

RESTRICTED

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Group "Non-Tariff Measures"

Sub-Group "Customs Matters"

CUSTOMS VALUATION

Addendum

1. At its meeting in May 1975, the Sub-Group "Customs Matters" agreed "that participants should transmit to the GATT secretariat in writing by 15 September 1975 specific suggestions, accompanied by notes explaining the objectives of these suggestions, for the elements that they wished to have included in any new set of international rules on customs valuation to be adopted in the context of the Multilateral Trade Negotiations" (MTN/NTM/4, paragraph 6 and GATT/AIR/1189).
2. A communication from Canada has been received and is reproduced hereunder.
3. Delegations who have not yet submitted their comments are invited to do so without delay.

MEMORANDUM BY THE CANADIAN DELEGATION: CUSTOMS VALUATION

At the last meeting of the Sub-group on Customs Matters, delegations were invited to submit their comments on the various questions concerning customs valuation which have been raised in the Sub-group or which are noted in MTN/NTM/W/7 of 29 April. The purpose of this note is to set out an initial response by the Canadian Delegation regarding some of the important considerations which have been raised.

1. The Canadian Delegation has examined carefully the "Draft Principles and Draft Interpretative Notes" concerning customs valuation set out at page 13 in Document MTN/NTM/W/7. It is not clear that certain of the draft principles and draft interpretative notes would, if adopted, add anything significant to the existing rights and obligations of contracting parties, although some ambiguity would be introduced by the adoption of such principles and notes if only for the reason that they restate in different words certain provisions already set out in the General Agreement. Certain of the principles and notes are unclear and appear to be contradictory: this is the case in regard to draft principles 2 and 3.

2. The Canadian Delegation is of the view that the following considerations should be taken into account in the development of any modifications or additions to the existing interpretative notes to Article VII and to other relevant Articles of the GATT.

(A) Fairness and equity to different categories of importers and exporters: The Canadian Delegation considers that one of the key problems in the field of customs valuation is how to provide for fairness and equity as between the valuation of goods imported by an importer from an exporter to which he is not related, and the valuation of goods imported by an importer related to the exporter: i.e. the problem of equity and fairness in valuing goods imported in arm's length transactions and in non-arm's length transactions.

Non-arm's length transactions are becoming more important in international trade. Imports by branches of the exporting company, by owned or controlled subsidiaries of the exporter; imports from branches or from owned or controlled subsidiaries of the importer are all becoming more important than heretofore, as compared with imports in arm's length transactions.

Thus a major problem with which any valuation system must deal in some precise detail is how to value goods imported in arm's length transactions and in non-arm's length transactions on an equitable basis so as not to give an advantage to one or other category of importer; this should be reflected in any interpretative note to Article VII.

(B) "Neutrality". The valuation system should be, as the United States Tariff Commission has stated, a "neutral constant" in the commercial policy system. With few exceptions, it is inherent in the present Canadian valuation system that the valuation provisions are "neutral" in effect. They are designed neither to add to the protection of domestic producers, which function is reserved for the schedule of rates of duty, nor do they convey on an importer the right to pay a duty on less than actual value of the goods and thus to reduce the level of protection provided by the schedule of rates of duty. Of course, the importer is free to make the import transaction at a price lower than the value on which duty is assessed.

As a practical matter this may mean that the invoice price (adjusted, of course, in the case of prices stated CIF, to make allowances for costs incurred in relation to the shipment of the goods from the country of export) is the basis for many determinations of value but if the "actual value" of the merchandise (as determined by reference to other transaction prices for like goods) is greater than the transaction price, then the principle of neutrality requires that the value for duty be based on the "actual value".

(C) The Canadian Delegation attaches great weight to the provisions of Article VII 2(b) which provide that "actual value" is determined by reference to sales "in the ordinary course of trade" and "under fully competitive conditions". However, when sales are not taking place under fully competitive conditions, e.g. non-arm's length transactions, as stipulated in AD to para. 2 of Art. VII, provisions of Para. 2(B) do not apply and those of Para. 2(c) of Art. VII become relevant, i.e. the value for customs purposes should be based on the nearest ascertainable equivalent of the "actual value".

