

Notice of Ways and Means Motion respecting the imposition of duties of customs and other taxes, to provide relief against the imposition of certain duties and taxes and to provide for other related matters

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That it is expedient to provide for the imposition of duties of customs and other taxes, to provide relief against the imposition of certain duties and taxes and to provide for other related matters as follows:

SUMMARY

This enactment replaces the *Customs Tariff* to simplify its application. The key elements of the enactment are the following:

(a) rationalization of the provisions, such as by deleting provisions that are no longer relevant, and the addition of new provisions, such as expanded authority for the Governor in Council to reduce duties on inputs for manufacturing and service sectors and a transitional authority to correct errors and omissions that may have been made in the development of the new tariff schedule;

(b) rate reductions on a wide range of goods, mostly manufacturing inputs;

(c) the elimination of a large number of concessionary tariff codes and regulations and the conversion of many others to regular provisions in the tariff schedule;

(d) the replacement of the Machinery Remission Program with duty-free and dutiable tariff provisions in the tariff schedule;

(e) the rounding down of decimal rates and the elimination of most rates that fall below two per cent;

(f) the harmonization of rates on certain competing goods and the rectification of certain tariff anomalies;

(g) the elimination of a wide range of administrative procedures associated with certain tariff provisions;

(h) a single consolidated tariff schedule in a more modern and flexible format; and

(i) consequential and related amendments to other statutes, and transitional provisions.

SHORT TITLE

Short title

1. This Act may be cited as the *Customs Tariff*.

PART 1

INTERPRETATION AND GENERAL

*Interpretation*

Definitions

2. (1) The definitions in this subsection apply in this Act.

"Canada-Israel  
Free Trade  
Agreement"  
« *Accord de  
libre-échange  
Canada - Israël* »

"Canada-Israel Free Trade Agreement" has the same meaning as "Agreement" in subsection 2(1) of the *Canada-Israel Free Trade Agreement Implementation Act*.

"Canada-United  
States Free Trade  
Agreement"  
« *Accord de  
libre-échange  
Canada - États-  
Unis* »

"Canada-United States Free Trade Agreement" has the same meaning as "Agreement" in subsection 2(1) of the *Canada-United States Free Trade Agreement Implementation Act*.

"country"  
« *pays* »

"country", includes an external or dependent territory of a country and any other territory prescribed by regulation.

"customs duty"  
« *droits de douane*  
»

"customs duty", except for the purposes of Part 3, other than sections 76 and 115, means a duty imposed under section 20.

"final rate"  
« *taux final* »

"final rate" means the rate of customs duty that applies after the application of all reductions provided for under this Act, other than reductions related to rounding or to the elimination of rates of less than two per cent.

"for use in"

« *devant servir  
dans* » ou « *devant  
servir à* »

"for use in", wherever it appears in a tariff item, in respect of goods classified in the tariff item, means that the goods must be wrought or incorporated into, or attached to, other goods referred to in that tariff item.

"free trade  
partner"  
« *partenaire de  
libre-échange* »

"free trade partner" means

- (a) a NAFTA country; or
- (b) Israel or another CIFTA beneficiary.

"F" Staging List"  
« *tableau des  
échelonnements* »

"F" Staging List" means the List of Intermediate and Final Rates for Tariff Items of the "F" Staging Category set out in the schedule.

"heading"  
« *position* »

"heading", in respect of goods, means a description in the List of Tariff Provisions accompanied by a four-digit number and includes all goods of subheadings or tariff items the first four digits of which correspond to that number.

"imported from  
Israel or another  
CIFTA beneficiary"  
« *importé d'Israël  
ou d'un autre  
bénéficiaire de  
l'ALÉCI* »

"imported from Israel or another CIFTA beneficiary" has the meaning assigned by regulation.

"initial rate"  
« *taux initial* »

"initial rate" means the rate of customs duty that applies before any reductions are made under this Act.

"Israel or another  
CIFTA beneficiary"  
« *Israël ou autre  
bénéficiaire de  
l'ALÉCI* »

"Israel or another CIFTA beneficiary" has the meaning assigned by regulation.

"List of  
Countries"  
« *tableau des  
traitements  
tarifaires* »

"List of Countries" means the List of Countries and Applicable Tariff Treatments set out in the schedule.

"List of Tariff  
Provisions"  
« *liste des  
dispositions  
tarifaires* »

"List of Tariff Provisions" means the List of Tariff Provisions set out in the schedule.

"Mexico"  
« *Mexique* »

"Mexico" means

- (a) the states of the Federation and the Federal District;
- (b) the islands, including the reefs and keys, in adjacent seas;
- (c) the islands of Guadalupe and Revillagigedo situated in the Pacific Ocean;
- (d) the continental shelf and the submarine shelf of such islands, keys and reefs;
- (e) the waters of the territorial sea, in accordance with international law, and its interior maritime waters;
- (f) the space located above the national territory, in accordance with international law; and
- (g) any areas beyond the territorial seas of Mexico within which, in accordance with international law, including the United Nations Convention on the Law of the Sea, and its domestic law, Mexico may exercise rights in respect of the seabed and subsoil and the natural resources thereof.

"Minister"  
« *ministre* »

"Minister" means the Minister of Finance.

"NAFTA country"  
« *pays ALÉNA* »

"NAFTA country" means a party to the North American Free Trade Agreement.

"North American  
Free Trade  
Agreement"  
« *Accord de  
libre-échange  
nord-américain* »

"North American Free Trade Agreement" has the same meaning as "Agreement" in subsection 2(1) of the *North American Free Trade Agreement Implementation Act*.

"prescribed"  
*Version anglaise*  
*seulement*

"prescribed" means

(a) in respect of a form, the information to be provided with a form, or the manner of filing a form, prescribed by the Minister of National Revenue; and

(b) in any other case, prescribed by regulation or determined in accordance with rules prescribed by regulation.

"serious injury"  
« *dommage grave* »

"serious injury" means, in relation to domestic producers of like or directly competitive goods, a significant overall impairment in the position of the domestic producers.

"specific rate"  
« *taux spécifique* »

"specific rate" means a rate expressed in dollars or cents per unit of measure.

"specified rate"  
« *taux déterminé* »

"specified rate" means the rate of interest, expressed as a percentage per year, equal to six per cent per year plus the prescribed rate.

"subheading"  
« *sous-position* »

"subheading", in respect of goods, means a description in the List of Tariff Provisions accompanied by a six-digit number and includes all goods of tariff items the first six digits of which correspond to that number.

"tariff item"  
« *numéro tarifaire* »

"tariff item" means a description of goods in the List of Tariff Provisions and the rates of customs duty and the accompanying eight-digit number in that List and, if applicable, in the "F" Staging List.

"tariff rate  
quota"  
« *contingent  
tarifaire* »

"tariff rate quota" means a limitation on the quantity of goods that are entitled to the benefit of a specified tariff treatment that may be imported in a specified period.

"threat of serious  
injury"

« menace de  
dommage grave »

"threat of serious injury" means serious injury that, on the basis of facts, and not merely of allegation, conjecture or remote possibility, is clearly imminent.

"United States"  
« États-Unis »

"United States" means

(a) the customs territory of the United States, including the 50 states of the United States, the District of Columbia and Puerto Rico;

(b) the foreign trade zones located in the United States and Puerto Rico;  
and

(c) any areas beyond the territorial sea of the United States within which the United States may exercise rights in respect of the seabed and subsoil and the natural resources thereof, in accordance with its domestic laws and international law.

"World Trade  
Organization  
Agreement"  
« Accord sur  
l'Organisation  
mondiale du  
commerce »

"World Trade Organization Agreement" has the same meaning as "Agreement" in subsection 2(1) of the *World Trade Organization Agreement Implementation Act*.

Territories

(2) A territory prescribed by regulation for the purposes of the definition "country" in subsection (1) is not, by virtue of being so prescribed, recognized as a country for purposes other than this Act.

Elements of the  
List of Tariff  
Provisions

3. The List of Tariff Provisions is divided into Sections, Chapters and sub-Chapters.

Words and  
expressions in Act

4. Unless otherwise provided, words and expressions used in this Act and defined in subsection 2(1) of the *Customs Act* have the same meaning as in that subsection.

Goods imported  
from a NAFTA  
country

5. For the purposes of this Act, goods are imported from a NAFTA country if they are shipped directly to Canada from that country.



Percentage rates

6. For the purposes of this Act, if a rate of customs duty is expressed as a percentage or includes a percentage, the customs duties imposed shall be calculated in accordance with section 44 of the *Customs Act*.

Weight of goods

7. For the purposes of this Act, if a rate of customs duty is based in whole or in part on the weight of goods, the customs duties imposed on the goods is, unless otherwise provided, to be calculated on the basis of the net weight of the goods.

*General*

Restriction of  
Canadian waters

8. For greater certainty, a regulation made under subsection 2(2) of the *Customs Act* applies so as to temporarily restrict, for the purposes of this Act, the extent of Canadian waters, including the inland waters.

Delegation of  
powers

9. The Minister of National Revenue may authorize an officer or agent or a class of officers or agents to exercise powers or perform duties of that Minister under this Act.

Classification of  
goods in the List  
of Tariff  
Provisions

10. (1) Subject to subsection (2), the classification of imported goods under a tariff item shall, unless otherwise provided, be determined in accordance with the General Rules for the Interpretation of the Harmonized System and the Canadian Rules set out in the schedule.

Classification of  
"within access  
commitment" goods

(2) Goods shall not be classified under a tariff item that contains the phrase "within access commitment" unless the goods are imported under the authority of a permit issued under section 8.3 of the *Export and Import Permits Act* and in compliance with the conditions of the permit.

