Government

**subsidy** includes any financial or other commercial benefit that has accrued or will accrue, directly or indirectly, to persons engaged in the production, manufacture, growth, processing, purchase, distribution, transportation, sale, export, or import of goods, as a result of any scheme, programme, practice, or thing done, provided, or implemented by a foreign Government; but does not include the amount of any duty or internal tax imposed on goods by the Government of the country of origin or country of export from which the goods, because of their exportation from the country of export or country of origin, have been exempted or have been or will be relieved by means of refund or drawback

**Tariff** has the meaning given to it in section 2 of the Tariff Act 1988

**WTO Agreement** means the Agreement establishing the World Trade Organization adopted at Marrakesh on 15 April 1994.

- (2) For the purposes of this Act, a purchase or sale of goods shall not be treated as an arm's length transaction if—
- (a) there is any consideration payable for or in respect of the goods other than their price; or
  - (b) the price is influenced by a relationship between the buyer, or a related person, and the seller, or a related person; or
  - (c) in the opinion of the chief executive, the buyer, or a person related to the buyer, will, directly or indirectly, be reimbursed, be compensated, or otherwise receive a benefit for, or in respect of, the whole or any part of the price.
- (3) Where goods are imported into New Zealand and are purchased by the importer from the exporter (whether before or after exportation) for a particular price and the chief executive is satisfied, after having regard to—
- (a) the amount of the price paid or to be paid for the goods by the importer; and
  - (b) such other amounts as the chief executive determines to be costs necessarily incurred in the importation and sale of the goods; and
  - (c) the likelihood that the amounts referred to in paragraph (a) and paragraph (b) will be able to be recovered within a reasonable time; and
  - (d) such other matters as the chief executive considers relevant,—
- that the importer, whether directly or through a related person, sells those goods in New Zealand (whether in the condition in which they were imported or otherwise) at a loss, the chief executive may treat the sale of those goods as indicating that the importer or a related person will, directly or indirectly, be reimbursed, be compensated, or otherwise receive a benefit for, or in respect of, the whole or any part of the price for the purposes of subsection (2)(c).
- (4) For the purposes of this Act, a person shall be deemed to be related to another person if—
- (a) one of them directly or indirectly controls the other (within the meaning of subsection (5)); or
  - (b) both of them are directly or indirectly controlled by a third person (within that meaning); or
  - (c) together they directly or indirectly control a third person (within that meaning).
- (5) For the purposes of subsection (4), a person controls another person if the first-mentioned person is in a position, whether legally or operationally, to exercise restraint or direction over the other person.
- (6) For the purposes of this Act, where, during the exportation of goods to New Zealand, the goods pass in transit from a country through another country, that

other country shall be disregarded in ascertaining the country of export of the goods.

Section 3: substituted, on 1 January 1995, by section 2 of the Dumping and Countervailing Duties Amendment Act 1994 (1994 No 131).

Section 3(1) **building material**: repealed, on 31 July 2019, by section 14AA(6)(b).

Section 3(1) **chief executive**: inserted, on 29 November 2017, by section 8(1) of the Trade (Anti-dumping and Countervailing Duties) Amendment Act 2017 (2017 No 21).

Section 3(1) **collector**: repealed, on 1 October 1996, by section 289(1) of the Customs and Excise Act 1996 (1996 No 27).

Section 3(1) **Customs** or **the Customs**: inserted, on 1 October 1996, by section 289(1) of the Customs and Excise Act 1996 (1996 No 27).

Section 3(1) **Customs** or **the Customs**: amended, on 1 October 2018, by section 443(3) of the Customs and Excise Act 2018 (2018 No 4).

Section 3(1) **day**: inserted, on 22 November 2006 (not applying to investigations initiated before this date), by section 4(1) of the Dumping and Countervailing Duties Amendment Act 2006 (2006 No 63).

Section 3(1) **day**: amended, on 29 November 2017, by section 8(2) of the Trade (Anti-dumping and Countervailing Duties) Amendment Act 2017 (2017 No 21).

Section 3(1) **emergency**: inserted, on 29 November 2017, by section 8(1) of the Trade (Anti-dumping and Countervailing Duties) Amendment Act 2017 (2017 No 21).

Section 3(1) **exporter**: amended, on 1 October 2018, by section 443(3) of the Customs and Excise Act 2018 (2018 No 4).

Section 3(1) **full review stage 1**: inserted, on 29 November 2017, by section 8(1) of the Trade (Anti-dumping and Countervailing Duties) Amendment Act 2017 (2017 No 21).

Section 3(1) **full review stage 2**: inserted, on 29 November 2017, by section 8(1) of the Trade (Anti-dumping and Countervailing Duties) Amendment Act 2017 (2017 No 21).

Section 3(1) **importer**: amended, on 1 October 2018, by section 443(3) of the Customs and Excise Act 2018 (2018 No 4).

Section 3(1) **investigation step 1**: inserted, on 29 November 2017, by section 8(1) of the Trade (Anti-dumping and Countervailing Duties) Amendment Act 2017 (2017 No 21).

Section 3(1) **investigation step 2**: inserted, on 29 November 2017, by section 8(1) of the Trade (Anti-dumping and Countervailing Duties) Amendment Act 2017 (2017 No 21).

Section 3(1) **Minister**: replaced, on 20 May 2014, by section 4(2) of the Dumping and Countervailing Duties Amendment Act 2014 (2014 No 31).

Section 3(1) **Ministry**: inserted, on 20 May 2014, by section 4(1) of the Dumping and Countervailing Duties Amendment Act 2014 (2014 No 31).

Section 3(1) **new exporter**: inserted, on 29 November 2017, by section 8(1) of the Trade (Anti-dumping and Countervailing Duties) Amendment Act 2017 (2017 No 21).

Section 3(1) **notified parties**: inserted, on 29 November 2017, by section 8(1) of the Trade (Anti-dumping and Countervailing Duties) Amendment Act 2017 (2017 No 21).

Section 3(1) **residential building material**: repealed, on 31 July 2019, by section 14AA(6)(b).

Section 3(1) **Secretary**: repealed, on 29 November 2017, by section 8(3) of the Trade (Anti-dumping and Countervailing Duties) Amendment Act 2017 (2017 No 21).

Section 3(1) **specified period**: inserted, on 29 November 2017, by section 8(1) of the Trade (Anti-dumping and Countervailing Duties) Amendment Act 2017 (2017 No 21).

Section 3(2)(c): amended, on 29 November 2017, by section 25 of the Trade (Anti-dumping and Countervailing Duties) Amendment Act 2017 (2017 No 21).

Section 3(3): amended, on 29 November 2017, by section 25 of the Trade (Anti-dumping and Countervailing Duties) Amendment Act 2017 (2017 No 21).

### 3A Meaning of industry

For the purposes of this Act, the term **industry**, in relation to any goods, means—

- (a) the New Zealand producers of like goods; or
- (b) such New Zealand producers of like goods whose collective output constitutes a major proportion of the New Zealand production of like goods.

Section 3A: substituted, on 1 January 1995, by section 3 of the Dumping and Countervailing Duties Amendment Act 1994 (1994 No 131).

### 3B Meaning of goods of Australian origin

For the purposes of this Act, **goods of Australian 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 Australia, or, if no rates or exemptions are provided in relation to particular goods for Australia, that would be entitled to be entered under the Tariff if rates and exemptions were provided in relation to those particular goods.

Section 3B: inserted, on 1 July 1990, by section 4 of the Dumping and Countervailing Duties Amendment Act 1990 (1990 No 43).

### 3BA Meaning of goods of Singaporean origin

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 3BA: inserted, on 1 January 2001, by section 4 of the New Zealand/Singapore Closer Economic Partnership Act 2000 (2000 No 95).

### 3BB Transitional, savings, and related provisions

The transitional, savings, and related provisions set out in Schedule 1 have effect according to their terms.

Section 3BB: inserted, on 29 November 2017, by section 9 of the Trade (Anti-dumping and Countervailing Duties) Amendment Act 2017 (2017 No 21).

### 3C Act to bind the Crown

This Act binds the Crown.

Section 3C: inserted, on 1 July 1990, by section 5 of the Dumping and Countervailing Duties Amendment Act 1990 (1990 No 43).

### **3D Enforcement of Act**

- (1) The enforcement and collection of duties payable under this Act shall be a function of the Customs.
- (2) *[Repealed]*

Section 3D: inserted, on 1 October 1996, by section 289(1) of the Customs and Excise Act 1996 (1996 No 27).

Section 3D(2): repealed, on 1 October 2018, by section 443(3) of the Customs and Excise Act 2018 (2018 No 4).

## **Part 2**

### **Notice and access to information**

Part 2 heading: inserted, on 29 November 2017, by section 10 of the Trade (Anti-dumping and Countervailing Duties) Amendment Act 2017 (2017 No 21).

### **3E Notice and written advice**

- (1) For the purposes of this Act, a reference to a **notice** means a notice that—
  - (a) is in writing; and
  - (b) contains—
    - (i) a brief summary of the reasons for the giving of the notice; and
    - (ii) any other information required to be specified in the notice; and
  - (c) is given to the notified parties; and
  - (d) is published in the *Gazette*.
- (2) Notice may be given under subsection (1)(c)—
  - (a) by personal delivery to the party; or
  - (b) by posting it to the last known address of the party; or
  - (c) if the party has a known email address, by sending it to the party at that address by email; or
  - (d) if the party has a known fax number, by sending it to the party at that number by fax.
- (3) Written advice may be given under sections 10C(2), 10G(1), 17F(2), 17I(1), and 17N(3) by any of the methods referred to in subsection (2).

Section 3E: inserted, on 29 November 2017, by section 10 of the Trade (Anti-dumping and Countervailing Duties) Amendment Act 2017 (2017 No 21).

### **3F Access to relevant information**

- (1) An interested party may ask the chief executive to provide copies of information relevant to an investigation, a full review, a limited review, a reassessment, or a new exporter reassessment.
- (2) Subsection (1) does not apply to—

- (a) confidential information (unless the submitter of the confidential information consents to the confidential information being made available); or
  - (b) other information that the chief executive would be likely to withhold if it were requested under the Official Information Act 1982.
- (3) The chief executive may request a submitter of information to provide the chief executive with—
- (a) a summary, for access by interested parties, of confidential information or other information that the chief executive would be likely to withhold if it were requested under the Official Information Act 1982; or
  - (b) reasons why a summary cannot be provided.
- (4) If no document is provided after a request under subsection (3) or if the chief executive is not satisfied with a document provided, the chief executive may disregard the relevant information from the investigation, full review, limited review, reassessment, or new exporter reassessment.
- (5) In this section, **confidential information** means information about which the submitter of the information has shown a good reason for the chief executive to believe 1 or more of the following:
- (a) that making the information available would give a significant competitive advantage to a competitor of the submitter of confidential information:
  - (b) that making the information available would have a significantly adverse effect on—
    - (i) the submitter of confidential information; or
    - (ii) the person from whom the information was acquired by the submitter of the information; or
    - (iii) any person to whom the information relates:
  - (c) that the information should be treated as confidential for reasons other than the reasons described in paragraphs (a) and (b).

Section 3F: inserted, on 29 November 2017, by section 10 of the Trade (Anti-dumping and Countervailing Duties) Amendment Act 2017 (2017 No 21).