In these circumstances, the determination of the value for duty is likely to be complicated and to involve a measure of administrative discretion. In this connection it might be appropriate if the Sub-group addressed itself to the elaboration of or addition to or interpretation of the provisions of subparagraph (c) of paragraph 2 of Article VII.

(D) Customs valuation provisions should be set out in public law: Given the wide range of commercial practices and the related difficulty of stating precisely in legal terminology the legal rules to be followed in relation to every class of transaction, there is bound to be need for the exercise of administrative discretion in the application of valuation provisions. This is provided for in Article VII, specifically in sub-paragraph 2(c). However, to the extent practicable, a customs valuation system, like other instruments of commercial policy, should avoid undue administrative discretion and arbitrariness. To that end, the measurement of each element or allowance necessary to calculate an "actual value" should be by reference to an actual element of price in an actual transaction, or transactions. This consideration makes a valuation system relatively complex, because the system of law has to reflect the wide variety of commercial practices. The elements of administrative discretion and arbitrariness can and should nevertheless be minimized by enacting as law all the general rules. This would permit importers and exporters to predict dutiable value.

This is an area in which the Canadian system seems to be more developed than those of many countries and this difference of development and of legal approach seems to give rise to misunderstanding and complaint. The Canadian system of customs valuation is set out and provided for in public law to a very substantial degree. It would be easy, of course, to simplify the Canadian system by providing for more administrative discretion.

The Canadian Delegation considers, however, that paragraph 5 of Article VII does not go far enough in requiring contracting parties to narrow the scope of administrative discretion and arbitrariness and to incorporate their valuation systems in the structure of public law. It would appear that Article X of the General Agreement imposes obligations that go a good deal beyond the provisions of paragraph 5 of Article VII.

(E) Review and Judicial Overview: Paragraph 3 of Article X requires contracting parties to provide for "the prompt review and correction of administrative action relating to customs matters" by the institution of "judicial, arbitral or administrative tribunals or procedures..." The Canadian Delegation considers that these obligations apply fully to the application by contracting parties of their laws, regulations and practices with regard to customs valuation. It appears that there is a wide diversity in the present scope of such review procedures; moreover, to the extent that contracting parties rely on administrative discretion and thus that rules of practice are not incorporated into rules of general law, the scope of such review procedures and the application of judicial overview is restricted.

In this connection the Canadian Delegation wishes to indicate to the Sub-group that under the Canadian system of customs law, review procedures (review of administrative decisions and their scrutiny by the appropriate courts) are provided for in the Customs Act, in the Tariff Board Act and in the Federal Court Act. *

The Customs Act provides that the value established at the time of importation may be appealed by the importer to a Customs Appraiser of the Department of National Revenue within 90 days of the date of entry. A Customs Appraiser's decision may subsequently be appealed by the importer to the Deputy Minister of National Revenue within 90 days of the Appraiser's decision.

A person who deems himself aggrieved by a Deputy Minister's decision may appeal from the decision to the Tariff Board -- an official court of record -- within sixty days from the day on which the decision was made. The Customs Act provides that notice of the hearing of an appeal must be published at least 21 days before the hearing and that any interested party may be heard on the appeal.

Any of the parties to an appeal to the Tariff Board, including parties sharing a substantial interest in the appeal may, within 60 days from the day of a decision by the Tariff Board, appeal to the Federal Court of Canada upon any question of law.

* The relevant legal provisions are set out in the Annex to this note.

The Canadian Delegation considers that these provisions are fully in accord with the letter and spirit of Article X of the GATT.

(F) "Comparability": In valuing all the imports in which the invoice or transaction price has to be adjusted to arrive at "actual value" a number of price and non-price considerations must be taken into account. This is obviously the case for all prices stated CIF if "actual value" is determined on an FOB basis. This is also the case for all prices in transactions which fall under 2(c) of Article VII. Article VII contains provisions regarding allowances to be made for quantities and for internal taxes and for rates of exchange. It is silent on all the other price and non-price elements. It is for consideration whether in drafting a revision of Article VII or an interpretative note whether or not it would be useful to deal with these other factors.