Interpretation

11. In interpreting the headings and subheadings, regard shall be had to the Compendium of Classification Opinions to the Harmonized Commodity Description and Coding System and the Explanatory Notes to the Harmonized Commodity Description and Coding System, published by the Customs Co-operation Council (also known as the World Customs Organization), as amended from time to time.

Administration and  
enforcement

12. The provisions of the *Customs Act* apply, with such modifications as the circumstances require, in respect of the administration and enforcement of this

Act and the regulations, and for the purposes thereof, a contravention of this Act or the regulations or a failure to comply with a condition to which relief or a remission, drawback or refund under Part 3 is subject or to which classification under a tariff item is subject is deemed to be a contravention of the *Customs Act*.

*Amendment of Schedule*

Renumbering of  
tariff items

13. The Minister may, by regulation, amend the List of Tariff Provisions to change a tariff item number or a description of goods in a tariff item, if the amendment does not affect the rate of customs duty applicable to those goods.

Amendment of List  
of Tariff  
Provisions

14. (1) The Governor in Council may, on the recommendation of the Minister, by order, amend the schedule, other than tariff item No. 9898.00.00 or 9899.00.00, to give effect to

(a) an amendment to the Harmonized Commodity Description and Coding System or to any advice on the interpretation of that System approved by the Customs Co-operation Council (also known as the World Customs Organization);

(b) a modification to an agreement or arrangement relating to international trade to which the Government of Canada is a party; or

(c) an arrangement or commitment that extends the benefits of an agreement relating to international trade to which the Government of Canada is a party.

Reciprocal  
reductions

(2) The Governor in Council may, on the recommendation of the Minister, by order, amend the List of Tariff Provisions and the "F" Staging List to reduce a rate of customs duty on goods imported from a country, and to make other amendments consequential thereto,

(a) by way of compensation for concessions granted by the country or any other country, subject to any conditions set out in the order;

(b) as may be required by Canada's international obligations, subject to any conditions set out in the order; and

(c) by way of compensation for any action taken under subsection 51(1), section 56, subsection 59(1), 65(2), 66(2), 67(1) or 70(1) or under subsection 5(3), (3.2), (4.01), (4.2) or (4.8) of the *Export and Import Permits Act*.

Order may be  
retroactive

(3) An order made under subsection (2) may, if it so provides, be retroactive and have effect in respect of a period before it is made that begins after the coming into force of this section.

List of Countries

15. (1) The Minister may, by regulation, amend the List of Countries to reflect a change in the name of a country set out in that List.

Effect

(2) An amendment under subsection (1) does not affect the tariff treatments indicated for the country in respect of which the change is made.

## PART 2

### CUSTOMS DUTIES

#### DIVISION 1

#### ORIGIN OF GOODS

#### Rules of Origin

Meaning of  
"originate"

16. (1) Subject to any regulations made under subsection (2), for the purposes of this Act, goods originate in a country if the whole of the value of the goods is produced in that country.

Rules of origin  
regulations

(2) The Governor in Council may, on the recommendation of the Minister, make regulations

(a) respecting the origin of goods, including regulations

(i) deeming goods, the whole or a portion of which is produced outside a country, to originate in that country for the purposes of this Act or any other Act of Parliament, subject to such conditions as are specified in the regulations, and

(ii) for determining when goods originate in a country for the purposes of this Act or any other Act of Parliament; and

(b) for determining when goods are entitled to the benefit of a tariff treatment under this Act.

Retroactivity of  
regulations

(3) Regulations made under this section may, if they so provide, be retroactive and have effect in respect of a period before they are made, including a period before this section comes into force.

Application of  
rules of origin  
regulations

(4) For the purpose of implementing the Agreement on Rules of Origin in Annex 1A of the World Trade Organization Agreement and any annex added to it under Article 9 of that Agreement, regulations made under subsection (2) may, if they so provide, prevail over any other regulations to the extent of any inconsistency.

Uniform  
Regulations

(5) The Governor in Council may, on the recommendation of the Minister, make regulations for the uniform interpretation, application and administration of Chapters Three and Four of the North American Free Trade Agreement and any other matters agreed on from time to time by the parties to that Agreement for the purposes of that Agreement.

Direct Shipment and Transshipment

Direct shipment

17. (1) For the purposes of this Act, goods are shipped directly to Canada from another country when the goods are conveyed to Canada from that other country on a through bill of lading to a consignee in Canada.

Regulations

(2) The Governor in Council may, on the recommendation of the Minister, make regulations deeming goods that were not conveyed to Canada from another country on a through bill of lading to a consignee in Canada to have been shipped directly to Canada from that other country, subject to such conditions as may be set out in the regulations.

Transshipment

18. (1) For the purposes of this Act, if goods that are exported to Canada from a country have been transhipped in an intermediate country, the goods are deemed not to have been shipped directly to Canada from the first-mentioned country if

(a) the goods do not remain under customs transit control in the intermediate country;

(b) the goods undergo an operation in the intermediate country other than unloading, reloading or splitting up of loads, or any other operation required to keep the goods in good condition;

(c) the goods enter into trade or consumption in the intermediate country; or

(d) the goods remain in temporary storage, under any conditions as may be prescribed, in the intermediate country for a period exceeding the prescribed period.

Regulations

(2) The Governor in Council, on the recommendation of the Minister of National Revenue, may make regulations prescribing conditions and a period for the purposes of paragraph (1)(d).

Marking of Goods

Regulations  
requiring marking

19. (1) The Governor in Council may, on the recommendation of the Minister, make regulations

(a) requiring imported goods of any description or class, including a description or class specified in terms of the use of the goods, to be marked,

in accordance with regulations made under subsection (2), so as to indicate their country or geographic area of origin; and

(b) for determining the country or geographic area of origin of imported goods for marking purposes.

Regulations  
prescribing  
marking  
requirements

(2) The Minister of National Revenue may make regulations for the purpose of the administration of this section, including regulations prescribing

(a) the manner in which imported goods must be marked and any conditions applicable to the marking of the goods; and

(b) when imported goods must be marked, including whether they must be marked before or after importation, and any conditions applicable to the time of marking.

Applicability of  
regulations

(3) Regulations made under this section may apply generally or be limited to particular countries or geographic areas defined in the regulations.

## DIVISION 2

### IMPOSITION OF CUSTOMS DUTIES

#### General

Imposition of  
customs duties

**20.** (1) Unless otherwise indicated in Chapter 98 or 99 of the List of Tariff Provisions, in addition to any other duties imposed under this Act or any other Act of Parliament relating to customs, there shall be levied on all goods set out in the List of Tariff Provisions, at the time those goods are imported, and paid in accordance with the *Customs Act*, a customs duty at the rates set out in that List, the "F" Staging List or section 29 that are applicable to those goods.

Value for duty of  
Canadian goods  
returned

(2) For the purposes of section 44 of the *Customs Act*, the value for duty of goods that have been taken out of Canada and are subsequently returned to Canada is the value of the goods at the time of the subsequent return if

(a) the goods were repaired outside Canada;

(b) equipment was added to the goods outside Canada; or

(c) work was done outside Canada on the goods.

Imposition of  
additional duties

**21.** (1) In addition to any other duties imposed under this Act or any other Act of Parliament relating to customs, there shall be levied on all goods subject to excise, at the time those goods are imported, and paid in accordance with the *Customs Act*, an additional duty equal to the excise duty that would be levied on the goods under the *Excise Act* if

(a) the goods had been manufactured or produced in Canada; and

(b) in respect of goods of tariff item No. 2207.20.19, subsections 1(2) to (6) of Part I of the schedule to the *Excise Act* did not apply to the goods.

Definition of  
"goods subject to  
excise"

(2) In subsection (1), "goods subject to excise" means

(a) beer or malt liquor, within the meaning of the *Excise Act*, of heading No. 22.03 or of tariff item No. 2202.90.10 or 2206.00.70;

(b) spirits, within the meaning of the *Excise Act*, of an alcoholic strength by volume exceeding 22.9% volume, of tariff item No. 2204.21.29, 2204.29.29, 2205.10.20, 2205.90.20, 2206.00.20, 2206.00.69 or 2206.00.90;

(c) spirits, within the meaning of the *Excise Act*, of heading No. 22.07 or 22.08, other than of tariff item No. 2207.20.11, 2207.20.90, 2208.90.30 or 2208.90.91;

(d) cigars or manufactured tobacco, within the meaning of the *Excise Act*, of tariff item No. 2402.10.00, 2402.20.00, 2403.10.00, 2403.91.90, 2403.99.10 or 2403.99.90; or

(e) goods referred to in any of paragraphs (a) to (d) that are classified with the container in which they are imported.

Other duties

**22.** In addition to any duties imposed under this Act or any other Act of Parliament relating to customs, there shall be levied on imported goods, at the time of their importation, and paid in accordance with the *Customs Act*, a duty comprised of any surtax or temporary duty imposed under Division 4 of this Part.

#### Special Classification

Goods of Chapter  
99

**23.** Goods of Chapter 99 of the List of Tariff Provisions are entitled to the rate of customs duty set out for those goods in the column entitled "Most-Favoured-Nation Tariff" or "Preferential Tariff" in that Chapter, according to the tariff treatment applicable to their country of origin.

#### DIVISION 3

#### TARIFF TREATMENTS

#### General

Conditions

**24.** (1) Unless otherwise provided in an order made under subsection (2) or otherwise specified in a tariff item, goods are entitled to the benefit of a tariff treatment, other than the General Tariff, under this Act only if

(a) proof of origin of the goods is given in accordance with the *Customs Act*; and

(b) the goods are entitled to the benefit of that tariff treatment in accordance with regulations made under section 16 or an order made under paragraph 31(1)(a), 34(1)(a) or 38(1)(a) or subsection 45(13).

