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Submission on Trade (Anti-dumping and Countervailing Duties) Act 1988:

Applying the Public Interest Test.

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By E Mail traderem@mbie.govt.nz

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Many thanks for the opportunity to provide feedback on the application of the public interest test when it comes to dumping and or subsidisation of imported product into New Zealand.

BusinessNZ submitted on the legislation that established the introduction of the 'public interest test' and we were **not** in favour. Our concern was that the bar will be set so high to establish a case (in terms of cost, length of time and uncertainty of outcome), that the remedy of anti-dumping and countervailing duties will not be a timely or affordable solution for a New Zealand based business attempting to survive against unfair competition. We noted at the time that Australia had decided against a public interest test and had in fact set up some government support mechanisms for firms wanting to mount a case against dumping or foreign subsidisation.

In terms of the questions that MBIE is seeking a response to, we don't consider that we have the in-house expertise to comment on methodology or the econometric PIPES model, but we can make some comments on the Part 1 Considerations.

Under (C) the effect of the duty on the choice or availability of like goods – the second bullet point that reads;

- The extent to which the non-imposition of duties is likely to result in the domestic industry reducing or ceasing its production of like goods for the New Zealand market.

On this point we ask the following questions. Would this evaluation take into consideration a situation where there was a big manufacturer in New Zealand that was a multinational making an energy intensive product that was forced to close down and the impact that would have, not just on jobs and taxes paid, but on the local downstream manufacturing that relied on that product being produced locally for their supply chain i.e. the local manufacturers then being forced to import a heavy and energy intensive product where previously it was locally manufactured?

The reason we ask this question is because we are aware that there are many manufacturers that work with metal and steel products that rely on New Zealand supply for the raw material. If this local supply was to cease, that could have a bad domino impact on downstream manufacturers in terms of the cost and quality of the input product they have come to rely on. We are not sure if the econometric modelling being proposed would capture this? If not, it should, because it is in the public interest that whole ecosystem of manufacturers is given good choices of supply, including domestic supply.

Another question which relates to energy intensive products is, does the methodology consider whether the product being dumped and or subsidised has a carbon price attached to it? It would seem to be counter to New Zealand climate change policy and carbon zero ambitions to support the dumping or subsidisation of energy intensive product that has not accounted for its carbon emissions (e.g. NZ produced steel, in an emissions trading scheme and using 80% renewable energy versus Asia produced steel using around 80% coal fired electricity and not in an ETS), not to mention the carbon emissions increase from transportation costs.

In addition, the reason we include the words "multinational" in the example above is because we consider them to be quite mobile in terms of where they make their investments. Investment decisions are made offshore and if the return on investment is not enough to make it worthwhile, the multinational will invest their capital elsewhere in the world where the return is better.

Equally – going to another example where relief against dumping has been claimed in the past, if it was a product like canned peaches and the dumped product led to a decline in peach orchards in New Zealand due to their being unable to compete, does the methodology place a value on the consumer having local choices due to quality, rather than having to buy imported peaches if that is the only choice left. The problem with 100% importation of a commodity like peaches is twofold. Again, the emissions implications of going to a totally imported product and the fact that the consumer may not trust the food safety systems of the exporting country, where there may have been many high-profile food safety disasters over the years.

If we end up with a public interest test that does not include the impact of allowing dumped or subsidised product into New Zealand that also has a negative impact on climate change – it would seem that the policy approach is not taking into account the environmental externalities. It would be incongruous to have New Zealand Officials at Ministry of Foreign Affairs and Trade leading the global efforts to stop global subsidisation of oil and gas exploration on the one hand, while MBIE supports a policy that allows subsidised energy intensive product into New Zealand that increases global emissions.

We would submit that the public interest test for dumped or subsidised product should also evaluate the emissions impacts.

If we fail to do this, we are essentially encouraging the dumping of product for price and consumer choice reasons and ignoring the climate change implications, which would be a poor policy outcome.

Thankyou for the opportunity to comment.

Yours Sincerely

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