ANNEXCustoms Act
Appeal ProvisionsLoi sur les douanes
Dispositions d'Appel

Finality of classification or appraisal

46. (1) Subject to this section, a determination of the tariff classification or an appraisal of the value for duty of any goods, made at the time of their entry, is final and conclusive unless the importer, within ninety days of the date of entry, makes a written request in prescribed form and manner to a Dominion customs appraiser for a re-determination or a re-appraisal.

Review by
Dominion customs appraiser

(2) A Dominion customs appraiser may re-determine the tariff classification or re-appraise the value for duty of any goods made at the time of their entry

- (a) in accordance with a request made pursuant to subsection (1), or
- (b) in any other case where he deems it advisable, within two years of the date of entry.

Review by
Deputy Minister

(3) Subject to subsection (4), a decision of a Dominion customs appraiser under this section is final and conclusive unless the importer, within ninety days of the date of the decision, makes a written request in prescribed form and manner to the Deputy Minister for a re-determination or a re-appraisal.

Re-determination or re-appraisal

(4) The Deputy Minister may re-determine the tariff classification or re-appraise the value for duty of any goods

- (a) in accordance with a request made pursuant to subsection (3),
- (b) at any time, if the importer has made any misrepresentation or committed any fraud in making the entry of those goods,
- (c) at any time, to give effect to a decision of the Tariff Board, the Federal Court of Canada or the Supreme Court of Canada with respect to those goods, and
- (d) in any other case where he deems it advisable, within two years of the date of entry of those goods.

Classification ou estimation définitive

46. (1) Sous réserve du présent article, une détermination de la classification tarifaire ou une estimation de la valeur imposable d'effets quelconques, faite au moment de leur déclaration en douane, est définitive et péremptoire, à moins que l'importateur, dans les quatre-vingt-dix jours de la date de déclaration en douane, ne fasse une demande écrite, selon la forme et de la manière prescrites, à un appréciateur fédéral des douanes en vue d'une nouvelle détermination ou estimation

(2) Un appréciateur fédéral des douanes peut déterminer de nouveau la classification tarifaire ou établir de nouveau l'estimation de la valeur imposable d'effets quelconques, faite au moment de leur déclaration en douane.

- a) conformément à une demande prévue par le paragraphe (1), ou
- b) en tout autre cas où il juge opportun de le faire, dans les deux ans de la date de déclaration en douane

Nouvel examen par l'appréciateur fédéral des douanes

(3) Sous réserve du paragraphe (4), une décision d'un appréciateur fédéral des douanes prévue par le présent article est définitive et péremptoire, à moins que l'importateur, dans les quatre-vingt-dix jours de la date de la décision, ne fasse une demande écrite au sous-ministre, selon la forme et de la manière prescrites, en vue d'une nouvelle détermination ou estimation.

(4) Le sous-ministre peut déterminer de nouveau la classification tarifaire, ou établir de nouveau l'estimation de la valeur imposable, d'effets quelconques

- a) en conformité d'une demande prévue par le paragraphe (3),
- b) à toute époque, si l'importateur a fait une fausse représentation ou commis quelque fraude en faisant la déclaration en douane de ces effets,
- c) à toute époque, pour donner suite à une décision de la Commission du tarif, de la Cour fédérale du Canada ou de la Cour suprême du Canada en ce qui regarde ces effets, et
- d) en tout autre cas où il juge opportun de le faire, dans les deux ans de la date de déclaration en douane de ces effets.

Nouvel examen par le sous-ministre

Nouvelle détermination ou estimation

Effect of re-determination or re-appraisal

(5) Where the tariff classification of goods has been re-determined or the value for duty of goods has been re-appraised under this section

- (a) the importer shall pay any additional duties or taxes payable with respect to the goods, or
- (b) a refund shall be made of the whole or a part of any duties or taxes paid with respect to the goods.

in accordance with the re-determination or re-appraisal.