#### Exemption

(2) The Governor in Council may, on the recommendation of the Minister, by order, exempt goods entitled to the benefit of a tariff treatment other than the General Tariff from any condition set out in subsection (1), on such conditions as may be specified in the order.

#### Most favourable tariff

**25.** If, under this Act, goods are entitled to the benefit of both the Most-Favoured-Nation Tariff and another Tariff and the amount of customs duty imposed under the Most-Favoured-Nation Tariff is lower than the amount imposed under the other Tariff, the rate of customs duty under the Most-Favoured-Nation Tariff applies to those goods in lieu of the rate under the other Tariff.

#### Goods in transit

**26.** An order made under paragraph 31(1)(b), 34(1)(b), 38(1)(b) or 42(1)(b) may provide that goods that are in transit to Canada at the time the order comes into force are entitled to the benefit of the tariff treatment that was applicable to those goods immediately before that time.

#### Abbreviations

**27.** For the purposes of the List of Tariff Provisions and the "F" Staging List, the abbreviations "UST", "MT", "MUST", "CIAT", "GPT", "LDCT", "CCCT", "AUT" and "NZT" refer, respectively, to "United States Tariff", "Mexico Tariff", "Mexico-United States Tariff", "Canada-Israel Agreement Tariff", "General Preferential Tariff", "Least Developed Country Tariff", "Commonwealth Caribbean Countries Tariff", "Australia Tariff" and "New Zealand Tariff".

#### If rate not specified

**28.** The symbol "N/A", if it is set out in the column entitled "Most-Favoured-Nation Tariff" in the List of Tariff Provisions, or in the column entitled "Preferential Tariff" in that List in combination with an abbreviation designating a preferential tariff treatment of a tariff item, indicates that that tariff treatment does not apply to that tariff item.

#### General Tariff

#### Application of General Tariff

**29.** (1) A General Tariff rate of customs duty of 35% applies to

(a) goods that originate in a country that is not set out in the List of Countries;

(b) goods that originate in a country set out in the List of Countries and that fail to meet the conditions for entitlement to the benefit of any other tariff treatments provided for under this Act; and

(c) goods to which the General Tariff applies under paragraph 31(1)(b) or any regulation or order made under this Act.

#### Exception

(2) Notwithstanding subsection (1), goods referred to in that subsection are subject to the Most-Favoured-Nation Tariff rate of customs duty in respect of those goods if

(a) that rate is, or is equivalent to, more than 35%; or

(b) a Note or Supplementary Note to a chapter of the List of Tariff Provisions or a tariff item so provides.

#### Most-Favoured-Nation Tariff

#### Application of MFN Tariff

30. (1) Subject to section 24 and any order made under section 31, goods that originate in a country set out in the List of Countries are entitled to the Most-Favoured-Nation Tariff rates of customs duty.

#### "A" final rate

(2) If "A" is set out in the column entitled "Most-Favoured-Nation Tariff" in the List of Tariff Provisions in relation to goods entitled to the Most-Favoured-Nation Tariff, the Most-Favoured-Nation Tariff rate of customs duty that applies to those goods is the final rate.

#### Staging for MFN Tariff

(3) If "B", "C", "D" or "E" is set out in the column entitled "Most-Favoured-Nation Tariff" in the List of Tariff Provisions in relation to goods entitled to the Most-Favoured-Nation Tariff, the Most-Favoured-Nation Tariff rate of customs duty that applies to those goods is the initial rate, reduced

(a) if "B" is set out,

(i) effective on January 1, 1999, by one half of the difference between the initial rate and the final rate, and

(ii) effective on January 1, 2000, to the final rate;

(b) if "C" is set out,

(i) effective on August 1, 1998, by one third of the difference between the initial rate and the final rate,

(ii) effective on August 1, 1999, by two thirds of the difference between the initial rate and the final rate, and

(iii) effective on August 1, 2000, to the final rate;

(c) if "D" is set out,



(i) effective on January 1, 1999, by one quarter of the difference between the initial rate and the final rate,

(ii) effective on January 1, 2000, by one half of the difference between the initial rate and the final rate,

(iii) effective on January 1, 2001, by three quarters of the difference between the initial rate and the final rate, and

(iv) effective on January 1, 2002, to the final rate; and

(d) if "E" is set out,

(i) effective on January 1, 1999, by one sixth of the difference between the initial rate and the final rate,

(ii) effective on January 1, 2000, by one third of the difference between the initial rate and the final rate,

(iii) effective on January 1, 2001, by one half of the difference between the initial rate and the final rate,

(iv) effective on January 1, 2002, by two thirds of the difference between the initial rate and the final rate,

(v) effective on January 1, 2003, by five sixths of the difference between the initial rate and the final rate, and

(vi) effective on January 1, 2004, to the final rate.

"F" staging for  
MFN Tariff

(4) If "F" is set out in the column entitled "Most-Favoured-Nation Tariff" in the List of Tariff Provisions in relation to goods entitled to the Most-Favoured-Nation Tariff, the Most-Favoured-Nation Tariff rate of customs duty that applies to those goods is the initial rate, reduced as provided in the "F" Staging List.

"G" staging for  
MFN Tariff

(5) If "G" is set out in the column entitled "Most-Favoured-Nation Tariff" in the List of Tariff Provisions in relation to goods entitled to the Most-Favoured-Nation Tariff, the Most-Favoured-Nation Tariff rate of customs duty that applies to those goods is the initial rate, reduced, effective January 1, 1999, to the final rate.

Rounding  
percentage rates

(6) If a reduction under subsection (3), (4) or (5) results in a rate of customs duty that includes a fraction of one per cent, the resulting percentage shall be rounded to the nearest one-tenth of one per cent or, if the resulting percentage is equidistant from two one-tenths of one percent, to the higher of them.

Rounding of rates  
other than 0.5 per  
cent

(7) If, for any goods other than motor vehicles of tariff item No. 8701.20.00, heading No. 87.02, 87.03, 87.04 or 87.05, and chassis therefor of heading No. 87.06, a reduction under any of subsections (3) to (5) or a rounding of rates under subsection (6) results in a rate of customs duty that includes a fraction of one per cent other than 0.5, the resulting percentage shall be rounded down to the nearest percentage that divides evenly by 0.5.

Elimination of  
rates of less than  
two per cent

(8) If a reduction under any of subsections (3) to (5) and (7), or a rounding under subsection (6), results in a rate of customs duty that is a percentage of less than two per cent, the rate shall be further reduced to "Free" immediately.

Rounding specific  
rates

(9) If a reduction under subsection (3), (4) or (5) results in a rate of customs duty that includes a specific rate that includes a fraction of one cent and the final rate

(a) is or includes a specific rate, the specific rate component of the reduced rate shall be rounded

(i) if the final rate is or includes a specific rate expressed in cents to two decimal places, to the nearest one-hundredth of a cent or, if the specific rate component of the reduced rate is equidistant from two one-hundredths of a cent, to the higher of them,

(ii) if the final rate is or includes a specific rate expressed in cents to one decimal place, to the nearest one-tenth of a cent or, if the specific rate component of the reduced rate is equidistant from two one-tenths of a cent, to the higher of them, and

(iii) in any other case, to the nearest cent or, if the specific rate component of the reduced rate is equidistant from two cents, to the higher of them; or

(b) is "Free" or does not include a specific rate, the specific rate component of the reduced rate shall be rounded as provided in subparagraphs (a)(i) to (iii), except that the references to the final rate in subparagraphs (a)(i) and (ii) shall be read as references to the initial rate.

Extension or  
withdrawal of  
benefit

**31.** (1) The Governor in Council may, on the recommendation of the Minister, by order, amend the schedule to

(a) extend the benefit of the Most-Favoured-Nation Tariff to any goods that originate in a country to which the General Tariff applies;

(b) withdraw the benefit of the Most-Favoured-Nation Tariff from any goods that originate in a country that is a beneficiary of that Tariff and make those goods subject to the General Tariff; and

(c) amend the List of Countries to the extent required to indicate the tariff treatment of the country to which the order applies.

Contents of order

(2) An order made under subsection (1) must

(a) specify the date on which the order becomes effective;

(b) if the order partially extends the benefit of the Most-Favoured-Nation Tariff, indicate the goods to which the benefit of that Tariff is extended; and

(c) if the order partially withdraws the benefit of the Most-Favoured-Nation Tariff, indicate the goods that are made subject to the General Tariff.

Approval by  
Parliament

**32.** (1) An order made under paragraph 31(1)(b) the period of which is longer than 180 days ceases to have effect on the one hundred and eightieth day after the day on which it becomes effective or, if Parliament is not then sitting, the fifteenth day thereafter that Parliament is sitting unless, not later than that day, the order is approved by a resolution adopted by both Houses of Parliament.

Meaning of  
"sitting day"

(2) For the purposes of subsection (1), a day on which either House of Parliament sits is deemed to be a sitting day.

Rates restored

(3) If an order referred to in subsection (1) ceases to have effect under that subsection, the benefit of the Most-Favoured-Nation Tariff withdrawn by the order shall be restored.

General Preferential Tariff

Application of GPT

**33.** (1) Subject to sections 24 and 35 and any order made under section 34, goods that originate in a country set out in the List of Countries as a beneficiary of the General Preferential Tariff are entitled to the General Preferential Tariff rates of customs duty.

"A" final rate

(2) If "A" is set out in the column entitled "Preferential Tariff" in the List of Tariff Provisions following the abbreviation "GPT" in relation to goods entitled to the General Preferential Tariff, the General Preferential Tariff rate of customs duty that applies to those goods is the final rate.

"F" staging for  
GPT

(3) If "F" is set out in the column entitled "Preferential Tariff" in the List of Tariff Provisions following the abbreviation "GPT" in relation to goods entitled to the General Preferential Tariff, the General Preferential Tariff rate of customs duty that applies to those goods is the initial rate, reduced as provided in the "F" Staging List.

