

EXCHANGE OF LETTERS ON THIRD COUNTRY DUMPING

I

DEPARTMENT OF FOREIGN AFFAIRS AND TRADE

24 August 1992

HE Mr E Woodfield  
New Zealand High Commission  
Commonwealth Avenue  
CANBERRA ACT 2600

Dear Mr Woodfield

I refer to discussions between Australian and New Zealand officials on procedures for handling third country dumping complaints made pursuant to Article 15:8 of the Australia - New Zealand Closer Economic Relations Trade Agreement. Those discussions resulted in agreement on a common set of procedures to be followed in the event of a third party dumping complaint. The agreed procedures are attached.

If these procedures are acceptable to your Government I propose that this letter together with your reply should together constitute a joint understanding between our two Governments in terms set out in the attachment to become effective on the date of your reply.

Yours sincerely

[signed]

(Greg Urwin)  
Assistant Secretary  
New Zealand and Papua New Guinea Branch

## II

### Agreed Procedures for Handling Third Country Anti-Dumping Complaints Pursuant to Article 15:8 of the CER Agreement

Applications for third country anti-dumping actions should be lodged in the first instance with the relevant Australian or New Zealand authority (the Australian Customs Service in the case of an Australian application and the New Zealand Ministry of Commerce in the case of a New Zealand application).

This Authority will make an assessment of whether the application is "supported by price information to show that the imports are being dumped and by detailed information to show that the alleged dumping is causing injury to the domestic industry concerned in the third country" as required by Article 12 of the 1979 Agreement on the Implementation of Article VI of the GATT.

If the relevant authority is satisfied that the application is adequately supported by information of dumping and injury, it will forward the application, as appropriate, to the Department of Foreign Affairs and Trade (in the case of an Australian application) or the Ministry of External Relations and Trade (in the case of a New Zealand application) for formal transmittal to the authority of the other country in accordance with Article 12 of the 1979 Agreement on Implementation of Article VI of the GATT.

As provided for under Article 15:8 of the 1983 CER Agreement, the relevant administering authority in the importing country would then, in accordance with appropriate domestic legislation, "examine the possibility of taking action, consistent with its international obligations to prevent material injury".

In considering the application, the administering authority, consistent with Article 12 of the Agreement on the Implementation of Article VI of the GATT will consider the effects of the alleged dumping on the industry concerned as a whole in the country lodging the application (Australia or New Zealand); that is to say the injury will not be assessed in relation only to the effects of the alleged dumping on the industry's exports to the importing or even on the industry's total exports.

The Government of the country lodging the application (Australia or New Zealand) will afford all assistance to the authorities of the importing country to obtain any further information which the latter may require.

A decision whether or not to proceed with a case will rest with the importing country. If the importing country decides that it is prepared to take action, it will initiate the approach to the GATT seeking approval to take action.

III

NEW ZEALAND HIGH COMMISSION

27 August 1992

Mr G Urwin  
Assistant Secretary  
New Zealand and Papua New Guinea Branch  
Department of Foreign Affairs and Trade  
Administrative Building  
PARKES ACT 2600

Dear Mr Urwin

I refer to your letter of 24 August 1992 which reads as follows:

[Here follows the text as set out under I].

I confirm that the foregoing procedures are acceptable to my Government and that your letter together with this reply shall together constitute a joint understanding between our two Governments in terms set out in the attachment to your letter to become effective on today's date.

Yours sincerely

[signed]

E A Woodfield  
High Commissioner