### Part 3

#### Dumping, subsidy, and material injury

Part 3 heading: inserted, on 29 November 2017, by section 10 of the Trade (Anti-dumping and Countervailing Duties) Amendment Act 2017 (2017 No 21).

#### 4 Export price

- (1) Subject to this section, for the purposes of this Act, the export price of any goods imported or intended to be imported into New Zealand which have been purchased by the importer from the exporter shall be—

- (a) where the purchase of the goods by the importer was an arm's length transaction, the price paid or payable for the goods by the importer other than any part of that price that represents—
    - (i) costs, charges, and expenses incurred in preparing the goods for shipment to New Zealand that are additional to those costs, charges, and expenses generally incurred on sales for home consumption; and
    - (ii) any other costs, charges, and expenses resulting from the exportation of the goods, or arising after their shipment from the country of export; or
  - (b) where the purchase of the goods by the importer was not an arm's length transaction, and the goods are subsequently sold by the importer in the condition in which they were imported to a person who is not related to the importer, the price at which the goods were sold by the importer to that person less the sum of the following amounts:
    - (i) the amount of any duties and taxes imposed under any Act; and
    - (ii) the amount of any costs, charges, or expenses arising in relation to the goods after exportation; and
    - (iii) the amount of the profit, if any, on the sale by the importer or, where the chief executive so directs, an amount calculated in accordance with such rate as the chief executive determines as the rate of profit on the sale by the importer having regard to the rate of profit that would normally be realised on sales of goods of the same category by the importer where such sales exist; or
  - (c) where the purchase of the goods by the importer was not an arm's length transaction, and the goods are subsequently sold by the importer in a condition different from the condition in which they were imported, a reasonable price determined by the chief executive in the circumstances of the case.
- (2) Where—
- (a) goods are or are to be shipped to New Zealand on consignment and there is no known purchaser in New Zealand for the goods; or
  - (b) there is no exporter's sale price or no price at which the importer or a person not related to the importer, has purchased or agreed to purchase the goods,—

the export price, for the purposes of this Act, shall be determined in such manner as the chief executive considers appropriate having regard to all the circumstances of the exportation.

Section 4(1)(a): amended, on 1 January 1995, by section 4(1) of the Dumping and Countervailing Duties Amendment Act 1994 (1994 No 131).

Section 4(1)(b): substituted, on 1 January 1995, by section 4(2) of the Dumping and Countervailing Duties Amendment Act 1994 (1994 No 131).

Section 4(1)(b)(iii): amended, on 29 November 2017, by section 25 of the Trade (Anti-dumping and Countervailing Duties) Amendment Act 2017 (2017 No 21).

Section 4(1)(c): added, on 1 January 1995, by section 4(2) of the Dumping and Countervailing Duties Amendment Act 1994 (1994 No 131).

Section 4(1)(c): amended, on 29 November 2017, by section 25 of the Trade (Anti-dumping and Countervailing Duties) Amendment Act 2017 (2017 No 21).

Section 4(2): amended, on 29 November 2017, by section 25 of the Trade (Anti-dumping and Countervailing Duties) Amendment Act 2017 (2017 No 21).

Section 4(2)(b): amended, on 1 January 1995, by section 4(3)(a) of the Dumping and Countervailing Duties Amendment Act 1994 (1994 No 131).

## 5 Normal value

- (1) Subject to this section, for the purposes of this Act, the normal value of any goods imported or intended to be imported into New Zealand shall be the price paid for like goods sold in the ordinary course of trade for home consumption in the country of export in sales that are arm's length transactions by the exporter or, if like goods are not so sold by the exporter, by other sellers of like goods.
- (2) Where the chief executive is satisfied that the normal value of goods imported or intended to be imported into New Zealand cannot be determined under subsection (1) because—
  - (a) there is an absence of sales that would be relevant for the purpose of determining a price under that subsection; or
  - (b) the situation in the relevant market is such that sales in that market that would otherwise be relevant for the purpose of determining a price under subsection (1) are not suitable for use in determining such a price; or
  - (c) like goods are not sold in the ordinary course of trade for home consumption in the country of export in sales that are arm's length transactions by the exporter and it is not practicable to obtain within a reasonable time information in relation to sales by other sellers of like goods that would be relevant for the purpose of determining a price under subsection (1),—

the chief executive may determine that the normal value, for the purposes of this Act, shall be either—

    - (d) the sum of—
      - (i) such amount as is determined by the chief executive to be the cost of production or manufacture of the goods in the country of export; and
      - (ii) on the assumption that the goods, instead of being exported, had been sold for home consumption in the ordinary course of trade in the country of export,—

- (A) such amounts as the chief executive determines would be reasonable amounts for administrative and selling costs, delivery charges, and other charges incurred in the sale; and
  - (B) an amount calculated in accordance with such rate as the chief executive determines would be the rate of profit on that sale having regard to the rate of profit normally realised on sales of goods (where such sales exist) of the same general category in the domestic market of the country of export of the goods; or
- (e) the price that is representative of the price paid for similar quantities of like goods sold at arm's length in the ordinary course of trade in the country of export for export to a third country.
- (3) Where the normal value of goods imported or intended to be imported into New Zealand is the price paid for like goods, in order to effect a fair comparison for the purposes of this Act, the normal value and the export price shall be compared by the chief executive—
  - (a) at the same level of trade; and
  - (b) in respect of sales made at as nearly as possible the same time; and
  - (c) with due allowances made as appropriate for any differences in terms and conditions of sales, levels of trade, taxation, quantities, and physical characteristics, and any other differences that affect price comparability.
- (4) Where the normal value of goods exported to New Zealand is to be ascertained in accordance with subsection (2), the chief executive shall make such adjustments as are necessary to ensure that the normal value so ascertained is properly comparable with the export price of those goods.
- (5) Where—
  - (a) the actual country of export of goods imported or intended to be imported into New Zealand is not the country of origin of the goods; and
  - (b) the chief executive is of the opinion that the normal value of the goods should be ascertained for the purposes of this Act as if the country of origin were the country of export,—the chief executive may direct that the normal value of the goods shall be so ascertained.
- (6) Where the chief executive is satisfied, in relation to goods imported or intended to be imported into New Zealand, that—
  - (a) the price paid for like goods—
    - (i) sold for home consumption in the country of export in sales that are arm's length transactions; or
    - (ii) sold in the country of export to a third country in sales that are arm's length transactions,—

is, and has been for an extended period of time and in respect of a substantial quantity of like goods, less than the sum of—

- (iii) such amount as the chief executive determines to be the cost of production or manufacture of the like goods in the country of export; and
  - (iv) such amounts as the chief executive determines to be reasonable amounts for administrative and selling costs, delivery charges, and other charges necessarily incurred in the sale of the like goods by the seller of the goods; and
- (b) it is likely that the seller of those like goods will not be able to fully recover the amounts referred to in subparagraphs (iii) and (iv) of paragraph (a) within a reasonable period of time,—

the price so paid for those like goods shall be deemed not to have been paid in the ordinary course of trade.

Section 5: substituted, on 1 January 1995, by section 5 of the Dumping and Countervailing Duties Amendment Act 1994 (1994 No 131).

Section 5(2): amended, on 29 November 2017, by section 25 of the Trade (Anti-dumping and Countervailing Duties) Amendment Act 2017 (2017 No 21).

Section 5(2)(d)(i): amended, on 29 November 2017, by section 25 of the Trade (Anti-dumping and Countervailing Duties) Amendment Act 2017 (2017 No 21).

Section 5(2)(d)(ii)(A): amended, on 29 November 2017, by section 25 of the Trade (Anti-dumping and Countervailing Duties) Amendment Act 2017 (2017 No 21).

Section 5(2)(d)(ii)(B): amended, on 29 November 2017, by section 25 of the Trade (Anti-dumping and Countervailing Duties) Amendment Act 2017 (2017 No 21).

Section 5(3): amended, on 29 November 2017, by section 25 of the Trade (Anti-dumping and Countervailing Duties) Amendment Act 2017 (2017 No 21).

Section 5(4): amended, on 29 November 2017, by section 25 of the Trade (Anti-dumping and Countervailing Duties) Amendment Act 2017 (2017 No 21).

Section 5(5): amended, on 29 November 2017, by section 25 of the Trade (Anti-dumping and Countervailing Duties) Amendment Act 2017 (2017 No 21).

Section 5(5)(b): amended, on 29 November 2017, by section 25 of the Trade (Anti-dumping and Countervailing Duties) Amendment Act 2017 (2017 No 21).

Section 5(6): amended, on 29 November 2017, by section 25 of the Trade (Anti-dumping and Countervailing Duties) Amendment Act 2017 (2017 No 21).

Section 5(6)(a)(iii): amended, on 29 November 2017, by section 25 of the Trade (Anti-dumping and Countervailing Duties) Amendment Act 2017 (2017 No 21).

Section 5(6)(a)(iv): amended, on 29 November 2017, by section 25 of the Trade (Anti-dumping and Countervailing Duties) Amendment Act 2017 (2017 No 21).

## **6 Export price and normal value**

- (1) Where the chief executive is satisfied that sufficient information has not been furnished or is not available to enable the export price of goods to be ascertained under section 4, or the normal value of goods to be ascertained under section 5, the normal value or export price, as the case may be, shall be such

amount as is determined by the chief executive having regard to all available information.

- (2) For the purposes of subsection (1), the chief executive may disregard any information that the chief executive considers to be unreliable.

Section 6(1): amended, on 29 November 2017, by section 25 of the Trade (Anti-dumping and Countervailing Duties) Amendment Act 2017 (2017 No 21).

Section 6(2): amended, on 29 November 2017, by section 25 of the Trade (Anti-dumping and Countervailing Duties) Amendment Act 2017 (2017 No 21).

## 7 Amount of subsidy

- (1) In this Act, the expression **amount of the subsidy**, in relation to any subsidised goods, means the amount determined by the chief executive as being the benefit conferred on the recipient of the subsidy.

- (2) For the purposes of subsection (1),—

- (a) the provision of equity capital by a foreign Government shall not be regarded as conferring a benefit, unless the investment decision in relation to the provision of that equity capital can be regarded as inconsistent with the usual investment practice (including for the provision of risk capital) of private investors in the territory of the exporting country:
- (b) the provision of a loan by a foreign Government shall not be regarded as conferring a benefit, unless the amount that the recipient of the loan pays under the loan is less than the amount that the recipient would pay under a comparable commercial loan that the recipient could obtain on the market, in which case, the benefit to the recipient shall be deemed to be the difference between those amounts:
- (c) the provision of a loan guarantee by a foreign Government shall not be regarded as conferring a benefit, unless the amount that the recipient of the loan pays under the government guaranteed loan is less than the amount that the recipient would pay under a comparable commercial loan that was not so guaranteed, in which case, the benefit to the recipient shall be deemed to be the difference between those amounts:
- (d) the provision of goods or services, or the purchase of goods, by a foreign Government shall not be regarded as conferring a benefit, unless the goods or services are provided for less than adequate remuneration within the meaning of subsection (4), or the goods are purchased for more than adequate remuneration, as the case may be.