"J" staging for  
GPT

(4) If "J" is set out in the column entitled "Preferential Tariff" in the List of Tariff Provisions following the abbreviation "GPT" in relation to goods entitled to the General Preferential Tariff, the General Preferential Tariff rate of customs duty that applies to those goods is the initial rate, reduced by one percentage point on January 1 of each year after 1998, until the difference between the reduced rate and the final rate is less than one percentage point, at which time the final rate applies.

Rounding amounts

(5) If a reduction under subsection (3) results in a rate of customs duty that includes a fraction of one per cent other than 0.5, the resulting percentage shall be rounded down to the nearest percentage that divides evenly by 0.5.

Elimination of  
rates less than  
two per cent

(6) If a reduction under subsection (3) or (4) in respect of goods other than motor vehicles of tariff item No. 8703.21.10 or 8705.20.00 results in a rate of customs duty that is a percentage of less than two per cent, the rate shall be further reduced to "Free" immediately.

Extension and  
withdrawal of  
benefit

**34.** (1) The Governor in Council may, on the recommendation of the Minister, by order,

(a) amend the schedule to extend the benefit of the General Preferential Tariff to any goods that originate in a country that is a beneficiary of the Most-Favoured-Nation Tariff if, in the opinion of the Governor in Council, that country is a developing country;

(b) amend the schedule to withdraw the benefit of the General Preferential Tariff from any goods that originate in a country that is a beneficiary of that Tariff; and

(c) amend the List of Tariff Provisions and the "F" Staging List to reduce a rate of customs duty set out following the abbreviation "GPT" in the column entitled "Preferential Tariff" in those Lists.

Content of order

(2) An order made under subsection (1)

(a) must specify the date on which the order becomes effective;

(b) must, if the order partially extends the benefit of the General Preferential Tariff, indicate the goods to which the benefit of that Tariff is extended;

(c) may exempt goods from the conditions set out in subsection 24(1) and prescribe any conditions that apply; and

(d) must, if the order wholly or partially withdraws the benefit of the General Preferential Tariff, indicate the goods to which the Most-Favoured-Nation Tariff applies as a consequence.

Application of  
tariff rate quota

35. (1) The Governor in Council may, on the recommendation of the Minister, by order, apply a tariff rate quota in respect of goods imported from one or more countries entitled to the benefit of the General Preferential Tariff for a period specified in the order.

Tariff treatment  
if tariff rate  
quota exceeded

(2) Goods imported in excess of a tariff rate quota applied pursuant to an order under subsection (1) are subject to the tariff treatment that would be applicable to those goods if they were not entitled to the benefit of the General Preferential Tariff.

Expiry date

36. Sections 33 to 35 cease to have effect on June 30, 2004 or on such earlier date as may be fixed by order of the Governor in Council.

#### Least Developed Country Tariff

Application of  
LDCT

37. (1) Subject to sections 24 and 39 and any order made under section 38, goods that originate in a country set out in the List of Countries as a beneficiary of the Least Developed Country Tariff are entitled to the Least Developed Country Tariff rates of customs duty.

"A" final rate

(2) If "A" is set out in the column entitled "Preferential Tariff" in the List of Tariff Provisions following the abbreviation "LDCT" in relation to goods entitled to the Least Developed Country Tariff, the Least Developed Country Tariff rate of customs duty that applies to those goods is the final rate.

"F" staging for  
LDCT

(3) If "F" is set out in the column entitled "Preferential Tariff" in the List of Tariff Provisions following the abbreviation "LDCT" in relation to goods entitled to the Least Developed Country Tariff, the Least Developed Country Tariff rate of customs duty that applies to those goods is the initial rate, reduced as provided in the "F" Staging List.

Extension or  
withdrawal of  
benefit

38. (1) The Governor in Council may, on the recommendation of the Minister, by order,

(a) amend the schedule to extend the benefit of the Least Developed Country Tariff to goods that originate in a country that is a beneficiary of the General Preferential Tariff, if, in the opinion of the Governor in Council, that country is a least developed country;

(b) amend the schedule to wholly or partially withdraw the benefit of the Least Developed Country Tariff from goods that originate in a country that is a beneficiary of that Tariff; and

(c) amend the List of Tariff Provisions and the "F" Staging List to reduce a rate of customs duty set out following the abbreviation "LDCT" in the column entitled "Preferential Tariff" in those Lists.

Contents of order

(2) An order made under subsection (1)

(a) must specify the date on which the order becomes effective;

(b) must, if the order partially extends the benefit of the Least Developed Country Tariff, indicate the goods to which that Tariff is extended;

(c) may exempt the goods from the conditions set out in subsection 24(1) and prescribe any conditions that apply; and

(d) must, if the order wholly or partially withdraws the benefit of the Least Developed Country Tariff, indicate the goods to which the General Preferential Tariff applies as a consequence.

Application of  
tariff rate quota

**39.** (1) The Governor in Council may, on the recommendation of the Minister, by order, apply a tariff rate quota in respect of goods imported from one or more countries entitled to the benefit of the Least Developed Country Tariff for a period specified in the order.

Tariff treatment  
if tariff rate  
quota exceeded

(2) Goods imported in excess of a tariff rate quota applied under an order under subsection (1) are subject to the tariff treatment that would be applicable to those goods if they were not entitled to the benefit of the Least Developed Country Tariff.

Expiry date

**40.** Sections 37 to 39 cease to have effect on June 30, 2004 or on such earlier date as may be fixed by order of the Governor in Council.

Commonwealth Caribbean Countries Tariff

Application of  
CCCT

**41.** (1) Subject to sections 24 and 43 and any order made under section 42, goods that originate in a country set out in the List of Countries as a beneficiary of the Commonwealth Caribbean Countries Tariff are entitled to the Commonwealth Caribbean Countries Tariff rates of customs duty.

"A" final rate

(2) If "A" is set out in the column entitled "Preferential Tariff" in the List of Tariff Provisions following the abbreviation "CCCT" in relation to goods entitled to the Commonwealth Caribbean Countries Tariff, the Commonwealth

Caribbean Countries Tariff rate of customs duty that applies to those goods is the final rate.

"F" staging for  
CCCT

(3) If "F" is set out in the column entitled "Preferential Tariff" in the List of Tariff Provisions following the abbreviation "CCCT" in relation to goods entitled to the Commonwealth Caribbean Countries Tariff, the Commonwealth Caribbean Countries Tariff rate of customs duty that applies to those goods is the initial rate, reduced as provided in the "F" Staging List.

Extension or  
withdrawal of  
benefit

**42.** (1) The Governor in Council may, on the recommendation of the Minister, by order,

(a) amend the List of Tariff Provisions and the "F" Staging List to extend the benefit of the Commonwealth Caribbean Countries Tariff to any goods that originate in a country that is a beneficiary of that Tariff;

(b) amend the schedule to wholly or partially withdraw the benefit of the Commonwealth Caribbean Countries Tariff from goods that originate in a country that is a beneficiary of that Tariff; and

(c) amend the List of Tariff Provisions and the "F" Staging List to reduce a rate of customs duty set out following the abbreviation "CCCT" in the column entitled "Preferential Tariff" in those Lists.

Contents of order

(2) An order made under subsection (1)

(a) must specify the date on which the order becomes effective;

(b) must, if the order extends or wholly or partially withdraws the benefit of the Commonwealth Caribbean Countries Tariff, indicate the goods to which the order applies; and

(c) may exempt goods from the conditions set out in subsection 24(1) and prescribe any conditions that apply.

Application of  
tariff rate quota

**43.** (1) The Governor in Council may, on the recommendation of the Minister, by order, apply a tariff rate quota in respect of goods imported from one or more countries entitled to the benefit of the Commonwealth Caribbean Countries Tariff for a period specified in the order.

Tariff treatment  
if tariff rate  
quota exceeded

(2) Goods imported in excess of a tariff rate quota applied pursuant to an order made under subsection (1) are subject to the tariff treatment that would be applicable to those goods if they were not entitled to the benefit of the Commonwealth Caribbean Countries Tariff.

Australia Tariff and New Zealand Tariff

Application of AUT

44. (1) Subject to section 24, goods that originate in Australia are entitled to the Australia Tariff rates of customs duty.

Application of NZT

(2) Subject to section 24, goods that originate in New Zealand are entitled to the New Zealand Tariff rates of customs duty.

"A" final rate

(3) If "A" is set out in the column entitled "Preferential Tariff" in the List of Tariff Provisions following the abbreviation "AUT" or "NZT" in relation to goods entitled to the Australia Tariff or the New Zealand Tariff, as the case may be, the rate of customs duty that applies to those goods under that Tariff is the final rate.

Staging for AUT  
and NZT

(4) If "B" or "E" is set out in the column entitled "Preferential Tariff" in the List of Tariff Provisions following the abbreviation "AUT" or "NZT" in relation to goods entitled to the Australia Tariff or the New Zealand Tariff, as the case may be, the rate of customs duty that applies to those goods under that Tariff is the initial rate, reduced

(a) if "B" is set out

(i) effective on January 1, 1999, by one half of the difference between the initial rate and the final rate, and

(ii) effective on January 1, 2000, to the final rate; and

(b) if "E" is set out

(i) effective on January 1, 1999, by one sixth of the difference between the initial rate and the final rate,

(ii) effective on January 1, 2000, by one third of the difference between the initial rate and the final rate,

(iii) effective on January 1, 2001, by one half of the difference between the initial rate and the final rate,

(iv) effective on January 1, 2002, by two thirds of the difference between the initial rate and the final rate,

(v) effective on January 1, 2003, by five sixths of the difference between the initial rate and the final rate, and

(vi) effective on January 1, 2004, to the final rate.