"Prescribed"

(6) In this section "prescribed" means prescribed by regulations of the Governor in Council. 1955, c. 32, s. 3; 1962, c. 27, s. 1.

Appeal to the Tariff Board

47. (1) A person who deems himself aggrieved by a decision of the Deputy Minister

- (a) as to tariff classification or value for duty,
- (b) made pursuant to section 45, or
- (c) as to whether any drawback of customs duties is payable or as to the rate of such drawback,

may appeal from the decision to the Tariff Board by filing a notice of appeal in writing with the secretary of the Tariff Board within sixty days from the day on which the decision was made.

Publication of notice of appeal

(2) Notice of the hearing of an appeal under subsection (1) shall be published in the *Canada Gazette* at least twenty-one days prior to the day of the hearing, and any person who, on or before that day, enters an appearance with the secretary of the Tariff Board may be heard on the appeal.

Order or finding of the Board

(3) On any appeal under subsection (1), the Tariff Board may make such order or finding as the nature of the matter may require, and, without limiting the generality of the foregoing, may declare

- (a) what rate of duty is applicable to the specific goods or the class of goods with respect to which the appeal was taken,
- (b) the value for duty of the specific goods or class of goods, or
- (c) that such goods are exempt from duty,

Effect de la nouvelle détermination ou estimation

(5) Lorsque la classification tarifaire d'effets a été déterminée de nouveau, ou que la valeur imposable d'effets a été estimée de nouveau, en vertu du présent article,

- a) l'importateur doit payer tout droit additionnel ou toute taxe additionnelle exigible à l'égard des effets, ou
 - b) il doit être versé un remboursement de la totalité ou d'une partie des droits ou taxes payés à l'égard des effets,
- conformément à la nouvelle détermination ou estimation.

(6) Au présent article, l'expression «prescrit» signifie prescrit par les règlements du gouverneur en conseil. 1955, c. 32, art. 3; 1962, c. 27, art. 1.

•Prescrit•**Appel à la Commission du tarif**

47. (1) Une personne qui se croit lésée par une décision du sous-ministre,

- a) sur la classification tarifaire ou la valeur imposable,
- b) établie selon l'article 45, ou
- c) sur la question de savoir si quelque drawback de droits douaniers est payable ou sur le taux d'un tel drawback,

peut appeler de la décision à la Commission du tarif en déposant par écrit un avis d'appel entre les mains du secrétaire de la Commission du tarif dans les soixante jours qui suivent la date à laquelle la décision a été rendue.

Publication d'avis d'appel

(2) Avis d'audition d'un appel en vertu du paragraphe (1) doit être publié dans la *Gazette du Canada* au moins vingt et un jours avant la date de l'audition, et toute personne qui, à cette date ou avant cette date, signifie au secrétaire de la Commission du tarif qu'elle comparaîtra, peut être entendue sur l'appel.

Ordonnance ou conclusion de la Commission

(3) Lors d'un appel en vertu du paragraphe (1), la Commission du tarif peut rendre telle ordonnance ou prononcer telle conclusion que la nature du sujet peut exiger et, sans restreindre la généralité de ce qui précède, peut déclarer

- a) le taux de droit qui est applicable aux marchandises particulières ou à la catégorie de marchandises concernant lesquelles l'appel a été interjeté,

and an order, finding or declaration of the Tariff Board is final and conclusive subject to further appeal as provided in section 48, R.S., c. 58, s. 44; 1955, c. 32, s. 4.

- b) la valeur imposable des marchandises particulières ou de la catégorie de marchandises, ou
- c) que ces marchandises sont exemptes de droits,

et une ordonnance, conclusion ou déclaration de la Commission du tarif est définitive et préemptoire, sauf nouvel appel que prévoit l'article 48, S.R., c. 58, art. 44; 1955, c. 32, art. 4.

Appeals to Federal Court

48. (1) Any of the parties to an appeal under section 47, namely,

- (a) the person who appealed,
- (b) the Deputy Minister, or
- (c) any person who entered an appearance in accordance with subsection 47(2), if he has a substantial interest in the appeal and has obtained leave from the Court,

may, within sixty days from the making of an order, finding or declaration under subsection 47(3), appeal therefrom to the Federal Court of Canada upon any question of law.

