

GENERAL AGREEMENT ON TARIFFS AND TRADE

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CANADIAN ACT RESPECTING THE IMPOSITION OF ANTI-DUMPING DUTY

Addendum

The Permanent Mission of Canada has transmitted to the secretariat the following text of the Anti-dumping Regulations, effective 1 January 1969.

ANTI-DUMPING REGULATIONS

P.C. 1968-2349

AT THE GOVERNMENT HOUSE AT OTTAWA

Tuesday, the 31st day of December, 1968.

Present:

His Excellency the Governor General in Council

His Excellency the Governor General in Council, on the recommendation of the Minister of Finance, pursuant to section 35 of the Anti-dumping Act, is pleased hereby to make, effective 1 January, 1969, the annexed Regulations relating to the Imposition of Anti-dumping Duty.

REGULATIONS RELATING TO THE IMPOSITION OF ANTI-DUMPING DUTY

Short Title

1. These Regulations may be cited as the Anti-dumping Regulations.

Interpretation

2. In these Regulations "Act" means the Anti-dumping Act.

3. The sales of like goods, the prices of which are used to compute the normal value of any goods, shall be those sales of goods that

- (a) are made to purchasers who are at the same or at substantially the same trade level as the importer, and
- (b) are in the same or substantially the same quantities as the sale of goods to the importer, or

in the event that the sale of goods are not in the same or substantially the same quantities in the country of export as the sale of goods to the importer, shall be those sales that,

- (c) if the quantity sold to the importer is larger than the largest quantity sold for home consumption, are in the largest quantity sold for home consumption, or
- (d) if the quantity sold to the importer is smaller than the smallest quantity sold for home consumption, are in the smallest quantity sold for home consumption.

4. (1) The normal value of any goods, as otherwise determined, may be adjusted by an allowance for quantity only if

- (a) the exporter in the six-month period immediately preceding the date of the sale to the importer has granted quantity discounts of at least the same magnitude with respect to twenty per cent or more of the total quantity of like goods sold for home consumption and such discount had been freely available to all purchasers; or
- (b) the Deputy Minister is satisfied that a quantity discount is warranted on the basis of savings specifically attributable to the quantities of the goods involved.

(2) Notwithstanding sub-section (1), where the quantity of goods sold to the importer in Canada was smaller than the smallest quantity of goods used in computing the normal value of the goods, the normal value of the goods, as otherwise determined, shall be increased by an allowance to an amount that, in the opinion of the Deputy Minister, reflects the price for which the smaller quantity would be sold for home consumption.

5. The normal value of any goods, as otherwise determined, may be adjusted by an allowance that, in the opinion of the Deputy Minister, reflects the value of any differences in quality, structure, design, material and any other difference between the like goods, the sales of which are used to compute the normal value, and the goods sold to the importer in Canada.

6. The normal value of any goods, as otherwise determined, may be adjusted by the deduction of an allowance on account of any deferred discounts granted by the exporter in connexion with the goods purchased by the importer if

- (a) the discounts were shown on the invoice at the time of importation of the goods;
- (b) the discounts are not greater in percentage and not more favourable in terms than those granted generally by the exporter on the sales of like goods that are used in determining the normal value of the goods; and
- (c) the importer has provided the Deputy Minister with an undertaking that he will comply with the terms and conditions relating thereto.

7. The normal value of any goods, as otherwise determined, may be adjusted by deducting an allowance on account of a discount for cash if

- (a) the terms and conditions of the discount are set out on the invoice;
- (b) the discount is similar in percentage and terms with that granted generally by the exporter on the sales of like goods that are used in determining the normal value of the goods; and
- (c) the Deputy Minister is satisfied that the importer has earned or will earn the discount in accordance with the terms and conditions relating thereto.

8. The normal value of any goods, as otherwise determined, may be adjusted by deducting an allowance on account of the cost of transportation from the place of shipment to purchasers for home consumption if the like goods are sold generally for home consumption by the exporter in the country of export at a common delivered price (freight prepaid or allowed) to all destinations in the country of export or in that zone in the country of export in which the place of direct shipment to Canada is located that under ordinary commercial practice of the country of export is considered to be a common transportation zone, which allowance shall be an amount equal to the lesser of

- (a) an amount not greater than the average cost of freight prepaid or allowed by the exporter on the sales of like goods in the country or zone therein; or
- (b) the actual charges for transportation of the goods to the importer.

9. For the purpose of determining the normal value of any goods imported into Canada regard shall not be had to a sale for home consumption to a purchaser by a vendor who did not, at the same or substantially the same time, sell like goods in the ordinary course of trade to other persons in the country of export not associated with the purchaser.

10. In the event that there were not in the opinion of the Deputy Minister such a number of sales of like goods made to purchasers for home consumption in the country of export who are at the same or substantially the same trade level as the importer of the goods as to permit a proper comparison with the sale of the goods to the importer in Canada but there were such a number of sales of like goods made to purchasers for home consumption at a level subsequent to that of the importer, the latter sales shall be used to compute the normal value of goods and the normal value of the goods so determined may be adjusted by deducting an allowance

- (a) not exceeding the discount that is freely available on sales made by other vendors in the country of export of like goods to purchasers for home consumption who were at the same trade level as the importer; or
- (b) in the absence of the information referred to in paragraph (a), not exceeding such amount as in the opinion of the Deputy Minister represents the cost incurred by the exporter in respect of sales for home consumption for carrying out the functions normally performed at the trade level of the importer if
 - (i) the exporter did not perform these functions on sales to the Canadian importer,
 - (ii) the exporter did not carry out these functions in respect of the sale of the goods in Canada, and
 - (iii) the allowance does not exceed the actual cost of carrying out these functions in Canada.