"F" staging for  
AUT and NZT

(5) If "F" is set out in the column entitled "Preferential Tariff" in the List of Tariff Provisions following the abbreviation "AUT" or "NZT" in relation to goods entitled to the Australia Tariff or the New Zealand Tariff, as the case may



be, the rate of customs duty that applies to those goods under that Tariff is the initial rate, reduced as provided in the "F" Staging List.

Rounding  
percentage rates

(6) If a reduction under subsection (4) or (5) results in a rate of customs duty that includes a fraction of one per cent, the resulting percentage shall be rounded to the nearest one-tenth of one per cent or, if the resulting percentage is equidistant from two one-tenths of one per cent, to the higher of them.

Rounding  
percentage rates

(7) If a reduction under subsection (4) or (5) or a rounding of rates under subsection (6) results in a rate of customs duty that includes a fraction of one per cent other than 0.5, the resulting percentage shall be rounded down to the nearest percentage that divides evenly by 0.5.

Rounding specific  
rates

(8) If a reduction under subsection (4) or (5) results in a rate of customs duty that includes a specific rate that includes a fraction of one cent and the final rate

(a) is or includes a specific rate, the specific rate component of the reduced rate shall be rounded

(i) if the final rate is or includes a specific rate expressed in cents to two decimal places, to the nearest one-hundredth of a cent or, if the specific rate component of the reduced rate is equidistant from two one-hundredths of a cent, to the higher of them,

(ii) if the final rate is or includes a specific rate expressed in cents to one decimal place, to the nearest one-tenth of a cent or, if the specific rate component of the reduced rate is equidistant from two one-tenths of a cent, to the higher of them, and

(iii) in any other case, to the nearest cent or, if the specific rate component of the reduced rate is equidistant from two cents, to the higher of them; or

(b) is "Free" or does not include a specific rate, the specific rate component of the reduced rate shall be rounded as provided in subparagraphs (a)(i) to (iii), except that the references to the final rate in subparagraphs (a)(i) and (ii) shall be read as references to the initial rate.

United States Tariff, Mexico Tariff and Mexico-United States Tariff

Application of UST

**45.** (1) Subject to section 24, goods that are entitled to the benefit of the United States Tariff are entitled to the United States Tariff rates of customs duty.

"A" final rate for  
UST

(2) If "A" is set out in the column entitled "Preferential Tariff" in the List of Tariff Provisions following the abbreviation "UST" in relation to goods

entitled to the United States Tariff, the United States Tariff rate of customs duty that applies to those goods is the final rate of "Free".

Application of MT

(3) Subject to section 24, goods that are entitled to the benefit of the Mexico Tariff are entitled to the Mexico Tariff rates of customs duty.

Application of  
MUST

(4) Subject to section 24, goods that are entitled to the benefit of the Mexico-United States Tariff are entitled to the Mexico-United States Tariff rates of customs duty.

"A" final rate for  
MT and MUST

(5) If "A" is set out in the column entitled "Preferential Tariff" in the List of Tariff Provisions following the abbreviation "MT" or "MUST" in relation to goods entitled to the Mexico Tariff or the Mexico-United States Tariff, as the case may be, the rate of customs duty that applies to those goods under that Tariff is the final rate of "Free".

"A1" final rate  
for MT

(6) If "A1" is set out in the column entitled "Preferential Tariff" in the List of Tariff Provisions following the abbreviation "MT" in relation to goods of heading No. 17.01 or tariff item No. 1806.10.10 that are entitled to the Mexico Tariff, the Mexico Tariff rate of customs duty that applies to those goods is the final rate.

"B1" staging for  
MT

(7) If "B1" is set out in the column entitled "Preferential Tariff" in the List of Tariff Provisions following the abbreviation "MT" in relation to goods of heading No. 17.02 or tariff item No. 2106.90.22 that are entitled to the Mexico Tariff, the Mexico Tariff rate of customs duty that applies to those goods is the initial rate, reduced

(a) effective on January 1, 1999, by one half of the difference between the initial rate and the final rate; and

(b) effective on January 1, 2000, to the final rate.

"F" staging for MT  
and MUST

(8) If "F" is set out in the column entitled "Preferential Tariff" in the List of Tariff Provisions following the abbreviation "MT" or "MUST" in relation to goods entitled to the Mexico Tariff or the Mexico-United States Tariff, as the case may be, the rate of customs duty that applies to those goods under that Tariff is the initial rate, reduced as provided in the "F" Staging List to the final rate of "Free".

Staging for MT and  
MUST

(9) If "G", "H" or "I" is set out in the column entitled "Preferential Tariff" in the List of Tariff Provisions following the abbreviation "MT" or "MUST" in relation to goods entitled to the Mexico Tariff or the Mexico-United States Tariff, as the case may be, the rate of customs duty that applies to those goods under that Tariff is the initial rate, reduced

(a) if "G" is set out, effective on January 1, 1999, to the final rate of "Free";

(b) if "H" is set out,

(i) effective on January 1, 1999, to four fifths of the initial rate,

(ii) effective on January 1, 2000, to three fifths of the initial rate, and

(iii) effective on January 1, 2001, to the final rate of "Free"; and

(c) if "I" is set out,

(i) effective on January 1, 1999, to four fifths of the initial rate,

(ii) effective on January 1, 2000, to three fifths of the initial rate,

(iii) effective on January 1, 2001, to two fifths of the initial rate,

(iv) effective on January 1, 2002, to one fifth of the initial rate, and

(v) effective on January 1, 2003, to the final rate of "Free".

#### Rounding amounts

(10) If a reduction under subsection (8) or (9) in respect of goods other than motor vehicles of heading No. 87.01, 87.02, 87.03, 87.04 or 87.05 results in a rate of customs duty that includes a fraction of one per cent other than 0.5, the resulting percentage shall be rounded down to the nearest percentage that divides evenly by 0.5.

#### Elimination of rates of less than two per cent

(11) If a reduction under subsection (8), (9) or (10) in respect of goods other than motor vehicles of heading No. 87.01, 87.02, 87.03, 87.04 or 87.05 results in a rate of customs duty that is a percentage of less than two per cent, the rate shall be further reduced to "Free" immediately.

#### Rounding specific rates

(12) If a reduction under subsection (7), (8) or (9) results in a specific rate of customs duty that includes a fraction of one-tenth of a cent, the rate shall be rounded down to the nearest one-tenth of a cent.

#### Extension of United States Tariff and Mexico Tariff

(13) Notwithstanding any other provision of this Act, for the purpose of giving effect to Appendix 6 of Annex 300-B of Chapter Three of the North American Free Trade Agreement, the Minister may, by order, amend the schedule to extend

the benefit of the United States Tariff or the Mexico Tariff to any imported goods under such conditions as may be specified in the order.

#### Canada-Israel Agreement Tariff

##### Application of CIAT

46. (1) Subject to section 24, goods that originate in Israel or another CIFTA beneficiary are entitled to the Canada-Israel Agreement Tariff rates of customs duty.

##### "A" final rate

(2) If "A" is set out in the column entitled "Preferential Tariff" in the List of Tariff Provisions following the abbreviation "CIAT" in relation to goods entitled to the Canada-Israel Agreement Tariff, the Canada-Israel Agreement Tariff rate of customs duty that applies to those goods is the final rate.

##### "F" staging for CIAT

(3) If "F" is set out in the column entitled "Preferential Tariff" in the List of Tariff Provisions following the abbreviation "CIAT" in relation to goods entitled to the Canada-Israel Agreement Tariff, the Canada-Israel Agreement Tariff rate of customs duty that applies to those goods is the initial rate, reduced as provided in the "F" Staging List.

##### Limits on reduction of duty

47. The Governor in Council may, on the recommendation of the Minister of Foreign Affairs, by order, specify limits on the aggregate quantity of roses of tariff item No. 0603.10.31 that are entitled to the benefit of the Canada-Israel Agreement Tariff, and the limits apply during the periods that may be specified in the order.

##### Definitions

48. (1) The Governor in Council may, on the recommendation of the Minister, make regulations defining the expressions "Israel or another CIFTA beneficiary" and "imported from Israel or another CIFTA beneficiary".

##### Incorporation by reference

(2) For greater certainty, a regulation made under subsection (1) incorporating by reference any document or enactment may incorporate it as amended from time to time.

#### DIVISION 4

#### SPECIAL MEASURES, EMERGENCY MEASURES AND SAFEGUARDS

##### Special Measures

##### Definitions

49. (1) The definitions in this subsection apply in this section.

"government"

« *gouvernement* »

"government", in respect of a country other than Canada, includes

(a) a provincial, state, municipal or other local or regional government in the country;

(b) a person, agency or institution acting on behalf of, or under the authority of a law or other enactment passed by, the government of the country or a provincial, state, municipal or other local or regional government of the country; and

(c) an association of sovereign states of which the country is a member.

"trade agreement"

« *accord commercial* »

"trade agreement" means an agreement or arrangement relating to international trade to which the Government of Canada is a party.

Governor in  
Council may make  
orders

(2) Notwithstanding this Act or any other Act of Parliament, the Governor in Council may, on the recommendation of the Minister and of the Minister of Foreign Affairs, by order, for the purpose of enforcing Canada's rights under a trade agreement in relation to a country or of responding to acts, policies or practices of the government of a country that adversely affect, or lead directly or indirectly to adverse effects on, trade in goods or services of Canada, do any one or more of the following:

(a) suspend or withdraw rights or privileges granted by Canada to any country under a trade agreement or Act of Parliament;

(b) make goods that originate in any country or that are entitled to the benefit of a tariff treatment provided for by regulations made under section 16, or a class of such goods, subject to a surtax in an amount, over and above the rates of customs duty provided in this Act, or in any regulation or order made thereunder, for those goods or that class of goods;

(c) include on the Import Control List established under section 5 of the *Export and Import Permits Act* goods that originate in any country or are entitled to the benefit of a tariff treatment provided for by any regulations made under section 16; and

(d) notwithstanding any regulations made under section 16, establish, in respect of goods or a class of goods that originate in any country, rates of customs duty that vary from time to time as the quantity of those goods imported during a period specified in the order equals or exceeds totals set out in the order.