How appeal instituted

(2) An appeal under this section by any person shall be instituted by serving a notice of appeal in duplicate, in such form as may be determined by the rules, on the other parties to the appeal and by filing a copy thereof in the Registry of the Court.

Service of notice of appeal

(3) Service under subsection (2) on any party to an appeal shall be effected in the manner in which an information issued out of the Court could be served on him, or

- (a) in the case of the Deputy Minister, by dispatching the notice of appeal to him by registered mail addressed to "The Deputy Minister of National Revenue for Customs and Excise, Ottawa, Ontario", or
- (b) in the case of any other person, by dispatching the notice of appeal by registered mail to him addressed to the address appearing on records of the secretary of the Tariff Board, or, if the secretary of the Tariff Board cannot supply an address, by posting the notice of appeal in the office of the secretary of the Tariff Board.

Notice to be filed with Tariff Board

(4) As soon as possible after an appeal has been instituted under this section, the appell-

Appeals à la Cour fédérale sur des questions de droit

48. (1) N'importe laquelle des parties dans un appel prévu par l'article 47, savoir:

- a) la personne appelante,
- b) le sous-ministre, ou
- c) toute personne qui a fait acte de compariution en conformité du paragraphe 47(2), si elle a un intérêt important dans l'appel et si elle a obtenu la permission de la Cour, peut, dans un délai de soixante jours après l'établissement d'une ordonnance, d'une conclusion ou d'une déclaration selon le paragraphe 47(3), en appeler à la Cour fédérale du Canada, sur toute question de droit.

Comment l'appel est interjeté

(2) Un appel selon le présent article, émanant de quelque personne, doit être intenté par la signification, aux autres parties dans l'appel, d'un avis d'appel en double exemplaire, d'après la formule que les règles déterminent, et par la production d'une copie dudit avis au greffe de la Cour.

Signification de l'avis d'appel

(3) La signification visée par le paragraphe (2) à toute partie dans un appel doit s'effectuer de la manière dont une plainte émanée de la Cour pourrait lui être signifiée, ou

- a) dans le cas du sous-ministre, en lui expédiant l'avis d'appel par courrier recommandé à l'adresse suivante: «Le sous-ministre du Revenu national pour les douanes et l'accise, Ottawa, Ontario», ou
- b) dans le cas de toute autre personne, en lui expédiant l'avis d'appel, par courrier recommandé, à l'adresse figurant sur les registres du secrétaire de la Commission du tarif ou, si ledit secrétaire ne peut fournir d'adresse, en affichant l'avis d'appel dans le bureau de ce secrétaire.

L'avis doit être produit à la Commission du tarif

(4) Le plus tôt possible après qu'un appel a été intenté en vertu du présent article, l'appe-

lant shall file a copy of the notice of appeal with the secretary of the Tariff Board.

Appearance by third parties

(5) Any person who entered an appearance in accordance with subsection 47(2) may, if he has a substantial interest in the appeal, enter an appearance in the Court in such manner as may be determined by the rules and, if he has entered such an appearance, subsections (9), (10) and (11) apply to him as though he were a respondent, and may be heard on the appeal.

Leave to oppose appeal

(6) Where the appeal has been instituted by a person referred to in paragraph (1)(c), either the person who appealed to the Tariff Board or the Deputy Minister may file a notice that he intends to support or oppose the appeal, and upon such notice being filed, subsections (9), (10) and (11) apply to him as though he were a respondent.

Security for costs

(7) An appeal by a person other than the Deputy Minister and all proceedings thereunder are, upon the expiration of thirty days from the day the appeal was instituted, void unless security for the costs of the appeal has been, within the said period, deposited in the Registry of the Court in the amount of one hundred and fifty dollars and, upon an appeal becoming void by virtue of this section, no further appeal may be instituted in respect of the same decision.

Content of notice of appeal

(8) The appellant shall set out in the notice of appeal a statement of the facts, the statutory provisions and the reasons that the appellant intends to submit in support of his appeal.