- (3) For the purposes of subsection (1), the following amounts shall not be included in the amount of the subsidy:

- (a) any application fee or other fees or costs necessarily incurred in order to qualify for, or to receive the benefit of, the subsidy:

- (b) any export taxes, duties, or other charges levied on the export of the goods to New Zealand that are specifically intended to offset the subsidy.
- (4) For the purposes of subsection (2)(d), adequate remuneration shall be determined in relation to prevailing market conditions in the country concerned for the goods or services, taking into account price, quality, availability, marketability, transportation, and other conditions of the provision or purchase.
- (5) Where the chief executive is satisfied that sufficient information has not been furnished or is not available to enable the amount of the subsidy to be ascertained for the purposes of this Act, the amount of the subsidy shall be such amount as is determined by the chief executive having regard to all available information that the chief executive considers to be reliable.

Section 7: substituted, on 1 January 1995, by section 7 of the Dumping and Countervailing Duties Amendment Act 1994 (1994 No 131).

Section 7(1): amended, on 29 November 2017, by section 25 of the Trade (Anti-dumping and Countervailing Duties) Amendment Act 2017 (2017 No 21).

Section 7(5): amended, on 29 November 2017, by section 25 of the Trade (Anti-dumping and Countervailing Duties) Amendment Act 2017 (2017 No 21).

## 8 Material injury

- (1) In determining for the purposes of this Act whether or not any material injury to an industry has been or is being caused or is threatened or whether or not the establishment of an industry has been or is being materially retarded by means of the dumping or subsidisation of goods imported or intended to be imported into New Zealand from another country, the chief executive shall examine—
  - (a) the volume of imports of the dumped or subsidised goods; and
  - (b) the effect of the dumped or subsidised goods on prices in New Zealand for like goods; and
  - (c) the consequent impact of the dumped or subsidised goods on the relevant New Zealand industry.
- (2) Without limiting the generality of subsection (1), and without limiting the matters that the chief executive may consider, the chief executive shall have regard to the following matters:
  - (a) the extent to which there has been or is likely to be a significant increase in the volume of imports of dumped or subsidised goods either in absolute terms or in relation to production or consumption in New Zealand;
  - (b) the extent to which the prices of the dumped or subsidised goods represent significant price undercutting in relation to prices in New Zealand (at the relevant level of trade) for like goods of New Zealand producers;
  - (c) the extent to which the effect of the dumped or subsidised goods is or is likely significantly to depress prices for like goods of New Zealand pro-

- ducers or significantly to prevent price increases for those goods that otherwise would have been likely to have occurred:
- (d) the economic impact of the dumped or subsidised goods on the industry, including—
    - (i) actual and potential decline in output, sales, market share, profits, productivity, return on investments, and utilisation of production capacity; and
    - (ii) factors affecting domestic prices; and
    - (iii) the magnitude of the margin of dumping; and
    - (iv) actual and potential negative effects on cash flow, inventories, employment, wages, growth, ability to raise capital, and investments:
  - (e) factors other than the dumped or subsidised goods that have injured, or are injuring, the industry, including—
    - (i) the volume and prices of goods that are not sold at dumped prices or that are not subsidised; and
    - (ii) contraction in demand or changes in the patterns of consumption; and
    - (iii) restrictive trade practices of, and competition between, overseas and New Zealand producers; and
    - (iv) developments in technology; and
    - (v) the export performance and productivity of the New Zealand producers:
  - (f) the nature and extent of importations of dumped or subsidised goods by New Zealand producers of like goods, including the value, quantity, frequency, and purpose of any such importations.
- (3) For the purposes of this section, the chief executive may disregard any information that the chief executive considers to be unreliable.

Section 8: substituted, on 1 January 1995, by section 8 of the Dumping and Countervailing Duties Amendment Act 1994 (1994 No 131).

Section 8(1): amended, on 29 November 2017, by section 25 of the Trade (Anti-dumping and Countervailing Duties) Amendment Act 2017 (2017 No 21).

Section 8(2): amended, on 29 November 2017, by section 25 of the Trade (Anti-dumping and Countervailing Duties) Amendment Act 2017 (2017 No 21).

Section 8(2)(d)(iv): amended, on 29 November 2017, by section 11 of the Trade (Anti-dumping and Countervailing Duties) Amendment Act 2017 (2017 No 21).

Section 8(3): amended, on 29 November 2017, by section 25 of the Trade (Anti-dumping and Countervailing Duties) Amendment Act 2017 (2017 No 21).

## 9 Form of notice

*[Repealed]*

Section 9: repealed, on 29 November 2017, by section 12 of the Trade (Anti-dumping and Countervailing Duties) Amendment Act 2017 (2017 No 21).

## Part 4 Investigation

Part 4 heading: inserted, on 29 November 2017, by section 13 of the Trade (Anti-dumping and Countervailing Duties) Amendment Act 2017 (2017 No 21).

### *Application*

Heading: inserted, on 29 November 2017, by section 13 of the Trade (Anti-dumping and Countervailing Duties) Amendment Act 2017 (2017 No 21).

## 10 Application for investigation

- (1) One or more New Zealand producers of like goods (or a person acting on behalf of those producers) may, by a properly documented application, apply to the chief executive to start an investigation to determine the existence and effect of alleged dumping or subsidisation of goods imported or intended to be imported into New Zealand.
- (2) A properly documented application must be in writing and include evidence of—
  - (a) dumping or subsidisation; and
  - (b) material injury or threatened material injury to the industry, or establishment of the industry being materially retarded; and
  - (c) a causal link between the alleged dumping or subsidisation and the alleged material injury, threatened material injury, or establishment of the industry being materially retarded.
- (3) A properly documented application must include as much of the following information as is reasonably available to the applicant:
  - (a) the names of the New Zealand producers making the application;
  - (b) the names of all other known New Zealand producers of like goods;
  - (c) a description of the volume and value of the domestic production of like goods, both by the producers referred to in paragraph (a) and by the producers referred to in paragraph (b);
  - (d) a complete description of the allegedly dumped or subsidised goods;
  - (e) the names of the countries of origin or export of the allegedly dumped or subsidised goods;
  - (f) the name of each known exporter or overseas producer of the allegedly dumped or subsidised goods;

- (g) the names of persons known to be importing the allegedly dumped or subsidised goods:
- (h) in the case of subsidised goods, the existence, amount, and nature of the subsidy:
- (i) normal values of the allegedly dumped goods when destined for consumption in the domestic markets of the countries of origin or export (or, if appropriate, either the prices at which the goods are sold from the countries of origin for export to third countries, or the prices based on a constructed value):
- (j) the export prices of the allegedly dumped or subsidised goods (or, if appropriate, the prices at which the goods are first resold in arm's length transactions in New Zealand):
- (k) the import volumes into New Zealand of the allegedly dumped or subsidised goods:
- (l) the effects that the imports of the allegedly dumped or subsidised goods have had, or will have, on prices of like goods in New Zealand:
- (m) the consequent impact of those imports on the industry:
- (n) relevant factors affecting the industry that may have a bearing on the information required under paragraphs (l) and (m).

Section 10: replaced, on 29 November 2017, by section 13 of the Trade (Anti-dumping and Countervailing Duties) Amendment Act 2017 (2017 No 21).

#### **10A Start of investigation**

- (1) The chief executive must start an investigation if the chief executive is satisfied from the evidence in the application that—
  - (a) there is sufficient evidence to justify investigating whether—
    - (i) goods imported or intended to be imported into New Zealand are being dumped or subsidised; and
    - (ii) the alleged dumping or subsidisation—
      - (A) has caused, is causing, or threatens to cause material injury to the industry; or
      - (B) has caused or is causing the establishment of the industry to be materially retarded; and
  - (b) the collective output of those New Zealand producers who have, in writing, expressed support for the application constitutes—
    - (i) 25% or more of the total New Zealand production of like goods produced for domestic consumption (as assessed during the most recent representative period of not less than 6 months); and
    - (ii) more than 50% of the total production of like goods produced for domestic consumption (assessed as referred to in subparagraph

- (i) by those New Zealand producers who have, in writing, expressed support for or opposition to the application.
- (2) The chief executive must, before starting an investigation,—
- (a) inform the Government or Governments of the country or countries of export of the goods that are the subject of the proposed investigation; and
- (b) in the case of an application for an investigation into the alleged subsidisation of goods, give that Government or those Governments a reasonable opportunity for consultations with the aim of clarifying the situation and arriving at a mutually agreed solution.
- (3) Despite subsection (1), the chief executive must not start an investigation in relation to alleged dumping of goods of Australian origin.

Section 10A: replaced, on 29 November 2017, by section 13 of the Trade (Anti-dumping and Countervailing Duties) Amendment Act 2017 (2017 No 21).

#### *Investigation steps*

Heading: inserted, on 29 November 2017, by section 13 of the Trade (Anti-dumping and Countervailing Duties) Amendment Act 2017 (2017 No 21).

### **10B Investigation steps**

- (1) If the chief executive starts an investigation under section 10A, the chief executive must carry out investigation step 1 first and then, if directed to do so by the Minister under section 10D(2), carry out investigation step 2.
- (2) The chief executive must give notice of a decision to start each step of an investigation as soon as practicable after the decision is made, and that notice must include the date on which the step of the investigation started or will start.

Section 10B: inserted, on 29 November 2017, by section 13 of the Trade (Anti-dumping and Countervailing Duties) Amendment Act 2017 (2017 No 21).

#### *Step 1: dumping, subsidy, and material injury*

Heading: inserted, on 29 November 2017, by section 13 of the Trade (Anti-dumping and Countervailing Duties) Amendment Act 2017 (2017 No 21).

### **10C Step 1: investigation**

#### *Dumping, subsidy, and material injury*

- (1) If the chief executive starts an investigation, the chief executive must investigate whether, in relation to imported goods or goods intended to be imported into New Zealand,—
- (a) the goods are being dumped or subsidised; and
- (b) material injury to an industry has been or is being caused or is threatened, or the establishment of an industry has been or is being materially retarded, because of the dumping or subsidisation.

*Procedure*

- (2) The chief executive must, within 150 days after starting investigation step 1, give the notified parties written advice of the essential facts and conclusions that are likely to form the basis for a determination to be made by the Minister under section 10D(1).
- (3) The chief executive must give interested parties a reasonable opportunity—
  - (a) to present, in writing, all evidence relevant to the investigation and, on justification being shown, to present that evidence orally; and
  - (b) on request by an interested party, to meet other interested parties with adverse interests in order that they may present opposing views.
- (4) Subsection (2) does not require the chief executive to provide information that would not be available to an interested party under section 3F.
- (5) The chief executive must report the findings of investigation step 1 to the Minister.

Section 10C: inserted, on 29 November 2017, by section 13 of the Trade (Anti-dumping and Countervailing Duties) Amendment Act 2017 (2017 No 21).

**10D Step 1: determination**

- (1) Within 180 days after the start of investigation step 1 (but not less than 30 days after the written advice is given by the chief executive under section 10C(2)), the Minister must determine whether, in relation to the imported goods or goods intended to be imported into New Zealand,—
  - (a) the goods are being dumped or subsidised; and
  - (b) material injury to an industry has been or is being caused or is threatened, or the establishment of an industry has been or is being materially retarded, because of the dumping or subsidisation.
- (2) If the Minister makes an affirmative determination, the Minister must—
  - (a) determine the rate or amount of anti-dumping or countervailing duty, in accordance with section 10E, that will form the basis for investigation step 2; and
  - (b) direct the chief executive to immediately start investigation step 2.
- (3) If the Minister makes a negative determination, the Minister must terminate the investigation under section 11.
- (4) The Minister must give notice of a determination under subsection (1) as soon as practicable after the determination is made.
- (5) In this section,—

**affirmative determination** means a determination made by the Minister under subsection (1) that, in relation to the imported goods or goods intended to be imported into New Zealand,—

  - (a) the goods are being dumped or subsidised; and

- (b) material injury to an industry has been or is being caused or is threatened, or the establishment of an industry has been or is being materially retarded, because of the dumping or subsidisation

**negative determination** means a determination made by the Minister under subsection (1) that is not an affirmative determination.