Removal from  
Import Control  
List

(3) If, by an order made under subsection (2), goods are included on the Import Control List referred to in paragraph (2)(c), those goods are deemed to have been removed from that List when the order is repealed or otherwise ceases to have effect.

Order tabled in  
Parliament

(4) The Minister shall cause a copy of any order made under subsection (2) to be laid before Parliament on any of the first 15 days after the making of the order that either House of Parliament is sitting.

Regulations

(5) The Governor in Council may, on the recommendation of the Minister, make such regulations as the Governor in Council considers necessary for the carrying out of the purposes of this section and for its enforcement.

#### Global Emergency Measures

Definitions

50. The definitions in this section apply in sections 51 to 63.

"contribute  
importantly"  
« *contribuer de  
manière importante*  
»

"contribute importantly", in respect of goods imported from a NAFTA country, means to be an important cause, but not necessarily the most important cause.

"surge"  
« *augmentation  
subite* »

"surge", in respect of goods imported from a NAFTA country, has the meaning given that word by Article 805 of the North American Free Trade Agreement.

Surtax under  
certain conditions

51. (1) Subject to sections 52, 53, 55 and 57, if at any time it appears to the satisfaction of the Governor in Council, on the basis of a report of the Minister or of an inquiry made by the Canadian International Trade Tribunal under section 20 or 26 of the *Canadian International Trade Tribunal Act*, that goods are being imported under such conditions as to cause or threaten serious injury to domestic producers of like or directly competitive goods, the Governor in Council may, on the recommendation of the Minister, by order, make any such goods imported from a country specified in the order, when imported into Canada or a region or part of Canada specified in the order during the period that the order is in effect, subject to a surtax

(a) at a rate specified in the order; or

(b) at a rate specified in the order that varies from time to time as the quantity of those goods imported into Canada or that region or part of Canada during a period specified in the order equals or exceeds quantities specified in the order.

Maximum rate

(2) The rate specified under subsection (1) may not exceed the rate that in the opinion of the Governor in Council is sufficient to prevent or remedy serious injury to domestic producers of like or directly competitive goods.

Minister's report

(3) A report of the Minister referred to in subsection (1) may be made only if

- (a) there are, in the opinion of the Minister, critical circumstances; or
- (b) the report relates to perishable agricultural goods.

Inquiry

(4) If an order is made under subsection (1) on the basis of a report of the Minister, the Governor in Council shall immediately refer the matter to the Canadian International Trade Tribunal for an inquiry under paragraph 20(a) of the *Canadian International Trade Tribunal Act*.

Prohibition  
against further  
orders

(5) Subject to subsection (6), no order may be made under subsection (1) with respect to goods that have already been the subject of an order made under that subsection or subsection 5(3) of the *Export and Import Permits Act* unless, after the expiry of the order and any related orders made under subsection 5(3.2), (4.01) or (4.8) of that Act or section 56 or subsection 59(1), there has elapsed a period equal to the greater of two years and the total period during which the order or orders were in effect.

Exception

(6) If an order made under subsection (1) was effective with respect to goods for a period of 180 days or less, a further order may be made under that subsection with respect to those goods if

- (a) at least one year has elapsed since the previous order took effect; and
- (b) not more than two orders have been made with respect to the goods under subsection (1) within the period of five years before the further order takes effect.

Period and repeal

**52.** (1) An order made under subsection 51(1)

(a) subject to sections 58 and 59, has effect for a period not exceeding four years; and

(b) may be amended or repealed at any time by the Governor in Council on the recommendation of the Minister unless, before that time, a resolution praying that the order be repealed has been adopted by both Houses of Parliament under section 60.

Cessation

(2) If an order is made under subsection 51(1) on the basis of a report of the Minister, the order ceases to have effect at the end of the two hundredth day after the day on which the order is made unless, before the order so ceases to have effect, the Canadian International Trade Tribunal reports to the Governor in Council, on the basis of an inquiry made under section 20 or 26 of the *Canadian International Trade Tribunal Act*, that the goods described in the report of the Minister are being imported from a country named in the report under such

conditions as to cause or threaten serious injury to domestic producers of like or directly competitive goods.

Exception for  
certain  
agricultural goods

**53.** (1) No order may be made under subsection 51(1), on the basis of a report of the Minister, with respect to

(a) any prescribed agricultural goods that may be subject to a surtax under subsection 64(1); or

(b) any fresh fruit or vegetable imported from the United States and referred to in subsection 68(1) that may be subject to a temporary duty under that subsection.

Expiry date

(2) Paragraph (1)(b) ceases to be in force on December 31, 2008.

Refund orders

**54.** For the purpose of carrying out Article 6 of the Agreement on Safeguards in Annex 1A of the World Trade Organization Agreement, the Governor in Council may, on the recommendation of the Minister, by order, refund any surtaxes imposed under an order made under subsection 51(1) on the basis of a report made by the Minister.

Free trade partner  
emergency measures

**55.** (1) An order under subsection 51(1) may be made applicable to goods of any kind imported from a free trade partner only if it appears to the satisfaction of the Governor in Council, on the basis of a report under section 20 or 29 of the *Canadian International Trade Tribunal Act* or a report of the Minister, that

(a) the quantity of those goods represents a substantial share of total imports of goods of the same kind;

(b) in the case of goods imported from a NAFTA country, the quantity of those goods, alone or, in exceptional circumstances, together with the quantity of goods of the same kind imported from each other NAFTA country, contributes importantly to serious injury or threat of serious injury to domestic producers of like or directly competitive goods; and

(c) in the case of goods imported from any other free trade partner, the quantity of those goods contributes importantly to serious injury or threat of serious injury to domestic producers of like or directly competitive goods.

Duration of order

(2) If an order that applies to goods imported from a free trade partner by virtue of subsection (1) is made under subsection 51(1) on the basis of a report of the Minister, the order ceases to have effect with respect to those goods at the end of the two hundredth day after the day on which the order is made, except that it remains in effect for the period, not exceeding four years, that is specified in the order if, before the order so ceases to have effect, the Canadian International Trade Tribunal reports to the Governor in Council under the *Canadian International Trade Tribunal Act* that



(a) the quantity of those goods as described in the report of the Minister is substantial in comparison with the quantity of goods of the same kind imported from other countries;

(b) in the case of goods imported from a NAFTA country, the quantity of those goods, alone or, in exceptional circumstances, together with the quantity of goods of the same kind imported from each other NAFTA country, contributes importantly to the serious injury or threat of serious injury to domestic producers of like or directly competitive goods; and

(c) in the case of goods imported from any other free trade partner, the quantity of those goods contributes importantly to the serious injury or threat of serious injury to domestic producers of like or directly competitive goods.

#### Repeal

(3) If an order that applies to goods imported from a free trade partner in accordance with subsection (1) is made under subsection 51(1) on the basis of a report of the Minister, the Governor in Council shall repeal the order if the Governor in Council is satisfied on the basis of a report of the Canadian International Trade Tribunal, made under the *Canadian International Trade Tribunal Act*, that the quantity of those goods is not substantial in comparison with the quantity of goods of the same kind imported from other countries or

(a) in the case of goods imported from a NAFTA country, that the quantity of those goods, alone or, in exceptional circumstances, together with the quantity of goods of the same kind imported from each other NAFTA country, does not contribute importantly to the serious injury or threat of serious injury to domestic producers of like or directly competitive goods; and

(b) in the case of goods imported from any other free trade partner, that the quantity of those goods does not contribute importantly to the serious injury or threat of serious injury to domestic producers of like or directly competitive goods.

#### Surtax on goods imported from a free trade partner

**56.** If an order has been made under subsection 51(1) or 59(1) imposing a surtax that does not apply to goods imported from a free trade partner because the goods did not meet the conditions set out in subsection 55(1) or 59(4) and the Governor in Council is satisfied, on the recommendation of the Minister made as a result of an inquiry by the Canadian International Trade Tribunal, that there has been a surge of those goods on or after the coming into force of the order and that, as a result of that surge, the effectiveness of the imposition of the surtax is being undermined, the Governor in Council may, by order, make any such goods, when imported into Canada or into any region or part of Canada specified in the order during the period that the order is in effect, subject to a surtax at

(a) a rate specified in the order; or

(b) at a rate specified in the order that varies from time to time as the quantity of those goods imported into Canada or that region or part of Canada during a period specified in the order equals or exceeds quantities specified in the order.

The rate may not exceed the rate that, in the opinion of the Governor in Council, is sufficient to prevent the undermining of the order made under subsection 51(1) or 59(1).

#### Rate

57. (1) The rate of a surtax imposed under subsection 51(1), section 56 or subsection 59(1) on goods imported from a free trade partner need not be the same rate as that imposed under subsection 51(1) or 59(1) on goods of the same kind imported from any other country, but must not exceed the rate of surtax imposed under subsection 51(1) or 59(1) on goods of the same kind imported from any other country.

#### Limitation

(2) If the Governor in Council makes an order under subsection 51(1) or 59(1) that applies to goods imported from a free trade partner that meet the conditions set out in section 55(1) or 59(4) or makes an order under section 56, the Governor in Council shall be guided by subparagraph 5(b) of Article 802 of the North American Free Trade Agreement or subparagraph 5(b) of Article 4.6 of the Canada-Israel Free Trade Agreement, as the case may be.