Reply

(9) The respondent shall, within thirty days from the day the notice of appeal is received by him, or within such further time as the Court may either before or after the expiration of that time allow, serve on the appellant and file in the Court a reply to the notice of appeal containing a statement of such further facts and of such statutory provisions and reasons as the respondent intends to rely on.

lant doit produire une copie de l'avis d'appel au bureau du secrétaire de la Commission du tarif.

(5) Toute personne qui a fait acte de comparution en conformité du paragraphe 47(2) peut, si elle a un intérêt important dans l'appel, faire acte de comparution devant la Cour de la manière que les règles peuvent prescrire, et, si ladite personne a fait un tel acte de comparution, les paragraphes (9), (10) et (11) s'appliquent à cette personne comme si elle était un intimé, et elle peut être entendue sur l'appel.

Comparution des tiers

(6) Lorsque l'appel a été intenté par une personne mentionnée à l'alinéa (1)c), la personne qui a porté l'appel devant la Commission du tarif ou le sous-ministre peut produire un avis déclarant qu'elle a l'intention ou qu'il a l'intention d'appuyer l'appel ou de s'y opposer, et, sur production dudit avis, les paragraphes (9), (10) et (11) lui sont applicables comme s'il s'agissait d'un intimé.

Permission de former opposition à un appel

(7) Un appel interjeté par une personne autre que le sous-ministre et toutes procédures en l'espèce sont nuls et sans effet, à l'expiration de trente jours depuis la date où l'on a intenté l'appel, sauf si un cautionnement de cent cinquante dollars pour les frais de l'appel a été déposé au greffe de la Cour, dans ledit délai. Lorsqu'un appel devient nul et sans effet en vertu du présent article, aucun autre appel ne peut être intenté à l'égard de la même décision.

Cautionnement pour frais

(8) L'appelant doit, dans l'avis d'appel, énoncer un exposé des faits, les dispositions statutaires et les raisons qu'il a l'intention de soumettre à l'appui de son appel.

Contenu de l'avis d'appel

(9) Dans les trente jours à compter de la date où l'intimé reçoit l'avis d'appel, ou dans tel délai supplémentaire que la Cour peut accorder soit avant, soit après l'expiration de la période en question, l'intimé doit signifier à l'appelant et produire auprès de la Cour une réplique à l'avis d'appel contenant un exposé de tels faits additionnels et de telles dispositions statutaires et raisons que l'intimé a l'intention d'invoquer.

Réplique

Cross-appeal	(10) If the respondent desires to appeal from the decision of the Tariff Board, he may, instead of filing a notice of appeal, give notice by his reply (notwithstanding that it is filed and served after the expiration of the time for appeal fixed by subsection (1)) by way of cross-appeal of his intention to contend that the decision of the Tariff Board should be varied setting out therein a statement of such further facts and of such statutory provisions and reasons as he intends to rely on in support of the contention.	Contre-appel
Reply to cross-appeal	(11) Where a respondent has included in his reply a notice by way of cross-appeal, the appellant may file a reply to the cross-appeal and the provisions relating to a reply to the notice of appeal are applicable thereto <i>mutatis mutandis</i> .	Réponse au contre-appel
Striking out notice of appeal	(12) The Court may, in its discretion, strike out a notice of appeal or any part thereof for failure to comply with subsection (8) and may permit an amendment to be made to a notice of appeal or a new notice of appeal to be substituted for the one struck out.	Radiation d'un avis d'appel
Striking out reply	(13) The Court may, in its discretion, (a) strike out any part of a reply for failure to comply with this section or permit the amendment of a reply, and (b) strike out a reply for failure to comply with this section and order a new reply to be filed within a time to be fixed by the order.	Radiation d'une réponse
Effect of striking out	(14) Where a notice of appeal has been struck out for failure to comply with subsection (8) and a new notice of appeal is not filed as and when permitted by the Court, the Court may in its discretion dispose of the appeal by dismissing it.	Effet de la radiation
Transfer of record and exhibits	(15) When a copy of the notice of appeal is filed with the secretary of the Tariff Board, he shall transmit to the Registry of the Court the record and exhibits relating to the appeal.	Transfert du dossier et des pièces
Appeal deemed action	(16) Upon the filing of the reply to the notice of appeal, the matter shall be deemed to be an action in the Court, and may be set down for hearing.	L'appel est réputé une action