Section 10D: inserted, on 29 November 2017, by section 13 of the Trade (Anti-dumping and Countervailing Duties) Amendment Act 2017 (2017 No 21).

### **10E Determining rate or amount of anti-dumping or countervailing duty**

- (1) The Minister may, in respect of dumped or subsidised goods,—
  - (a) determine different rates or amounts of duty for named exporters:
  - (b) determine a residual rate or amount of duty for all other exporters from the same country as a named exporter.
- (2) The Minister must, in determining the rate or amount of the duty, have regard to—
  - (a) the desirability of ensuring that the rate or amount is not greater than is necessary to—
    - (i) prevent the material injury or a recurrence of the material injury; or
    - (ii) remove the threat of material injury to an industry; or
    - (iii) prevent the material retardation to the establishment of an industry; and
  - (b) New Zealand's obligations as a party to the WTO Agreement.
- (3) The rate or amount must not exceed,—
  - (a) in the case of dumped goods, the difference between the export price of the goods and their normal value; and
  - (b) in the case of subsidised goods, the amount of the subsidy on the goods.

Section 10E: inserted, on 29 November 2017, by section 13 of the Trade (Anti-dumping and Countervailing Duties) Amendment Act 2017 (2017 No 21).

#### *Step 2: public interest*

Heading: inserted, on 29 November 2017, by section 13 of the Trade (Anti-dumping and Countervailing Duties) Amendment Act 2017 (2017 No 21).

### **10F Step 2: investigation**

- (1) If the Minister directs the chief executive to start investigation step 2, the chief executive must investigate whether imposing an anti-dumping or a countervailing duty at the rate or amount determined under section 10D(2)(a) is in the public interest.

- (2) Imposing the duty is in the public interest unless the cost to downstream industries and consumers of imposing the duty is likely to materially outweigh the benefit to the domestic industry of imposing the duty.
- (3) In investigating whether imposing the duty is in the public interest, the matters the chief executive must investigate include the following:
  - (a) the effect of the duty on the prices of the dumped or subsidised goods:
  - (b) the effect of the duty on the prices of like goods produced in New Zealand:
  - (c) the effect of the duty on the choice or availability of like goods:
  - (d) the effect of the duty on product and service quality:
  - (e) the effect of the duty on the financial performance of the domestic industry:
  - (f) the effect of the duty on employment levels:
  - (g) whether there is an alternative supply (domestically or internationally) of like goods available:
  - (h) any factor that the chief executive considers essential to ensure the existence of competition in the market.

- (4) In this section,—

**consumers** means—

- (a) New Zealand consumers of—
  - (i) the dumped or subsidised goods; or
  - (ii) like goods; or
  - (iii) the other goods referred to in paragraph (a) of the definition of downstream industries; and
- (b) if the Minister considers it appropriate for the purposes of this section, any other relevant New Zealand consumers

**domestic industry** means the industry referred to in section 10D(1)(b)

**downstream industries** means—

- (a) each immediate downstream New Zealand industry that uses the dumped or subsidised goods, or like goods, as an input in the production of other goods; and
- (b) if the Minister considers it appropriate for the purposes of this section, any other relevant downstream New Zealand industry.

Section 10F: inserted, on 29 November 2017, by section 13 of the Trade (Anti-dumping and Countervailing Duties) Amendment Act 2017 (2017 No 21).

## **10G Step 2: procedure**

- (1) The chief executive must, within 60 days after starting investigation step 2, give the notified parties written advice of the preliminary findings that are

likely to form the basis for a determination to be made by the Minister under section 10H(1).

- (2) The chief executive must give all persons that the chief executive considers would be significantly affected by imposing the duty a reasonable opportunity to present, in writing, all evidence relevant to the investigation and, on justification being shown, to present that evidence orally.
- (3) Subsection (1) does not require the chief executive to provide information that would not be available to an interested party under section 3F.
- (4) The chief executive must report the findings of investigation step 2 to the Minister.

Section 10G: inserted, on 29 November 2017, by section 13 of the Trade (Anti-dumping and Countervailing Duties) Amendment Act 2017 (2017 No 21).

#### **10H Step 2: determination**

- (1) Within 90 days after the start of investigation step 2 (but not less than 30 days after the written advice is given by the chief executive under section 10G(1)), the Minister must determine whether imposing the anti-dumping or countervailing duty is in the public interest (*see* section 10F(2)).
- (2) The Minister must give notice of a determination under subsection (1) as soon as practicable after the determination is made.

Section 10H: inserted, on 29 November 2017, by section 13 of the Trade (Anti-dumping and Countervailing Duties) Amendment Act 2017 (2017 No 21).

#### *Termination of investigations*

Heading: inserted, on 29 November 2017, by section 13 of the Trade (Anti-dumping and Countervailing Duties) Amendment Act 2017 (2017 No 21).

#### **11 Termination of investigations**

- (1) Where the Minister, at any time before making a determination under section 10H(1) or, if appropriate, section 10D(1), is satisfied in respect of some or all of the goods under investigation, that—
  - (a) there is insufficient evidence of dumping or subsidisation to justify proceeding with the investigation; or
  - (b) there is insufficient evidence that material injury to a New Zealand industry has been or is being caused or is threatened or the establishment of a New Zealand industry has been or is being materially retarded by means of the dumping or subsidisation of the goods; or
  - (c) in the case of subsidisation, the imposition of a countervailing duty in respect of those goods would be inconsistent with New Zealand's obligations as a party to the WTO Agreement; or
  - (d) the application for the investigation has been withdrawn in writing by those New Zealand producers by or on whose behalf the application was made; or

- (e) New Zealand producers who previously expressed support for the application for the investigation have withdrawn that support in writing to such an extent that, by reason of section 10A(1)(b), the investigation could not have been started,—  
the Minister shall—
  - (f) terminate the investigation with respect to those goods; and
  - (g) give notice of such termination.
- (2) For the purposes of subsection (1)(a), 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
  - (b) in the case of subsidisation, the amount of the subsidy is less than 1% of the value of the goods at the time of import; or
  - (c) in the case of either dumping or subsidisation, the volume of imports of dumped or subsidised goods, expressed as a percentage of total imports of like goods into New Zealand, is negligible, having regard to New Zealand's obligations as a party to the WTO Agreement.
- (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.
- (3) Where—
- (a) any investigation is terminated under subsection (1), and it is subsequently ascertained that information supplied affecting the investigation was incorrect or did not disclose material facts, and that the information is of such nature as materially to affect the decision to terminate the investigation; or
  - (b) any investigation is terminated pursuant to an undertaking given by the Government of the country of export or by an exporter, as the case may be, under section 15(1) and that Government or that exporter violates that undertaking,—

the chief executive may start a further investigation and all the provisions of this Act shall have effect accordingly.

- (4) Notice shall be given of the start of every further investigation under subsection (3).

Section 11: substituted, on 1 January 1995, by section 12 of the Dumping and Countervailing Duties Amendment Act 1994 (1994 No 131).

Section 11(1): amended, on 29 November 2017, by section 14(1) of the Trade (Anti-dumping and Countervailing Duties) Amendment Act 2017 (2017 No 21).

Section 11(1)(e): amended, on 29 November 2017, by section 14(2) of the Trade (Anti-dumping and Countervailing Duties) Amendment Act 2017 (2017 No 21).

Section 11(1)(e): amended, on 29 November 2017, by section 14(3) of the Trade (Anti-dumping and Countervailing Duties) Amendment Act 2017 (2017 No 21).

Section 11(2)(a): substituted, on 1 January 2001, by section 5(1) of the New Zealand/Singapore Closer Economic Partnership Act 2000 (2000 No 95).

Section 11(2A): inserted, on 1 January 2001, by section 5(2) of the New Zealand/Singapore Closer Economic Partnership Act 2000 (2000 No 95).

Section 11(3): amended, on 29 November 2017, by section 14(4) of the Trade (Anti-dumping and Countervailing Duties) Amendment Act 2017 (2017 No 21).

Section 11(3): amended, on 29 November 2017, by section 25 of the Trade (Anti-dumping and Countervailing Duties) Amendment Act 2017 (2017 No 21).

Section 11(4): amended, on 29 November 2017, by section 14(5) of the Trade (Anti-dumping and Countervailing Duties) Amendment Act 2017 (2017 No 21).

## 12 Preliminary determination

*[Repealed]*

Section 12: repealed, on 1 January 1995, by section 13 of the Dumping and Countervailing Duties Amendment Act 1994 (1994 No 131).

## Part 5

### Anti-dumping and countervailing duties

Part 5 heading: inserted, on 29 November 2017, by section 15 of the Trade (Anti-dumping and Countervailing Duties) Amendment Act 2017 (2017 No 21).

## 13 Imposing anti-dumping or countervailing duty

- (1) If the Minister determines under section 10H(1) that imposing the duty is in the public interest, the Minister must impose a duty, at the rate or amount determined under section 10D(2)(a),—
- (a) to be known as anti-dumping duty, in respect of those goods that are dumped:
  - (b) to be known as countervailing duty, in respect of those goods that are subsidised.
- (2) The Minister must give notice of the imposition of a duty under subsection (1) as soon as practicable after the imposition is made.

- (3) Despite subsection (1), the Minister must not impose a countervailing duty if to do so would be inconsistent with New Zealand's obligations as a party to the WTO Agreement.
- (4) Subsection (1) is subject to section 13B.

Section 13: replaced, on 29 November 2017, by section 15 of the Trade (Anti-dumping and Countervailing Duties) Amendment Act 2017 (2017 No 21).

### **13A Period of anti-dumping or countervailing duty**

- (1) A duty imposed under section 13(1)—
  - (a) has effect on and from the applicable date referred to in section 17, 17A, or 17B; and
  - (b) must be collected and paid on the demand of Customs on and from the day after the date on which the notice under section 13(2) is published in the *Gazette*; and
  - (c) ceases to be payable from the date that is the specified period after the date on which the duty has effect under paragraph (a).
- (2) Subsection (1)(c) is subject to section 13B and Part 6.

Section 13A: inserted, on 29 November 2017, by section 15 of the Trade (Anti-dumping and Countervailing Duties) Amendment Act 2017 (2017 No 21).

### **13B Natural disasters or emergencies**

#### *Deferral and non-imposition*

- (1) Despite section 13(1), if the Minister considers that the users of the goods have been significantly impacted by a natural disaster or emergency, the Minister may, by notice,—
  - (a) defer imposing a duty; or
  - (b) elect not to impose a duty.
- (2) If the Minister defers imposing a duty,—
  - (a) the Minister must specify the period of deferral in the notice; and
  - (b) the Minister may, by further notice, change the period of a deferral.