#### Repeal or amendment of surtax order

58. If at any time it appears to the satisfaction of the Governor in Council, as a result of a mid-term review by the Canadian International Trade Tribunal under section 19.02 of the *Canadian International Trade Tribunal Act*, that an order imposing or extending the application of a surtax under subsection 51(1), section 56 or subsection 59(1) should be repealed or amended, the Governor in Council may, on the recommendation of the Minister, by order, repeal or amend the order.

#### Extension order

59. (1) Subject to subsection (4), if, at any time before the expiry of an order with respect to any goods made under this subsection, subsection 51(1) or section 56 or under subsection 5(3), (3.2), (4.01) or (4.8) of the *Export and Import Permits Act*, it appears to the satisfaction of the Governor in Council, as a result of an inquiry made by the Canadian International Trade Tribunal under section 30.07 of the *Canadian International Trade Tribunal Act*, that

(a) an order continues to be necessary to prevent or remedy serious injury to domestic producers of like or directly competitive goods, and

(b) there is evidence that the domestic producers of like or directly competitive goods are adjusting, as determined in accordance with any regulations made under paragraph 40(b) of the *Canadian International Trade Tribunal Act*,

the Governor in Council may, on the recommendation of the Minister, make an extension order imposing a surtax on any goods specified in the previous order imported from any country specified in the extension order.

#### Scope and rate

(2) If an extension order is made under subsection (1),

(a) the extension order applies to goods imported into Canada, or any region or part of Canada, specified in the order during the period that the order is in effect; and

(b) the rate of the surtax imposed by the extension order must, subject to subsection (3),

(i) be at a rate specified in the extension order, or

(ii) be at a rate specified in the extension order that varies from time to time as the quantity of the goods imported into Canada or that region or part of Canada during a period specified in the order equals or exceeds totals specified in the order.

Maximum rate

(3) The rate specified in the extension order may not exceed

(a) the lowest of any rates previously imposed with respect to the goods under subsection (1) or 51(1) or section 56; and

(b) the rate that in the opinion of the Governor in Council is sufficient to prevent or remedy serious injury to domestic producers of like or directly competitive goods and to facilitate the adjustment of the domestic producers.

Exception for  
goods imported  
from a free trade  
partner

(4) An order made under subsection (1) may apply to goods imported from a free trade partner only if it appears to the satisfaction of the Governor in Council, on the basis of a report made under the *Canadian International Trade Tribunal Act*, that

(a) the quantity of those goods represents a substantial share of the total imports of goods of the same kind;

(b) in the case of goods imported from a NAFTA country, the quantity of those goods, alone or, in exceptional circumstances, together with the quantity of goods of the same kind imported from each other NAFTA country, contributes importantly to the serious injury or threat of serious injury to domestic producers of like or directly competitive goods; and

(c) in the case of goods imported from any other free trade partner, the quantity of those goods contributes importantly to the serious injury or threat of serious injury to domestic producers of like or directly competitive goods.

Period and repeal  
of extension  
orders

(5) Every extension order made under subsection (1)

(a) remains in effect, subject to this section, for the period that is specified in the order, but the total of the specified period and the periods during which the goods were subject to related orders made under subsection (1) or 51(1) or section 56 or under subsection 5(3), (3.2), (4.01) or (4.8) of the *Export and Import Permits Act* may not exceed eight years; and

(b) may, notwithstanding any other provision of this section, be amended or repealed at any time by the Governor in Council on the recommendation of the Minister, unless, before that time, a resolution praying that the order be repealed has been adopted by both Houses of Parliament under section 60.

Resolution of  
Parliament  
repealing order

**60.** Notwithstanding sections 51 to 59 and 61 to 63, if a resolution praying that an order made under subsection 51(1), section 56 or subsection 59(1) be repealed is adopted by both Houses of Parliament, the order ceases to have effect on the day that the resolution is adopted or, if the adopted resolution specifies a day on which the order ceases to have effect, on that specified day.

Notice in  
*Canada Gazette*

**61.** If an order made under

(a) subsection 51(1) remains in effect by reason of subsection 52(2) or 55(2),  
or

(b) subsection 51(1), section 56 or subsection 59(1) ceases to have effect by reason of a resolution of both Houses of Parliament,

the Minister shall cause a notice to that effect to be published in the *Canada Gazette*.

Regulations

**62.** The Governor in Council may make regulations for carrying out the purposes of sections 51 to 61 and may, by order, suspend a surtax or rate in whole or in part from application to the goods of any country or any class of such goods.

Decision of  
Governor in  
Council final

**63.** The decision of the Governor in Council is final on any question that may arise regarding the application of the surtax or rate imposed under sections 51 to 62.

#### Safeguard Measures for Agricultural Goods

Surtax order

**64.** (1) Notwithstanding this Act or any other Act of Parliament but subject to subsections (2) to (7), the Governor in Council may, on the recommendation of the Minister, by order, make any prescribed agricultural goods specified in the order subject to

(a) a surtax, at a rate specified in the order, in addition to any other duty imposed under this Act or any other Act of Parliament relating to customs; and

(b) any conditions set out in the order relating to the imposition of the surtax.

Conditions for  
making order

(2) Before recommending that an order be made under subsection (1), the Minister must be satisfied, on the basis of a report by the Minister of Agriculture and Agri-Food, that the conditions, set out in Article 5 of the Agreement on Agriculture in Annex 1A of the World Trade Organization Agreement, for the imposition of a surtax on the prescribed agricultural goods have been met.

Non-application to  
goods in transit

(3) The Deputy Minister of National Revenue may relieve goods from payment of a surtax imposed by an order under subsection (1) if that Deputy Minister is of the opinion that

(a) before the coming into force of the order, the goods were purchased for importation in the expectation in good faith that only the Most-Favoured-Nation Tariff rate of customs duty applicable to such goods would apply to them; and

(b) at the time that the order comes into force, the goods were in transit to the purchaser in Canada.

Resolution of  
Parliament  
repealing order

(4) If a resolution praying that an order made under subsection (1) be repealed is adopted by both Houses of Parliament, the order ceases to have effect on the day that the resolution is adopted or, if the adopted resolution specifies a day on which the order ceases to have effect, on that day.

Notice in *Canada*  
*Gazette*

(5) If an order under subsection (1) ceases to have effect or is repealed pursuant to a resolution of both Houses of Parliament, the Minister shall cause a notice to that effect to be published in the *Canada Gazette*.

Regulations

(6) The Governor in Council may, on the recommendation of the Minister, make regulations

(a) prescribing agricultural goods for the purposes of this section in respect of any country;

(b) prescribing terms and conditions governing the making of orders under subsection (1); and

(c) generally for carrying out the purposes and provisions of this section.

Exemption from  
*Statutory*  
*Instruments Act*

(7) An order under subsection (1) is exempt from the application of sections 3, 5 and 11 of the *Statutory Instruments Act*.

Publication

(8) Every order made under subsection (1) must be published in the *Canada Gazette*.

Bilateral Emergency Measures for U.S. Goods

Non-application

65. (1) This section does not apply in respect of textile and apparel goods set out in Appendix 1.1 of Annex 300-B of Chapter Three of the North American Free Trade Agreement.

Order by Governor  
in Council

(2) Subject to subsection (3), if at any time it appears to the satisfaction of the Governor in Council, as a result of an inquiry made by the Canadian International Trade Tribunal under section 19.01 or subsection 19.1(2) of the *Canadian International Trade Tribunal Act* or further to a complaint filed under section 23 of that Act, that goods that are entitled to the benefit of the United States Tariff are, as a result of that entitlement, being imported in such increased quantities and under such conditions as to alone constitute a principal cause of serious injury to domestic producers of like or directly competitive goods, the Governor in Council may, on the recommendation of the Minister, by order,

(a) in respect of goods on which a customs duty is imposed on a seasonal basis, make those goods subject to a temporary duty, in addition to any other duty specified in this Act or in any other Act of Parliament relating to customs, at a rate set out in the order, but that rate, when added to the rate of customs duty set out in the List of Tariff Provisions that is in effect in respect of those goods at that time, may not exceed the Most-Favoured-Nation Tariff rate of customs duty that was in effect in respect of those goods immediately before January 1, 1989; and

(b) in respect of any other goods, make those goods subject to a temporary duty, over and above any other duty specified in this Act or in any other Act of Parliament relating to customs, at a rate set out in the order, but no such rate, when added to the rate of customs duty specified in the List of Tariff Provisions that is in effect in respect of those goods at that time, may exceed the lesser of

(i) the Most-Favoured-Nation Tariff rate of customs duty that was in effect in respect of those goods on December 31, 1988, and

(ii) the Most-Favoured-Nation Tariff rate of customs duty that is in effect in respect of those goods at the time the order is made.

Terms and  
conditions

(3) An order made under subsection (2)

(a) may not be made more than once during the period beginning on January 1, 1988 and ending on December 31, 1998 in respect of goods of a particular kind and, if made during that period, remains in effect for the period, not exceeding three years, specified in the order; and

(b) may be made after December 31, 1998 only pursuant to an agreement between the Government of Canada and the Government of the United States relating to the application of subsection (2).

Definition of  
"principal cause"

(4) In this section, "principal cause" means, in respect of a serious injury, an important cause that is not less important than any other cause of the serious injury.

Reference to  
customs duty in  
effect

(5) For the purposes of paragraph (2)(a), the Most-Favoured-Nation Tariff rate of customs duty in effect in respect of a fresh fruit or vegetable is

(a) in respect of a fresh vegetable, the rate of customs duty applicable to that vegetable set out in the applicable tariff item referred to in Supplementary Note 2(b) in Chapter 7 of the List of Tariff Provisions; and

(b) in respect of a fresh fruit, the rate of customs duty applicable to that fruit set out in the applicable tariff item referred to in Supplementary Note 4(b) in Chapter 8 of the List of Tariff Provisions.

