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Discussion paper on the introduction of a bounded public interest test and automatic termination period into the anti-dumping and countervailing duties regime

BACKGROUND INFORMATION ON BUSINESS NEW ZEALAND

Business New Zealand is New Zealand's largest business advocacy organisation.

Through its four founding member organisations – EMA Northern, Business Central, Canterbury Employers' Chamber of Commerce and the Otago-Southland Employers' Association – and 70 affiliated trade and industry associations, Business NZ represents the views of over 76,000 employers and businesses, ranging from the smallest to the largest (including the Major Companies Group) and reflecting the make-up of the New Zealand economy.

In addition to advocacy on behalf of enterprise, Business NZ contributes to Governmental and tripartite working parties and international bodies including the International Labour Organisation, the International Organisation of Employers and the Business and Industry Advisory Council to the Organisation for Economic Cooperation and Development.

Short term political problem solving leads to poor public policy

BusinessNZ is very concerned to see that Cabinet has agreed to a "bounded public interest test" to be applied in the event of the dumping of goods into the New Zealand market (goods are dumped if the export price to New Zealand is less than the price they are sold for in the domestic market) causing injury to New Zealand's domestic industries.

The whole point of anti-dumping measures – as endorsed by the World Trade Organisation and commonly used around the world – is that they provide a "level

playing field” and protect domestic industry against predatory pricing due to unfair competition.

Dumping is either injurious to a local industry by predatory pricing or it is not.

We believe it is more important to have this remedy in a small open market such as New Zealand where we have little or no tariffs on most of our manufactured products and our businesses must be globally competitive to survive.

To then expect our industries to compete against (usually) much bigger international competitors that dump product here undermines the whole business operating environment.

Where is the certainty for our companies to invest in their business if that can be undermined at will by what could be a politically motivated “public interest test” which could expose them to unfair competition. The discussion paper says “Whether or not the cost of a duty significantly outweighs the benefit will differ on a case by case basis”.

This whole proposal was motivated by the desire of Government to lower the cost of construction in the housing market, with a view to making housing more affordable for the Christchurch rebuild and the overheated Auckland property market.

However is this the right policy response?

If the Government is concerned that there is a lack of competition in the sectors that contribute to the building and housing market then it has the Commerce Commission to investigate and expose anti-competitive behaviour. Abuse of market power and anti-competitive behaviour should not be tolerated and should be dealt with by the Commerce Commission. However where the Commerce Commission has undertaken an investigation and found no issue with market participants; what signal does the Government send by undermining its own independent watch-dog with the introduction of measures that open the door to dumping by way of remedy.

Apart from the damage this can do to local industry through unfair competition, what about the quality of the product being imported? Are consumers being offered cheaper prices at the expense of quality and who monitors and audits for quality? Will the Government stand behind the imported product from Thailand and China if it fails further down the track? Already we get complaints from local industry that imported product does not meet quality standards, but there is no Government watch-dog that audits imports for meeting international safety and quality standards or polices them for incorrectly stating they do meet such standards.

A New Zealand based firm has to stand behind its product or it loses business if quality issues emerge. An overseas company dumping product on the market can cut and run.

Ironically the proposed bounded public interest test will assess the extent to which anti-dumping duties will negatively impact on prices in New Zealand, product and service quality, consumer choice etc...Is the same going to happen with the dumped imported product from China and Thailand? Will Government assess product and service quality or is there one set of rules for domestically manufactured product versus international?

BusinessNZ notes that the requests for anti-dumping protection from New Zealand businesses has been a very small list of products (peaches, steel bar and coil, galvanised wire, nails, plasterboard, diaries) from 6 countries and that the current regime allows that duties can be reviewed at any time during the 5 year imposition period to determine whether they are still necessary.

We again question what is the problem that the Government is trying to fix? If it relates to abuse of market power or price gauging in the building and construction sector, then that can already be dealt with by the Commerce Commission.

Government should not be reducing the certainty for New Zealand manufacturers that they can get relief from unfair competition that will damage their business. The uncertainty amounts to Sovereign Risk, and which company wants to invest in New Zealand if their business can be damaged because they may not be able to guard against dumping.

Australia has considered introducing a bounded public interest test on its anti-dumping regime and rejected the idea and we should do the same. The hurdle for attaining anti-dumping protection is reasonably high and harm has to be proven. This is probably why (in a country dominated by small to medium sized businesses) there are so few that proceed down this path. Why make it even harder for local manufacturers to seek this remedy?

For the reasons above we remain opposed to the bounded public interest test into anti-dumping and countervailing duties regime and do not support the introduction of an automatic termination period.

Yours sincerely

A handwritten signature in black ink, appearing to read 'C. Beard', enclosed in a thin black rectangular border.

Catherine Beard
Executive Director ExportNZ and ManufacturingNZ