#### *Suspension and termination*

- (3) If the Minister considers that the users of goods subject to an anti-dumping or a countervailing duty have been significantly impacted by a natural disaster or emergency, the Minister may, by notice, terminate or suspend, in whole or in part, the imposition of the duty.
- (4) If the Minister suspends the imposition of the duty,—
  - (a) the Minister must specify, in the notice, the period of suspension (which may start before the date of the notice); and
  - (b) the Minister may, by further notice, change a period of suspension.

- (5) If the Minister terminates the imposition of the duty, the date of termination specified in the notice may be before the date of the notice.

Section 13B: inserted, on 29 November 2017, by section 15 of the Trade (Anti-dumping and Countervailing Duties) Amendment Act 2017 (2017 No 21).

## **14 Anti-dumping and countervailing duties**

*[Repealed]*

Section 14: repealed, on 29 November 2017, by section 15 of the Trade (Anti-dumping and Countervailing Duties) Amendment Act 2017 (2017 No 21).

### **14AA Temporary suspension of anti-dumping duties on residential building material**

*[Repealed]*

Section 14AA: repealed, on 31 July 2019, by section 14AA(6)(a).

### **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 chief executive; and
  - (c) be in the form (if any) required by the chief executive; 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 chief executive may require the applicant to provide any further information relating to the application that the chief executive considers necessary.
- (6) As soon as practicable after receiving an application and any further information required under subsection (5), the chief executive must provide a report to the Minister.
- (7) If the Minister, after considering the application and chief executive'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.

Section 14A: inserted, on 12 December 2012, by section 4 of the Dumping and Countervailing Duties Amendment Act 2012 (2012 No 101).

Section 14A(3)(b): amended, on 29 November 2017, by section 25 of the Trade (Anti-dumping and Countervailing Duties) Amendment Act 2017 (2017 No 21).

Section 14A(3)(c): amended, on 29 November 2017, by section 25 of the Trade (Anti-dumping and Countervailing Duties) Amendment Act 2017 (2017 No 21).

Section 14A(5): amended, on 29 November 2017, by section 25 of the Trade (Anti-dumping and Countervailing Duties) Amendment Act 2017 (2017 No 21).

Section 14A(6): amended, on 29 November 2017, by section 25 of the Trade (Anti-dumping and Countervailing Duties) Amendment Act 2017 (2017 No 21).

Section 14A(7): amended, on 29 November 2017, by section 25 of the Trade (Anti-dumping and Countervailing Duties) Amendment Act 2017 (2017 No 21).

## 15 Price undertakings

- (1) Subject to subsection (1A), where, in relation to the exportation of any consignment of goods to New Zealand, the chief executive has started an investigation under section 10A, the Minister may terminate consideration of that consignment if the Minister is given and accepts an undertaking by the Government of the country of export or by the exporter of the goods that the Government or the exporter, as the case may be, will so conduct future export trade to New Zealand of like goods to the goods in the consignment to avoid causing or threatening material injury to an industry or materially retarding the establishment of an industry.
- (1A) Before accepting any undertaking given under subsection (1), the Minister must have reasonable cause to believe, in relation to the importation or intended importation of goods into New Zealand, that—
  - (a) the goods are being dumped or subsidised; and
  - (b) by reason thereof material injury to an industry has been or is being caused or is threatened or the establishment of an industry has been or is being materially retarded.

- (2) Any price increases in an undertaking accepted by the Minister shall not exceed the difference between the export price of the goods and their normal value or the amount of subsidisation, as the case may be.
- (3) The Minister may be given and accept any amendment to an undertaking because of altered circumstances.
- (4) If the Minister accepts an undertaking, the investigation of the extent of injury to an industry shall nevertheless be completed if the Minister or the Government of the country of export or the exporter, as the case may be, so desires.
- (5) If an investigation referred to in subsection (4) is completed and no determination of material injury, threat thereof, or material retardation to the establishment of an industry is made, the undertaking shall automatically lapse, except in cases where a determination of no threat of injury is attributable to a significant degree to the existence of the undertaking, in which case the Minister may require that the undertaking be maintained for such reasonable period as the Minister may determine.
- (5A) If an investigation referred to in subsection (4) is completed and the Minister determines that imposing an anti-dumping or a countervailing duty is not in the public interest, the undertaking automatically lapses.
- (6) The Minister may require any party from whom undertakings have been accepted to provide information relevant to the fulfilment of the undertaking.
- (7) The chief executive may, on his or her own initiative, and shall, where requested to do so by an interested party that submits positive evidence justifying the need for a review, initiate a review of any undertaking given and accepted under this section and shall complete that review within 180 days of its initiation.
- (8) Any undertaking given and accepted under this section shall automatically lapse from the date that is the later of 5 years after—
  - (a) the date of the acceptance of the undertaking; or
  - (b) where a review carried out under subsection (7) has been completed and the undertaking continued in the same or a modified form, the date of the initiation of that review—unless, at that date, the undertaking is subject to review under subsection (7).
- (9) If an investigation is terminated in accordance with subsection (1), notice of the termination shall be given.

Section 15(1): amended, on 29 November 2017, by section 17(1) of the Trade (Anti-dumping and Countervailing Duties) Amendment Act 2017 (2017 No 21).

Section 15(1): amended, on 29 November 2017, by section 25 of the Trade (Anti-dumping and Countervailing Duties) Amendment Act 2017 (2017 No 21).

Section 15(1): amended, on 1 January 1995, by section 16(1) of the Dumping and Countervailing Duties Amendment Act 1994 (1994 No 131).

Section 15(1A): inserted, on 1 January 1995, by section 16(2) of the Dumping and Countervailing Duties Amendment Act 1994 (1994 No 131).

Section 15(2): amended, on 1 July 1990, by section 11(1) of the Dumping and Countervailing Duties Amendment Act 1990 (1990 No 43).

Section 15(4): amended, on 1 July 1990, by section 11(2) of the Dumping and Countervailing Duties Amendment Act 1990 (1990 No 43).

Section 15(5A): inserted, on 29 November 2017, by section 17(2) of the Trade (Anti-dumping and Countervailing Duties) Amendment Act 2017 (2017 No 21).

Section 15(7): substituted, on 1 January 1995, by section 16(3) of the Dumping and Countervailing Duties Amendment Act 1994 (1994 No 131).

Section 15(7): amended, on 29 November 2017, by section 25 of the Trade (Anti-dumping and Countervailing Duties) Amendment Act 2017 (2017 No 21).

Section 15(8): substituted, on 1 January 1995, by section 16(3) of the Dumping and Countervailing Duties Amendment Act 1994 (1994 No 131).

## **16 Provisional measures**

- (1) If, at any time after 60 days from the date on which an investigation has been started by the chief executive under section 10A (not being an investigation that has been terminated under section 11),—
  - (a) the Minister has reasonable cause to believe, in relation to the importation or intended importation of goods into New Zealand, that—
    - (i) the goods are being dumped or subsidised; and
    - (ii) by reason thereof material injury to an industry has been or is being caused or is threatened or the establishment of an industry has been or is being materially retarded; and
  - (b) the Minister is satisfied that action under this section is necessary to prevent material injury being caused during the period of investigation,—

the Minister may, by notice, give a provisional direction that payment of duty in respect of the goods shall be secured in accordance with sections 240 and 241 of the Customs and Excise Act 2018, except that the rate or amount of duty to be secured shall not exceed the difference between the export price of the goods and their normal value, or the amount of the subsidy, as the case may be.
- (2) Notwithstanding subsection (1), at any time after the chief executive has started an investigation under section 11(3)(b), the Minister may, by notice, give a provisional direction that payment of duty in respect of the goods the subject of the investigation shall be secured in accordance with sections 240 and 241 of the Customs and Excise Act 2018.
- (3) A provisional direction given under subsection (1) or (2) ceases to have effect from—
  - (a) the date of the determination made by the Minister under section 10H(1); or
  - (b) if no determination has been, or will be, made under section 10H(1), the date of the determination made by the Minister under section 10D(1).
- (4) When a provisional direction given under subsection (1) or subsection (2) ceases to have effect, any security given pursuant to the provisional direction

shall be released, except to the extent that duties are payable on goods imported prior to the direction ceasing to have effect.

- (5) Where the amount of anti-dumping duty or countervailing duty imposed pursuant to a provisional direction under subsection (1) or subsection (2) exceeds the amount of duty determined under section 10D(2)(a), the amount of the excess shall be remitted by the Customs if so required by the Minister.
- (6) Where the amount of anti-dumping duty or countervailing duty imposed pursuant to a provisional direction under subsection (1) or subsection (2) is less than the amount of duty determined under section 10D(2)(a), the amount of the difference shall not be collected on those importations subject to the provisional direction.

Section 16: substituted, on 1 January 1995, by section 17 of the Dumping and Countervailing Duties Amendment Act 1994 (1994 No 131).

Section 16(1): amended, on 1 October 2018, by section 443(3) of the Customs and Excise Act 2018 (2018 No 4).

Section 16(1): amended, on 29 November 2017, by section 18(1) of the Trade (Anti-dumping and Countervailing Duties) Amendment Act 2017 (2017 No 21).

Section 16(2): amended, on 1 October 2018, by section 443(3) of the Customs and Excise Act 2018 (2018 No 4).

Section 16(2): amended, on 29 November 2017, by section 18(2) of the Trade (Anti-dumping and Countervailing Duties) Amendment Act 2017 (2017 No 21).

Section 16(2): amended, on 29 November 2017, by section 25 of the Trade (Anti-dumping and Countervailing Duties) Amendment Act 2017 (2017 No 21).

Section 16(3): replaced, on 29 November 2017, by section 18(3) of the Trade (Anti-dumping and Countervailing Duties) Amendment Act 2017 (2017 No 21).

Section 16(5): amended, on 29 November 2017, by section 18(4) of the Trade (Anti-dumping and Countervailing Duties) Amendment Act 2017 (2017 No 21).

Section 16(5): amended, on 1 October 1996, by section 289(1) of the Customs and Excise Act 1996 (1996 No 27).

Section 16(6): amended, on 29 November 2017, by section 18(5) of the Trade (Anti-dumping and Countervailing Duties) Amendment Act 2017 (2017 No 21).

## 17 Date on and from which duty payable

The date on and from which anti-dumping duty or countervailing duty is payable or must be secured is—

- (a) for a provisional direction under section 16(1) or (2), the day after the date of that direction:
- (b) for a determination under section 10H(1),—
- (i) the day after the date of that determination; or
  - (ii) a specified day after the day in subparagraph (i):
- (ba) for a full review stage 2 determination under section 17J(1),—
- (i) the day after the date of that determination; or
  - (ii) a specified day after the day in subparagraph (i):

- (c) for a reassessment determination under section 17S or a new exporter reassessment under section 17W,—
  - (i) the day after the date of the reassessment determination or the new exporter reassessment determination; or
  - (ii) a specified day after the day in subparagraph (i).

Section 17: substituted, on 22 November 2006, by section 6(1) of the Dumping and Countervailing Duties Amendment Act 2006 (2006 No 63).

Section 17(b): amended, on 29 November 2017, by section 19(1) of the Trade (Anti-dumping and Countervailing Duties) Amendment Act 2017 (2017 No 21).

Section 17(ba): inserted, on 29 November 2017, by section 19(2) of the Trade (Anti-dumping and Countervailing Duties) Amendment Act 2017 (2017 No 21).

