

Dumping and Countervailing Duties Amendment Act 2006

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Date of assent 21 November 2006

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The Parliament of New Zealand enacts as follows:

- 1 Title**
This Act is the Dumping and Countervailing Duties Amendment Act 2006.

2 Commencement

This Act comes into force on the day after the date on which it receives the Royal assent.

3 Principal Act amended

This Act amends the Dumping and Countervailing Duties Act 1988.

4 Interpretation

- (1) Section 3(1) is amended by inserting the following definition in its appropriate alphabetical order:

“**day**, except in sections 14(2), 17, and 17B(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”.

- (2) Subsection (1) does not apply to investigations initiated before the commencement of this Act.

5 Anti-dumping and countervailing duties

Section 14(1) is amended by omitting “section 17 of this Act” and substituting “section 17, 17A, or 17B”.

6 New sections 17 to 17B substituted

- (1) Section 17 is repealed and the following sections are substituted:

“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 final determination under section 13(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 14(6),—

“(i) the day after the date of that reassessment determination; or

“(ii) a specified day after the day in subparagraph (i).

“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 makes a final determination on the grounds of—
- “(a) material injury to an industry; or
 - “(b) a threat of material injury where there would have been material injury if there had not been provisional measures.
- “(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.

“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.”
- (2) Paragraph (c) of the definition of **duty** in section 2(1) of the Customs and Excise Act 1996 is amended by omitting “or 17” and substituting “17, 17A, or 17B”.

- 7 Third country anti-dumping and countervailing duties**
Section 18 is amended by omitting “and 17” and substituting “17, 17A, and 17B”.

Legislative history

14 November 2006

Divided from Business Law Reform Bill (Bill 64-2) as Bill 64-3B

15 November 2006

Third reading