Disposition of appeal	<p>(17) The Court may dispose of an appeal by making such order or finding as the nature of the matter may require, and, without limiting the generality of the foregoing, may</p> <ul style="list-style-type: none"> (a) declare what rate of duty is applicable, or that no rate of duty is applicable, to the specific goods or the class of goods with respect to which the appeal to the Tariff Board was taken, (b) declare the value for duty of the specific goods or class of goods, or (c) refer the matter back to the Tariff Board for re-hearing. 	Sort de l'appel
Courts	<p>(18) The Court may, in disposing of an appeal, make such order as to costs as, in its discretion, seems just in the circumstances.</p>	Frais
Definitions	<p>(19) and (20) [Repealed, R.S., c. 10(2nd Supp.), s. 65.]</p>	Definitions
"Court"	<p>(21) In this section "Court" means the Federal Court of Canada;</p>	"Cour"
"respondent"	<p>"respondent" means</p> <ul style="list-style-type: none"> (a) the Deputy Minister, if the appeal is by the person who appealed to the Tariff Board, (b) the person who appealed to the Tariff Board, if the appeal is by the Deputy Minister, or (c) in any other case, a person who opposes the appeal; 	"intimé"
"rules"	<p>"rules" means rules made under the <i>Federal Court Act</i>, R.S., c. C-40, s. 48; R.S., c. 10(2nd Supp.), s. 65.</p>	"règles"
Reference to Tariff Board	<p>49. (1) The Deputy Minister may refer to the Tariff Board for its opinion any question relating to the valuation or tariff classification of any goods or class of goods.</p>	Renvoi à la Commission du tarif
Reference deemed appeal	<p>(2) For the purposes of sections 47 and 48, a reference pursuant to this section shall be deemed to be an appeal to the Tariff Board, 1958, c. 26, s. 3.</p>	Renvoi considéré comme appel

Jurisdiction of the
Court of Appeal
Division of the
Federal Court.

Review of
decisions of
federal
board,
commission
or other
tribunal

28. (1) Notwithstanding section 18 or the provisions of any other Act, the Court of Appeal has jurisdiction to hear and determine an application to review and set aside a decision or order, other than a decision or order of an administrative nature not required by law to be made on a judicial or quasi-judicial basis, made by or in the course of proceedings before a federal board, commission or other tribunal, upon the ground that the board, commission or tribunal

(a) failed to observe a principle of natural justice or otherwise acted beyond or refused to exercise its jurisdiction;

(b) erred in law in making its decision or order, whether or not the error appears on the face of the record; or

(c) based its decision or order on an erroneous finding of fact that it made in a perverse or capricious manner or without regard for the material before it.

Compétence de la Division
de la Cour d'Appel de la
Cour Fédérale

28. (1) Nonobstant l'article 18 ou les Examens des dispositions de toute autre loi, la Cour décisions d'appel a compétence pour entendre et juger d'une commune demande d'examen et d'annulation mission ou d'une décision ou ordonnance, autre qu'une d'un autre tribunal décision ou ordonnance de nature administrative qui n'est pas légalement soumise à un processus judiciaire ou quasi judiciaire, rendue par un office, une commission ou un autre tribunal fédéral ou à l'occasion de procédures devant un office, une commission ou un autre tribunal fédéral, au motif que l'office, la commission ou le tribunal

a) n'a pas observé un principe de justice naturelle ou a autrement excédé ou refusé d'exercer sa compétence;

b) a rendu une décision ou une ordonnance entachée d'une erreur de droit, que l'erreur ressorte ou non à la lecture du dossier; ou

c) a fondé sa décision ou son ordonnance sur une conclusion de fait erronée, tirée de façon absurde ou arbitraire ou sans tenir compte des éléments portés à sa connaissance.