Section 17(c): amended, on 29 November 2017, by section 19(3) of the Trade (Anti-dumping and Countervailing Duties) Amendment Act 2017 (2017 No 21).

Section 17(c)(i): amended, on 29 November 2017, by section 19(4) of the Trade (Anti-dumping and Countervailing Duties) Amendment Act 2017 (2017 No 21).

**17A Duty may be levied retrospectively to cover period of provisional measures if certain conditions met**

- (1) This section applies if the Minister makes a provisional direction and later—
  - (a) makes a determination under section 10D(1) on the grounds of—
    - (i) material injury to an industry; or
    - (ii) a threat of material injury where there would have been material injury if there had not been provisional measures; and
  - (b) makes a determination under section 10H(1) that imposing a duty is in the public interest.
- (2) The Minister may impose anti-dumping duty or countervailing duty retrospectively for all or part of the period covered by the earlier provisional direction.
- (3) This section overrides section 17 if this section's conditions are met.

Section 17A: inserted, on 22 November 2006, by section 6(1) of the Dumping and Countervailing Duties Amendment Act 2006 (2006 No 63).

Section 17A(1): replaced, on 29 November 2017, by section 20 of the Trade (Anti-dumping and Countervailing Duties) Amendment Act 2017 (2017 No 21).

**17B Duty may be levied retrospectively to cover period of up to 60 days before provisional measures if certain conditions met**

- (1) This section applies if the Minister determines that it is necessary to impose retrospective anti-dumping duty or countervailing duty to preclude recurrence of material injury and the Minister determines either of the following:
  - (a) for dumped goods,—
    - (i) either that—
      - (A) there is a history of dumping causing material injury; or

- (B) the importer was or should have been aware that the goods were dumped and that the dumping would cause material injury; and
    - (ii) material injury has been caused by substantial dumped imports of the goods in a relatively short period; or
  - (b) for subsidised goods, critical circumstances apply and there have been massive imports in a relatively short period of goods that—
    - (i) benefit from export subsidies paid or bestowed inconsistently with the WTO Agreement; and
    - (ii) have caused material injury that is difficult to repair.
- (2) The Minister may impose duty retrospectively for all or part of the 60-day period before the application of the provisional direction.
- (3) If the exporter or the Government of the country of export violates an undertaking under section 15 and then the Minister gives a provisional direction under section 16, the Minister may impose duty retrospectively for all or part of the 60-day period before the application of the provisional direction.
- (4) If the period in subsection (2) or (3) includes a day in the period beginning with 25 December in any year and ending with 15 January in the following year, duties can be collected for each day that falls—
  - (a) in the period beginning with 25 December in any year and ending with 15 January in the following year; and
  - (b) in the period in subsection (2) or (3).
- (5) No retrospective duty may be imposed under subsection (3) before the date of the violation of the undertaking
- (6) This section overrides section 17 if this section's conditions are met.

Section 17B: inserted, on 22 November 2006, by section 6(1) of the Dumping and Countervailing Duties Amendment Act 2006 (2006 No 63).

## Part 6

### Review and reassessment

Part 6: inserted, on 29 November 2017, by section 21 of the Trade (Anti-dumping and Countervailing Duties) Amendment Act 2017 (2017 No 21).

#### Subpart 1—Full review

Subpart 1: inserted, on 29 November 2017, by section 21 of the Trade (Anti-dumping and Countervailing Duties) Amendment Act 2017 (2017 No 21).

#### *Full review: purpose, start, and stages*

Heading: inserted, on 29 November 2017, by section 21 of the Trade (Anti-dumping and Countervailing Duties) Amendment Act 2017 (2017 No 21).

#### **17C Purpose of full review**

The purpose of a full review is to investigate, in relation to an anti-dumping or a countervailing duty, whether—

- (a) continued imposition of the duty is necessary to offset dumping or subsidisation; and
- (b) material injury or threatened material injury to an industry, or material retardation of the establishment of an industry, would be likely to continue or recur if the duty expired or were otherwise removed or varied.

Section 17C: inserted, on 29 November 2017, by section 21 of the Trade (Anti-dumping and Countervailing Duties) Amendment Act 2017 (2017 No 21).

#### **17D Start of full review**

- (1) The chief executive must start a full review of a duty after receiving an application from an interested party that includes positive evidence justifying the need for a full review.
- (2) The chief executive may start a full review of a duty at the chief executive's discretion.
- (3) Subsection (4) applies if—
  - (a) the chief executive starts a full review of an existing duty; and
  - (b) the duty would, apart from subsection (4), cease to be payable during the period of the investigation.
- (4) The existing duty does not cease to be payable during the period of the investigation and remains payable until the duty is—
  - (a) terminated following a negative determination under section 17G(1); or
  - (b) terminated following a determination that continuing to impose the duty is not in the public interest; or
  - (c) replaced with a new duty under section 17K(2).

Section 17D: inserted, on 29 November 2017, by section 21 of the Trade (Anti-dumping and Countervailing Duties) Amendment Act 2017 (2017 No 21).

**17E Full review stages**

- (1) If the chief executive starts a full review under section 17D, the chief executive must carry out full review stage 1 first and then, if directed to do so by the Minister under section 17G(2), carry out full review stage 2.
- (2) The chief executive must give notice of a decision to start each stage of a full review as soon as practicable after the decision is made, and that notice must include the date on which each stage of the full review started or will start.

Section 17E: inserted, on 29 November 2017, by section 21 of the Trade (Anti-dumping and Countervailing Duties) Amendment Act 2017 (2017 No 21).

*Full review stage 1: dumping, subsidy, and material injury*

Heading: inserted, on 29 November 2017, by section 21 of the Trade (Anti-dumping and Countervailing Duties) Amendment Act 2017 (2017 No 21).

**17F Full review stage 1: investigation***Dumping, subsidy, and material injury*

- (1) If the chief executive starts a full review, the chief executive must investigate, in relation to an anti-dumping or a countervailing duty, whether—
  - (a) continued imposition of the duty is necessary to offset dumping or subsidisation; and
  - (b) material injury or threatened material injury to an industry, or material retardation of the establishment of an industry, would be likely to continue or recur if the duty expired or were otherwise removed or varied.

*Procedure*

- (2) The chief executive must, within 150 days after starting full review stage 1, give the notified parties written advice of the essential facts and conclusions that are likely to form the basis for a determination to be made by the Minister under section 17G(1).
- (3) The chief executive must give interested parties a reasonable opportunity—
  - (a) to present, in writing, all evidence relevant to the full review and, on justification being shown, to present that evidence orally; and
  - (b) on request being made by an interested party, to meet other interested parties with adverse interests in order that they may present opposing views.
- (4) Subsection (2) does not require the chief executive to provide information that would not be available to an interested party under section 3F.
- (5) The chief executive must report the findings of full review stage 1 to the Minister.

Section 17F: inserted, on 29 November 2017, by section 21 of the Trade (Anti-dumping and Countervailing Duties) Amendment Act 2017 (2017 No 21).

### 17G Full review stage 1: determination

- (1) Within 180 days after the start of full review stage 1 (but not less than 30 days after the written advice is given by the chief executive under section 17F(2)), the Minister must determine whether—
  - (a) continued imposition of the duty is necessary to offset dumping or subsidisation; and
  - (b) material injury or threatened material injury to an industry, or material retardation of the establishment of an industry, would be likely to continue or recur if the duty expired or were otherwise removed or varied.
- (2) If the Minister makes an affirmative determination, the Minister must—
  - (a) determine the rate or amount of anti-dumping or countervailing duty, in accordance with section 10E, that will form the basis for full review stage 2 (which may be the same rate or amount as originally applied or a different rate or amount); and
  - (b) direct the chief executive to immediately start full review stage 2.
- (3) If the Minister makes a negative determination, the Minister must terminate the imposition of the duty under section 17Y(1).
- (4) The Minister must give notice of a determination under subsection (1) as soon as practicable after the determination is made.
- (5) In this section,—

**affirmative determination** means a determination made by the Minister under subsection (1) that—

- (a) continued imposition of the duty is necessary to offset dumping or subsidisation; and
- (b) material injury or threatened material injury to an industry, or material retardation of the establishment of an industry, would be likely to continue or recur if the duty expired or were otherwise removed or varied

**negative determination** means a determination made by the Minister under subsection (1) that is not an affirmative determination.

Section 17G: inserted, on 29 November 2017, by section 21 of the Trade (Anti-dumping and Countervailing Duties) Amendment Act 2017 (2017 No 21).

#### *Full review stage 2: public interest*

Heading: inserted, on 29 November 2017, by section 21 of the Trade (Anti-dumping and Countervailing Duties) Amendment Act 2017 (2017 No 21).

### 17H Full review stage 2: investigation

- (1) If the Minister directs the chief executive to start full review stage 2, the chief executive must investigate whether continuing to impose an anti-dumping or a countervailing duty at the rate or amount determined under section 17G(2)(a) is in the public interest.

- (2) Continuing to impose the duty is in the public interest unless the cost to downstream industries and consumers of imposing the duty is likely to materially outweigh the benefit to the domestic industry of imposing the duty.
- (3) In investigating whether continuing to impose the duty is in the public interest, the matters the chief executive must investigate include those referred to in section 10F(3).
- (4) In this section,—

**consumers** means—

- (a) New Zealand consumers of—
  - (i) the dumped or subsidised goods; or
  - (ii) like goods; or
  - (iii) the other goods referred to in paragraph (a) of the definition of downstream industries; and
- (b) if the Minister considers it appropriate for the purposes of this section, any other relevant New Zealand consumers

**domestic industry** means the industry referred to in section 17G(1)(b)

**downstream industries** means—

- (a) each immediate downstream New Zealand industry that uses the dumped or subsidised goods, or like goods, as an input in the production of other goods; and
- (b) if the Minister considers it appropriate for the purposes of this section, any other relevant downstream New Zealand industry.

Section 17H: inserted, on 29 November 2017, by section 21 of the Trade (Anti-dumping and Countervailing Duties) Amendment Act 2017 (2017 No 21).

## 17I Full review stage 2: procedure

- (1) The chief executive must, within 60 days after starting full review stage 2, give the notified parties written advice of the preliminary findings that are likely to form the basis for a determination to be made by the Minister under section 17J(1).
- (2) The chief executive must give all persons that the chief executive considers would be significantly affected by continuing to impose the duty a reasonable opportunity to present, in writing, all evidence relevant to full review stage 2 and, on justification being shown, to present that evidence orally.
- (3) Subsection (1) does not require the chief executive to provide information that would not be available to an interested party under section 3F.
- (4) The chief executive must report the findings of full review stage 2 to the Minister.

Section 17I: inserted, on 29 November 2017, by section 21 of the Trade (Anti-dumping and Countervailing Duties) Amendment Act 2017 (2017 No 21).

**17J Full review stage 2: determination**

- (1) Within 90 days after the start of full review stage 2 (but not less than 30 days after the written advice is given by the chief executive under section 17I(1)), the Minister must determine whether continuing to impose the anti-dumping or countervailing duty is in the public interest (*see* section 17H(2)).
- (2) The Minister must give notice of a determination under subsection (1) as soon as practicable after the determination is made.

Section 17J: inserted, on 29 November 2017, by section 21 of the Trade (Anti-dumping and Countervailing Duties) Amendment Act 2017 (2017 No 21).