11. The normal value of any goods, as otherwise determined, may be adjusted by deducting therefrom the amount of any taxes and duties levied on the sales of like goods when destined for home consumption that are not borne by the goods sold to the importer in Canada.

12. All computations shall be made at the same exchange rate, which shall be the exchange rate prevailing on the date of shipment to Canada.

13. For the purposes of paragraph 9(2)(b) and sub-section 9(5) of the Act, a sufficient number of sales with reference to any goods in a prescribed period means sales of those goods during that period in such quantities that, if the quantity of the goods sold to importers in Canada in the period were to be deducted from the total quantity of the goods and the like goods sold throughout that period, at least twenty-five per cent of the remainder would have been sold for home consumption.

14. For the purpose of determining the normal value of any goods imported into Canada the period referred to in paragraph 9(1)(c) of the Act in relation to the sale of the goods is the period ending on the day of the sale and commencing

- (a) sixty days immediately preceding that day; or
- (b) where the nature of the trade otherwise requires, on such day preceding the day of the sale of the goods as is required to form a proper comparison in determining the normal value.

15. For the purpose of determining the normal value of any goods pursuant to paragraph 9(5)(a) of the Act, sections 3 to 14 of these Regulations apply mutatis mutandis as if the sales of the like goods by the exporter to importers in any country other than Canada were sales of like goods for home consumption.

16. In determining the normal value of any goods in accordance with paragraph 9(5)(b) of the Act

- (a) the cost of production of the goods shall be calculated in such manner as to fully reflect the aggregate of all costs attributable or related to the production by the producer of those and of all like goods; and
- (b) the amount for profits and for administrative, selling and all other costs that are included in the calculation of the normal value of the goods shall reflect the full amount of the profits and charges incurred in the production and sale of like goods in the country of export.

17. For the purposes of sub-section 12(1) of the Act, the normal value of goods bona fide exported to Canada from any country but passing in transit through another country shall be determined as if they were shipped directly to Canada from such first-mentioned country under the following conditions:

- (a) the Bill of Lading for the transportation of the goods from the place of original shipment shall show the ultimate destination of the goods to be a specified port in Canada without any contingency of diversion;
- (b) the goods shall not be entered for consumption or for warehouse or remain for any purpose other than trans-shipment in any intermediate country; and
- (c) the original Bill of Lading or certified copies thereof shall be filed with the Customs entry.

18. (1) In determining the export price of any goods pursuant to subsection 10(1) of the Act, the exporters' sale price for the goods, being the price at which the goods are sold or agreed to be sold to the Canadian importer, shall be adjusted by deducting therefrom the following amounts:

- (a) the costs, charges and expenses incurred by the exporter in preparing the goods for shipment to Canada that are additional to those costs, charges and expenses generally incurred on sales for home consumption; and
- (b) all other costs, charges and expenses, including Canadian customs duties and taxes if applicable, by or for the account of the exporter resulting from or arising from the exportation or after the shipment of the goods from the place described in paragraph 9(1)(d) of the Act or, where applicable, the place substituted therefor in determining the normal value by virtue of paragraph 9(2)(a) of the Act.

(2) In determining the export price of any goods pursuant to subsection 10(1) of the Act the importers' purchase price for the goods, being the price at which the goods have been purchased or agreed to be purchased by the importer, shall be adjusted by deducting therefrom the following amounts:

- (a) the costs, charges and expenses incurred by the exporter in preparing the goods for shipment to Canada that are additional to those costs, charges and expenses generally incurred on sales for home consumption; and
- (b) all other costs, charges and expenses, including Canadian customs duties and taxes if applicable, by or for the account of the exporter resulting from or arising from the exportation or after the shipment of the goods from the place described in paragraph 9(1)(d) of the Act or, where applicable, the place substituted therefor in determining the normal value by virtue of paragraph 9(2)(a) of the Act.

19. In determining, pursuant to paragraph 10(2)(c) of the Act, the export price of any goods that were sold by the importer thereof under the conditions described in that paragraph, the allowance referred to in that paragraph shall be an amount equal to the aggregate of the following:

- (a) the profit on the sale of the goods by the importer;
- (b) the charges on the goods resulting from or arising after their shipment from the place described in paragraph 9(1)(d) of the Act or, where applicable, the place substituted therefor in determining the normal value by virtue of paragraph 9(2)(a) of the Act; and

- (c) all costs incurred by the importer with respect to the goods from the time of their importation into Canada, including the costs relating thereto, until the time of the sale of the goods.

20. For the purpose of paragraphs 13(3)(b) and 13(7)(b) of the Act, the period referred to within which a reference may be made to the Tribunal shall be 30 days from the date of the notice referred to in the relevant paragraph.

21. For the purpose of sub-sections 18(1) and (3) of the Act, the written request described in each of those sub-sections shall be filed in the prescribed form in writing with the Dominion Customs Appraiser or the Deputy Minister, as the case may be, within the time required under the Act.