

# GENERAL AGREEMENT ON TARIFFS AND TRADE

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Group "Non-Tariff Measures"

Sub-Group "Subsidies and Countervailing Duties"

## CANADA - REGULATIONS RELATING TO THE IMPOSITION OF COUNTERVAILING DUTY

The Canadian Government recently introduced regulations relating to the imposition of countervailing duties under the authority of the Customs Tariff. At the request of the Canadian delegation these regulations are circulated for the information of the members of the Sub-Group "Subsidies and Countervailing Duties".

### Short Title

1. These Regulations may be cited as the Countervailing Duty Regulations.

### Interpretation

2. (1) In these Regulations: "Deputy Minister" means the Deputy Minister of National Revenue for Customs and Excise (sous-ministre); "Minister" means the Minister of National Revenue (Ministre); "Tribunal" means the Anti-Dumping Tribunal established by section 21 of the Anti-Dumping Act (Tribunal); "subsidy" has the meaning assigned to that expression by section 7 of the Customs Tariff (subvention); "subsidized goods" has the meaning assigned to that expression by section 7 of the Customs Tariff (marchandises subventionnées).

(2) For the purposes of these Regulations the expression "class or kind" in relation to goods made or produced in Canada has the same meaning as it has for purposes of section 7 of the Customs Tariff.

### Procedure

3. (1) The Deputy Minister shall forthwith cause an investigation to be initiated respecting the subsidization of any imported goods of a class or kind made or produced in Canada, on his own initiative or on receipt of a complaint in writing by or on behalf of producers in Canada of such goods, if

(a) he is of the opinion that there is evidence that the goods have been or are being subsidized; and

(b) he is of the opinion that there is prima facie evidence that the subsidization referred to in paragraph (a) has caused, is causing or is likely to cause material injury to the production in Canada of such goods.

(2) Where, after receipt of a written complaint respecting the subsidization of any goods, the Deputy Minister decides not to initiate an investigation, he shall send a written notice of his decision to the complainant setting out therein the reasons for such decision.

(3) Where the Deputy Minister causes an investigation to be initiated respecting the subsidization of any goods, he shall cause notice of the investigation

(a) to be given to the government or administration allegedly granting the subsidy, the importer, the exporter and the complainant, and

(b) to be published in the Canada Gazette.

(4) The Deputy Minister shall cause an investigation respecting the subsidization of any goods to be terminated and shall not make any preliminary determination of subsidization in respect of such goods

(a) where he is satisfied that

(i) there is insufficient evidence of subsidization to justify proceeding with the investigation,

(ii) the amount of the subsidy per unit of the goods is negligible, or

(iii) the actual or potential volume of imports thereof is negligible;  
or

(b) he comes to the conclusion that there is no evidence that the subsidization of goods has caused, is causing or is likely to cause material injury to the production in Canada of like goods,

and shall thereupon cause notice of such termination to be given to the persons and in the manner provided in subsection (3).

4. Where an investigation respecting the subsidization of any goods has not been terminated under subsection 3(4) and the Deputy Minister, as a result of the investigation, is satisfied that

(a) the goods have been or are being subsidized, and

(b) the amount of the subsidy per unit of the goods and the actual or potential volume of imports thereof are not negligible,

he shall make a preliminary determination of subsidization specifying the goods or description of goods to which such determination applies and shall notify the Minister and the Minister of Finance forthwith.

5. Where pursuant to section 4 the Minister has received notice of a preliminary determination in respect of any subsidized goods he shall forthwith, with the concurrence of the Minister of Finance, make application to the Governor in Council in respect of those goods for a declaration of provisional countervailing duty on the importation of the goods pursuant to subsection 7(1) of the Customs Tariff and for a reference pursuant to section 16.1 of the Anti-Dumping Act as to whether the importation of the subsidized goods has caused, is causing or is likely to cause material injury to the production in Canada of any goods of that class or kind.

6. Where, after receipt of an application under section 5 in respect of any subsidized goods of a class or kind made or produced in Canada, the Governor in Council has

(a) pursuant to section 16.1 of the Anti-Dumping Act, referred to the Tribunal for inquiry and report the question as to whether the importation into Canada of the subsidized goods has caused, is causing or is likely to cause material injury to the production in Canada of any goods of that class or kind, and

(b) declared such goods to be subject to a provisional countervailing duty on their importation into Canada on and after the date of such declaration, equal to the amount of the subsidy on the goods as determined by him,

the Deputy Minister shall,

(c) cause notice of the referral by the Governor in Council described in paragraph (a) and the declaration of the Governor in Council described in paragraph (b)

(i) to be given to the government or administration allegedly granting the subsidy, the importer, the exporter and the complainant, and

(ii) to be published in the Canada Gazette; and

(d) cause such duty to be collected on such goods.

7. (1) Where, as a result of an inquiry by the Tribunal respecting any subsidized goods, the Tribunal reports that importation of the subsidized goods has caused or is causing material injury to production in Canada of any goods of that class or kind, the Minister shall, with the concurrence of the Minister of Finance, forthwith make application to the Governor in Council for a declaration pursuant to subsection 7(1) of the Customs Tariff declaring such goods to be subject to a countervailing duty on their importation equal to the amount of the subsidy on the goods as determined by the Governor in Council.

(2) Where, as a result of an inquiry by the Tribunal respecting any subsidized goods, the Tribunal reports that importation of the subsidized goods is likely to cause material injury to production in Canada of any goods of that class or kind, the Minister shall, with the concurrence of the Minister of Finance, forthwith

(a) make application to the Governor in Council for a declaration pursuant to subsection 7(1) of the Customs Tariff declaring such goods to be subject to a countervailing duty on their importation on and after the date of such declaration, equal to the amount of the subsidy on the goods as determined by the Governor in Council, and

(b) initiate an application to the Governor in Council for a remission pursuant to section 17 of the Financial Administration Act of any provisional countervailing duty paid or payable in respect of the importation of the subsidized goods during the period commencing on the date of the declaration referred to in paragraph 6(b) and ending on the date of the declaration referred to in paragraph (a).

(3) Where, as a result of an inquiry by the Tribunal respecting any subsidized goods, the report of the Tribunal is other than as described in subsections (1) and (2), the Minister shall forthwith initiate an application for a remission pursuant to section 17 of the Financial Administration Act of any provisional duty paid or payable in respect of the importation of the subsidized goods.

#### Collection of Duty

8. Where imported goods become subject to provisional countervailing duty or countervailing duty as described in these Regulations, the duty shall be paid and collected in accordance with the relevant provisions of the Customs Act.