*Full review: continued imposition of duty*

Heading: inserted, on 29 November 2017, by section 21 of the Trade (Anti-dumping and Countervailing Duties) Amendment Act 2017 (2017 No 21).

**17K Full review: continued imposition of duty**

- (1) If the Minister determines that continuing to impose the anti-dumping or countervailing duty is in the public interest, the Minister must continue to impose a duty, at the rate or amount determined under section 17G(2)(a),—
  - (a) to be known as anti-dumping duty, in respect of those goods that are dumped:
  - (b) to be known as countervailing duty, in respect of those goods that are subsidised.
- (2) A duty that continues to be imposed under subsection (1)—
  - (a) replaces the existing duty with effect on and from the applicable date referred to in section 17; and
  - (b) must be collected and paid on the demand of Customs on and from the day after the date on which the notice under subsection (3) is published in the *Gazette*; and
  - (c) ceases to be payable from the date that is the specified period after the date on which the duty has effect under paragraph (a).
- (3) The Minister must give notice of the continued imposition of a duty under subsection (1) as soon as practicable after the imposition is made.
- (4) If the Minister determines that continuing to impose the duty is not in the public interest, the Minister must terminate the imposition of the duty under section 17Y(1).

Section 17K: inserted, on 29 November 2017, by section 21 of the Trade (Anti-dumping and Countervailing Duties) Amendment Act 2017 (2017 No 21).

## Subpart 2—Limited review

Heading: inserted, on 29 November 2017, by section 21 of the Trade (Anti-dumping and Countervailing Duties) Amendment Act 2017 (2017 No 21).

### 17L Purpose of limited review

The purpose of a limited review is to investigate, in relation to an anti-dumping or a countervailing duty, 1 or more of the following:

- (a) whether the scope of goods subject to the duty should be reduced:
- (b) whether an exporter should be exempted from the duty:
- (c) whether continued imposition of the duty is necessary to offset dumping:
- (d) whether material injury or threatened material injury to an industry, or material retardation of the establishment of an industry, would be likely to continue or recur if the duty were removed or varied.

Section 17L: inserted, on 29 November 2017, by section 21 of the Trade (Anti-dumping and Countervailing Duties) Amendment Act 2017 (2017 No 21).

### 17M Start of limited review

- (1) The chief executive may start a limited review of a duty—
  - (a) after receiving an application from an interested party that includes positive evidence justifying the need for a limited review; or
  - (b) at the chief executive's discretion.
- (2) The chief executive must give notice of a decision to start a limited review as soon as practicable after the decision is made, and that notice must include the date on which the limited review started or will start.

Section 17M: inserted, on 29 November 2017, by section 21 of the Trade (Anti-dumping and Countervailing Duties) Amendment Act 2017 (2017 No 21).

### 17N Limited review: investigation

- (1) If the chief executive starts a limited review under section 17M, the chief executive must investigate, in relation to an anti-dumping or a countervailing duty, 1 or more of the matters referred to in section 17L.
- (2) However, if the matters in section 17L(c) and (d) are both to be investigated, the chief executive must not start a limited review and must instead start a full review under subpart 1.
- (3) The chief executive must, within 150 days after starting a limited review, give the notified parties written advice of the essential facts and conclusions that are likely to form the basis for a determination to be made by the Minister under section 17O(1).
- (4) The chief executive must give interested parties a reasonable opportunity—
  - (a) to present, in writing, all evidence relevant to the limited review and, on justification being shown, to present that evidence orally; and

- (b) on request by an interested party, to meet other interested parties with adverse interests in order that they may present opposing views.
- (5) Subsection (3) does not require the chief executive to provide information that would not be available to an interested party under section 3F.
- (6) The chief executive must report the findings of the limited review to the Minister.

Section 17N: inserted, on 29 November 2017, by section 21 of the Trade (Anti-dumping and Countervailing Duties) Amendment Act 2017 (2017 No 21).

### **17O Limited review: determination**

- (1) Within 180 days after the start of the limited review (but not less than 30 days after the written advice is given by the chief executive under section 17N(3)), the Minister must determine each matter being investigated.
- (2) The Minister must give notice of a determination as soon as practicable after the determination is made.
- (3) A determination has effect on and from the day after the date on which the notice under subsection (2) is published in the *Gazette*.
- (4) If the Minister determines that the scope of goods subject to the duty should be reduced, the duty ceases to be payable on those goods that are no longer within the scope of the duty on and from the day after the date on which the notice under subsection (2) is published in the *Gazette*.
- (5) If the Minister determines that an exporter should be exempted from the duty, that exporter is exempt from the duty on and from the day after the date on which the notice under subsection (2) is published in the *Gazette*.
- (6) The Minister must terminate the imposition of the duty under section 17Y(1) if the Minister determines that—
  - (a) continued imposition of the duty is not necessary to offset dumping; or
  - (b) material injury or threatened material injury to an industry, or material retardation of the establishment of an industry, would not be likely to continue or recur if the duty were removed or varied.

Section 17O: inserted, on 29 November 2017, by section 21 of the Trade (Anti-dumping and Countervailing Duties) Amendment Act 2017 (2017 No 21).

## **Subpart 3—Reassessment**

Heading: inserted, on 29 November 2017, by section 21 of the Trade (Anti-dumping and Countervailing Duties) Amendment Act 2017 (2017 No 21).

### **17P Purpose of reassessment**

The purpose of a reassessment is to reassess the rate or amount of an anti-dumping or a countervailing duty (which may include any element of a formula used to establish the rate or amount).

Section 17P: inserted, on 29 November 2017, by section 21 of the Trade (Anti-dumping and Countervailing Duties) Amendment Act 2017 (2017 No 21).

**17Q Start of reassessment**

- (1) The chief executive may start a reassessment of the rate or amount of an anti-dumping or a countervailing duty—
  - (a) after receiving a request from an interested party that includes positive evidence justifying the need for a reassessment; or
  - (b) at the chief executive's discretion.
- (2) The chief executive must give notice of a decision to start a reassessment as soon as practicable after the decision is made, and that notice must include the date on which the reassessment started or will start.

Section 17PQ: inserted, on 29 November 2017, by section 21 of the Trade (Anti-dumping and Countervailing Duties) Amendment Act 2017 (2017 No 21).

**17R Reassessment of rate or amount of duty**

- (1) If the chief executive starts a reassessment under section 17Q, the chief executive must carry out a reassessment of the rate or amount of the duty (which may include any element of a formula used to establish the rate or amount).
- (2) The chief executive must give interested parties a reasonable opportunity—
  - (a) to present, in writing, all evidence relevant to the reassessment and, on justification being shown, to present that evidence orally; and
  - (b) on request being made by an interested party, to meet other interested parties with adverse interests in order that they may present opposing views.
- (3) The chief executive must report the findings of a reassessment to the Minister.

Section 17R: inserted, on 29 November 2017, by section 21 of the Trade (Anti-dumping and Countervailing Duties) Amendment Act 2017 (2017 No 21).

**17S Reassessment determination**

- (1) The Minister must determine a reassessed rate or amount of the duty (which may be the same rate or amount as applied before the reassessment).
- (2) The Minister must give notice of a determination under subsection (1) as soon as practicable after the determination is made.
- (3) Section 10E applies (with all necessary modifications) to the reassessment determination as if the reassessment determination were a determination under section 10D(2)(a).
- (4) The reassessed duty—
  - (a) replaces the existing duty with effect on and from the applicable date referred to in section 17; and
  - (b) must be collected and paid on the demand of Customs on and from the day after the date on which the notice under subsection (2) is published in the *Gazette*; and

- (c) ceases to be payable from the date that the original duty would, but for the reassessment, have ceased to be payable in accordance with section 13A(1) and (2).
- (5) If a reassessment results in a lower rate or amount of duty being imposed on goods, the Minister may require Customs to refund, with effect from the date of the start of the reassessment, the difference between the duty paid and the lower rate or amount of duty.

Section 17S: inserted, on 29 November 2017, by section 21 of the Trade (Anti-dumping and Countervailing Duties) Amendment Act 2017 (2017 No 21).

#### **Subpart 4—New exporter reassessment**

Heading: inserted, on 29 November 2017, by section 21 of the Trade (Anti-dumping and Countervailing Duties) Amendment Act 2017 (2017 No 21).

##### **17T Purpose of new exporter reassessment**

The purpose of a new exporter reassessment is to reassess the rate or amount of an anti-dumping or a countervailing duty (which may include any element of a formula used to establish the rate or amount) in respect of a new exporter.

Section 17T: inserted, on 29 November 2017, by section 21 of the Trade (Anti-dumping and Countervailing Duties) Amendment Act 2017 (2017 No 21).

##### **17U Start of new exporter reassessment**

- (1) The chief executive may start a new exporter reassessment of the rate or amount of an anti-dumping or a countervailing duty after receiving a request from a new exporter that submits positive evidence justifying the need for a new exporter reassessment.
- (2) The chief executive must give notice of a decision to start a new exporter reassessment as soon as practicable after the decision is made, and that notice must include the date on which the new exporter reassessment started or will start.

Section 17U: inserted, on 29 November 2017, by section 21 of the Trade (Anti-dumping and Countervailing Duties) Amendment Act 2017 (2017 No 21).

##### **17V New exporter reassessment of rate or amount of duty**

- (1) If the chief executive starts a new exporter reassessment under section 17U, the chief executive must carry out a reassessment of the rate or amount of the duty (which may include any element of a formula used to establish the rate or amount) in respect of the new exporter.
- (2) The chief executive must give interested parties a reasonable opportunity—
  - (a) to present, in writing, all evidence relevant to the new exporter reassessment and, on justification being shown, to present that evidence orally; and
  - (b) on request by an interested party, to meet other interested parties with adverse interests in order that they may present opposing views.

- (3) The chief executive must report the findings of a new exporter reassessment to the Minister.

Section 17V: inserted, on 29 November 2017, by section 21 of the Trade (Anti-dumping and Countervailing Duties) Amendment Act 2017 (2017 No 21).

#### **17W New exporter reassessment determination**

- (1) The Minister must determine a reassessed rate or amount of the duty for the new exporter (which may be the same rate or amount as for other exporters).
- (2) The Minister must give notice of a determination under subsection (1) as soon as practicable after the determination is made.
- (3) Section 10E applies (with all necessary modifications) to the new exporter reassessment determination as if the new exporter reassessment determination were a determination under section 10D(2)(a).
- (4) The reassessed duty—
  - (a) has effect for the new exporter on and from the applicable date referred to in section 17; and
  - (b) must be collected and paid on the demand of Customs on and from the day after the date on which the notice under subsection (2) is published in the *Gazette*; and
  - (c) ceases to be payable from the date that the original duty ceases to be payable in accordance with section 13A(1) and (2).

Section 17W: inserted, on 29 November 2017, by section 21 of the Trade (Anti-dumping and Countervailing Duties) Amendment Act 2017 (2017 No 21).

#### **17X Imposition of duty during new exporter reassessment**

- (1) No anti-dumping or countervailing duty may be imposed on goods imported from a new exporter during a new exporter reassessment.
- (2) Despite section 17W(4) and subsection (1), a duty reassessed under section 17W may be retrospectively imposed to have effect for the period during a new exporter reassessment.
- (3) Despite subsection (1), the Minister may, by notice, give a provisional direction that payment of an anti-dumping or a countervailing duty at the residual rate in respect of goods that are subject to a new exporter reassessment must be secured in accordance with sections 156 and 157 of the Customs and Excise Act 1996.
- (4) A provisional direction given under subsection (3) ceases to have effect following a determination made by the Minister under section 17W.
- (5) If a provisional direction given under subsection (3) ceases to have effect, security given under the provisional direction must be released, except to the extent that duties are payable on goods imported before the direction ceased to have effect.

- (6) If the amount of duty imposed under a provisional direction under subsection (3) exceeds the amount of duty determined under section 17W, the amount of the excess must be remitted by Customs if required by the Minister.
- (7) If the amount of duty imposed under a provisional direction under subsection (3) is less than the amount of duty determined under section 17W, the amount of the difference must not be collected on those importations subject to the provisional direction.

Section 17X: inserted, on 29 November 2017, by section 21 of the Trade (Anti-dumping and Countervailing Duties) Amendment Act 2017 (2017 No 21).

### **Subpart 5—Termination**

Heading: inserted, on 29 November 2017, by section 21 of the Trade (Anti-dumping and Countervailing Duties) Amendment Act 2017 (2017 No 21).

#### **17Y Termination of anti-dumping or countervailing duty**

- (1) The Minister may, by notice, terminate, in whole or in part, the imposition of an anti-dumping or a countervailing duty.
- (2) The date of termination specified in the notice may be before the date of the notice.

Section 17Y: inserted, on 29 November 2017, by section 21 of the Trade (Anti-dumping and Countervailing Duties) Amendment Act 2017 (2017 No 21).

## **Part 7**

### **Third country anti-dumping duties**

Part 7 heading: inserted, on 29 November 2017, by section 21 of the Trade (Anti-dumping and Countervailing Duties) Amendment Act 2017 (2017 No 21).

#### **18 Third country anti-dumping duties**

- (1) This section applies if the Government of a third country advises the chief executive that—
  - (a) goods imported or intended to be imported into New Zealand—
    - (i) were produced or manufactured in another country; and
    - (ii) have been dumped; and
  - (b) by reason of the dumping,—
    - (i) material injury to a domestic industry of a third country (being a country other than New Zealand and other than the country in which the goods were produced or manufactured) has been or is being caused or is threatened; or
    - (ii) the establishment of a domestic industry of such a country has been or is being materially retarded.
- (2) The provisions of this Act apply with all necessary modifications as if—

- (a) references to the effect of the goods on a New Zealand industry were references to the effect of those goods on the third country's domestic industry; and
  - (b) references to New Zealand producers in sections 3A, 8(2), 10(1) and (3), 10A(1)(b), and 11(1) were references to producers of that third country; and
  - (c) references to New Zealand production or domestic production in sections 3A(b), 10(3)(c), and 10A(1)(b) were references to production in that third country; and
  - (d) references to New Zealand industry in sections 8(1)(c) and 11(1)(b) were references to the domestic industry of that third country; and
  - (e) the reference to goods produced in New Zealand in section 10F(3)(b) were a reference to goods produced in that third country; and
  - (f) the reference to production or consumption in New Zealand in section 8(2)(a) were a reference to production or consumption in—
    - (i) New Zealand; or
    - (ii) if the Minister considers it appropriate, a combination of both New Zealand and that third country; and
  - (g) references to domestic consumption in section 10A(1)(b) were references to consumption in that third country; and
  - (h) in sections 10F(4) and 17H(4), **domestic industry** meant—
    - (i) the New Zealand domestic industry (if any); or
    - (ii) if the Minister considers it appropriate, a combination of both the New Zealand domestic industry (if any) and the domestic industry of that third country.
- (3) However,—
- (a) references to prices in section 8(1)(b) and (2)(b) and (d)(ii) and section 10(3)(l) remain references to prices in New Zealand; and
  - (b) references to downstream industries and consumers in sections 10F(4) and 17H(4) remain references to New Zealand downstream industries and New Zealand consumers.

---

**Example**

The Government of country X advises the chief executive that—

- goods imported into New Zealand were produced in country Y;
- those goods have been dumped;
- by reason of the dumping, material injury to a domestic industry of country X has been caused.

The provisions of this Act apply as if references to the effect of those goods on a New Zealand industry were references to the effect of those goods on country X's domestic industry.

---

Section 18: substituted, on 1 January 1995, by section 19 of the Dumping and Countervailing Duties Amendment Act 1994 (1994 No 131).

Section 18 heading: amended, on 29 November 2017, by section 22(1) of the Trade (Anti-dumping and Countervailing Duties) Amendment Act 2017 (2017 No 21).

Section 18(1): amended, on 29 November 2017, by section 22(2) of the Trade (Anti-dumping and Countervailing Duties) Amendment Act 2017 (2017 No 21).

Section 18(1): amended, on 29 November 2017, by section 22(6) of the Trade (Anti-dumping and Countervailing Duties) Amendment Act 2017 (2017 No 21).

Section 18(1): amended, on 29 November 2017, by section 25 of the Trade (Anti-dumping and Countervailing Duties) Amendment Act 2017 (2017 No 21).

Section 18(1)(a)(ii): amended, on 29 November 2017, by section 22(3) of the Trade (Anti-dumping and Countervailing Duties) Amendment Act 2017 (2017 No 21).

Section 18(1)(b): amended, on 29 November 2017, by section 22(4) of the Trade (Anti-dumping and Countervailing Duties) Amendment Act 2017 (2017 No 21).

Section 18(1)(b)(ii): amended, on 29 November 2017, by section 22(5) of the Trade (Anti-dumping and Countervailing Duties) Amendment Act 2017 (2017 No 21).

Section 18(2): inserted, on 29 November 2017, by section 22(7) of the Trade (Anti-dumping and Countervailing Duties) Amendment Act 2017 (2017 No 21).

Section 18(3): inserted, on 29 November 2017, by section 22(7) of the Trade (Anti-dumping and Countervailing Duties) Amendment Act 2017 (2017 No 21).

## **19 Savings**

*[Repealed]*

Section 19: repealed, on 29 November 2017, by section 23 of the Trade (Anti-dumping and Countervailing Duties) Amendment Act 2017 (2017 No 21).

## **20 Consequential amendments**

*[Repealed]*

Section 20: repealed, on 1 October 1996, by section 290(1) of the Customs and Excise Act 1996 (1996 No 27).

## Schedule 1

### Transitional, savings, and related provisions

s 3BB

Schedule 1: inserted, on 29 November 2017, by section 24 of the Trade (Anti-dumping and Countervailing Duties) Amendment Act 2017 (2017 No 21).

### Part 1

#### Provisions relating to Trade (Anti-dumping and Countervailing Duties) Amendment Act 2017

#### 1 Interpretation

In this Part, **commencement** means the date immediately after the expiry of the 6-month period that starts on the date on which the Trade (Anti-dumping and Countervailing Duties) Amendment Act 2017 receives the Royal assent.

#### 2 Existing investigations, reassessment, and reviews

- (1) This clause applies if, before commencement, the Secretary initiated—
  - (a) an investigation under section 10; or
  - (b) a reassessment under section 14(6); or
  - (c) a review under section 14(8).
- (2) The investigation, reassessment, or review must be continued, completed, determined, and enforced as if the provisions of this Act (as in force immediately before commencement) were still in force.
- (3) This clause is subject to clause 3.

#### 3 Application of public interest test to newly imposed duties

- (1) This clause applies if, following an investigation or a review initiated before commencement, an anti-dumping or a countervailing duty is imposed with effect on and from—
  - (a) commencement; or
  - (b) a date after commencement.
- (2) The chief executive may, within 6 months from the date on which the duty is imposed, start a stand-alone investigation to consider whether continuing to impose the anti-dumping or countervailing duty is in the public interest.
- (3) The chief executive must give notice of a decision to start an investigation as soon as practicable after the decision is made, and that notice must include the date on which the investigation started or will start.
- (4) Sections 17H to 17J apply with all necessary modifications as if—
  - (a) the investigation were stage 2 of a full review; and

- (b) in section 17H(1), the reference to the rate or amount determined under section 17G(2)(a) were a reference to the rate or amount already imposed; and
  - (c) in section 17H(4), **domestic industry** meant the industry that was the subject of the original investigation (or review) that led to the duty being imposed.
- (5) If the Minister determines that continuing to impose the duty is in the public interest,—
- (a) the Minister must continue to impose the duty; and
  - (b) the period that the duty remains payable for is not affected.
- (6) If the Minister determines that continuing to impose the duty is not in the public interest, the Minister must terminate the imposition of the duty under section 17Y(1).
- (7) The Minister must give notice of the continued imposition of a duty under subclause (5) as soon as practicable after the determination is made.

#### **4 Investigations, full reviews, limited reviews, reassessments, and new exporter reassessments started on or after commencement**

- (1) This clause applies if, on or after commencement, the chief executive starts—
- (a) an investigation under Part 4; or
  - (b) a full review under subpart 1 of Part 6; or
  - (c) a limited review under subpart 2 of Part 6; or
  - (d) a reassessment under subpart 3 of Part 6; or
  - (e) a new exporter reassessment under subpart 4 of Part 6.
- (2) The investigation, full review, limited review, reassessment, or new exporter reassessment must be started, completed, determined, and enforced in accordance with the provisions of this Act (as amended by the Trade (Anti-dumping and Countervailing Duties) Amendment Act 2017).
- (3) Subclause (2) applies regardless of whether the anti-dumping or countervailing duty that is the subject of the full review, limited review, reassessment, or new exporter reassessment was imposed—
- (a) before, on, or after commencement; or
  - (b) following an investigation, reassessment, or review referred to in clause 2(1).

## Reprints notes

### 1 *General*

This is a reprint of the Trade (Anti-dumping and Countervailing Duties) Act 1988 that incorporates all the amendments to that Act as at the date of the last amendment to it.

### 2 *Legal status*

Reprints are presumed to correctly state, as at the date of the reprint, the law enacted by the principal enactment and by any amendments to that enactment. Section 18 of the Legislation Act 2012 provides that this reprint, published in electronic form, has the status of an official version under section 17 of that Act. A printed version of the reprint produced directly from this official electronic version also has official status.

### 3 *Editorial and format changes*

Editorial and format changes to reprints are made using the powers under sections 24 to 26 of the Legislation Act 2012. See also <http://www.pco.parliament.govt.nz/editorial-conventions/>.

### 4 *Amendments incorporated in this reprint*

Customs and Excise Act 2018 (2018 No 4): section 443(3)  
Trade (Anti-dumping and Countervailing Duties) Amendment Act 2017 (2017 No 21)  
Dumping and Countervailing Duties Amendment Act 2014 (2014 No 31)  
Dumping and Countervailing Duties Amendment Act 2012 (2012 No 101)  
Dumping and Countervailing Duties Amendment Act 2006 (2006 No 63)  
New Zealand/Singapore Closer Economic Partnership Act 2000 (2000 No 95): Part 1  
Customs and Excise Act 1996 (1996 No 27): sections 289(1), 290(1)  
Dumping and Countervailing Duties Amendment Act 1994 (1994 No 131)  
Dumping and Countervailing Duties Amendment Act 1990 (1990 No 43)  
Trade (Anti-dumping and Countervailing Duties) Act 1988 (1988 No 158): section 14AA(6)