Bilateral Emergency Measures for Mexican and MUST Goods

Non-application

**66.** (1) This section does not apply in respect of textile and apparel goods set out in Appendix 1.1 of Annex 300-B of Chapter Three of the North American Free Trade Agreement.

Order by Governor  
in Council

(2) Subject to subsection (3), if at any time it appears to the satisfaction of the Governor in Council, as a result of an inquiry made by the Canadian International Trade Tribunal under subsection 19.01(3) of the *Canadian International Trade Tribunal Act* or further to a complaint filed under subsection 23(1.02) of that Act, that goods that are entitled to the benefit of the Mexico Tariff or the Mexico-United States Tariff are, as a result of that entitlement, being imported in such increased quantities and under such conditions as to alone constitute a principal cause of serious injury, or a threat of serious injury, to domestic producers of like or directly competitive goods, the Governor in Council may, on the recommendation of the Minister, by order,

(a) suspend, during the period that the order is in effect, any reduction of the rate of customs duty in respect of those goods that would otherwise be made after that time by virtue of section 45;

(b) in respect of goods on which a customs duty is imposed on a seasonal basis, make those goods subject to a temporary duty, over and above any other duty specified in this Act or in any other Act of Parliament relating to customs, at a rate set out in the order, but no such rate may, when added to the rate of customs duty set out in the List of Tariff Provisions that is in effect in respect of those goods at that time, exceed the Most-Favoured-Nation Tariff rate of customs duty that was in effect in respect of those goods immediately before January 1, 1994; and

(c) in respect of goods other than goods referred to in paragraph (b), make those goods subject to a temporary duty, over and above any other duty specified in this Act or in any other Act of Parliament relating to customs, at a rate set out in the order, but no such rate may, when added to the rate

of customs duty specified in the List of Tariff Provisions that is in effect in respect of those goods at that time, exceed the lesser of

(i) the Most-Favoured-Nation Tariff rate of customs duty that was in effect in respect of those goods on December 31, 1993, and

(ii) the Most-Favoured-Nation Tariff rate of customs duty that is in effect in respect of those goods at the time the order is made.

Terms and conditions

(3) An order under subsection (2)

(a) may not be made more than once during the period beginning on January 1, 1994 and ending on December 31, 2003 in respect of goods of a particular kind and, if made during that period, remains in effect for the period, not exceeding three years, specified in the order; and

(b) may be made after December 31, 2003 only pursuant to an agreement between the Government of Canada and the Government of Mexico relating to the application of subsection (2).

Rate of duty when order ceases to have effect

(4) If an order made under subsection (2) ceases to have effect in a particular calendar year,

(a) the rate of customs duty applicable to the goods after the order ceases to have effect and until December 31 of that year is the rate that would have been applicable one year after the making of the order, as reduced in accordance with section 45; and

(b) the rate of customs duty applicable to the goods beginning on January 1 of the following year is the rate specified by the Minister under subsection (5).

Specification of applicable rate

(5) For the purposes of subsection (4), the Minister shall, by order, specify that the rate referred to in paragraph (4)(b) is

(a) the rate of customs duty that would have been applicable on January 1 of the year following the year in which the order ceases to have effect, if the rate of customs duty had been reduced in accordance with section 45, reduced for subsequent years in accordance with that section; or

(b) the rate of customs duty that would have been applicable one year after the making of the order, reduced in equal annual stages beginning on January 1 of the year following the year in which the order ceases to have effect and ending on the day on which the rate of customs duty for the goods would otherwise be reduced in accordance with section 45.

Definition of "principal cause"



(6) In this section, "principal cause" means, in respect of a serious injury or threat of serious injury, an important cause that is not less important than any other cause of the serious injury or threat.

Reference to  
customs duty in  
effect

(7) For the purposes of paragraph (2)(b), the Most-Favoured-Nation Tariff rate of customs duty in effect in respect of a fresh fruit or vegetable is

(a) in respect of a fresh vegetable, the rate of customs duty applicable to that vegetable set out in the applicable tariff item referred to in Supplementary Note 2(b) in Chapter 7 of the List of Tariff Provisions; and

(b) in respect of a fresh fruit, the rate of customs duty applicable to that fruit set out in the applicable tariff item referred to in Supplementary Note 4(b) in Chapter 8 of the List of Tariff Provisions.

Bilateral Emergency Measures – Israel or Another CIFTA Beneficiary

Orders by Governor  
in Council

67. (1) Subject to subsection (2), if at any time it appears to the satisfaction of the Governor in Council, as a result of an inquiry made by the Canadian International Trade Tribunal under subsection 19.011(2) of the *Canadian International Trade Tribunal Act* or further to a complaint filed under subsection 23(1.04) of that Act, that goods that are entitled to the Canada-Israel Agreement Tariff are, as a result of that entitlement, being imported into Canada in such increased quantities and under such conditions as to alone constitute a principal cause of serious injury to domestic producers of like or directly competitive goods, the Governor in Council may, on the recommendation of the Minister, by order,

(a) suspend, during the period that the order is in effect, any reduction of the rate of customs duty with respect to those goods that would otherwise be made after that time under the Canada-Israel Agreement Tariff; and

(b) make those goods subject to a temporary duty, over and above any other duties imposed under this Act or any other Act of Parliament relating to customs, at a rate set out in the order, but no such rate may, when added to the rate of customs duty specified in the Canada-Israel Agreement Tariff that is in effect in respect of those goods at that time, exceed the lesser of

(i) the Most-Favoured-Nation Tariff rate of customs duty that is in effect in respect of those goods at the time the order is made, and

(ii) the Most-Favoured-Nation Tariff or General Preferential Tariff rate of customs duty that was in effect in respect of those goods on January 1, 1997.

No order after  
July 1, 1999

(2) An order under subsection (1) shall not be made, or remain in effect, after July 1, 1999.

Definition of  
"principal cause"

(3) In this section, "principal cause" means, in respect of a serious injury, an important cause that is not less important than any other cause of the serious injury.

Bilateral Safeguard Measures for U.S. Fresh Fruit or Vegetables

Temporary duty on  
fresh fruit or  
vegetables

68. (1) Notwithstanding this Act or any other Act of Parliament but subject to subsections (2) to (7), the Minister may, if the Minister is satisfied that the conditions set out in Article 702 of the Canada-United States Free Trade Agreement for the application of a temporary duty on a fresh fruit or vegetable have been met, by order, for the purpose of implementing Canada's rights under that Agreement and subject to such terms and conditions as may be prescribed, make a fresh fruit or vegetable of heading No. 07.01, 07.02, 07.03, 07.04, 07.05, 07.06, other than turnips, of heading No. 07.07, 07.08, 07.09, other than truffles, of heading No. 08.09 or 08.10, other than cranberries and blueberries, or of subheading No. 0806.10 or 0808.20, set out in the order that is entitled to the benefit of the United States Tariff, when imported into Canada or any region of Canada set out in the order, subject to a temporary duty, in addition to any other duty imposed under this Act or any other Act of Parliament relating to customs, at a rate set out in the order.

Maximum rate

(2) No rate of temporary duty imposed under subsection (1) in respect of a fresh fruit or vegetable, when added to any other rate of customs duty specified in the List of Tariff Provisions for that fresh fruit or vegetable, may exceed the lesser of

(a) the Most-Favoured-Nation Tariff rate of customs duty that was in effect in respect of the fresh fruit or vegetable in the season for that fresh fruit or vegetable immediately before January 1, 1989, and

(b) the Most-Favoured-Nation Tariff rate of customs duty that is in effect in respect of the fresh fruit or vegetable at the time the order is made.

Temporary duty  
imposable only  
once in 12 months

(3) The temporary duty referred to in subsection (1) may be imposed in respect of a fresh fruit or vegetable only once, in respect of any particular region or on a national basis, in any period of 12 consecutive months.

If emergency  
actions taken

(4) No order may be made in respect of a fresh fruit or vegetable under subsection (1) during any period in which an order made under subsection 51(1), section 56 or subsection 59(1) or 65(1) or under subsection 5(3), (3.2), (4.01) or (4.2) of the *Export and Import Permits Act* in respect of the same fresh fruit or vegetable is in force.

Non-application to  
goods in transit

(5) Fresh fruit or vegetables that were purchased, before the coming into force of an order made under subsection (1), for importation through a customs

office in a region specified in the order in the expectation in good faith that the United States Tariff rate of customs duty applicable to the fresh fruit or vegetables would apply to them and that were in transit to the purchaser in Canada at the time of the coming into force of the order are not subject to the temporary duty specified in the order.

Repeal if  
conditions met

(6) The Minister shall repeal an order made under subsection (1) if the Minister is satisfied that the conditions for the removal of the temporary duty set out in paragraph 4 of Article 702 of the Canada-United States Free Trade Agreement have been met.

Ceases to have  
effect

(7) An order made under subsection (1) ceases to have effect on the earlier of any expiry date set out in the order and the one hundred and eightieth day after the day on which the order is made.

Reference to  
customs duty in  
effect

(8) For the purposes of the application of paragraphs 2(a) and (b) in respect of fresh fruit or vegetables on which a customs duty is imposed on a seasonal basis, the Most-Favoured-Nation Tariff rate of customs duty in effect in respect of the fresh fruit or vegetables is

(a) in respect of fresh vegetables, the rate of customs duty applicable to those vegetables set out in the tariff item referred to in Supplementary Note 2(b) in Chapter 7 of the List of Tariff Provisions; and

(b) in respect of fresh fruit, the rate of customs duty applicable to that fruit set out in the tariff item referred to in Supplementary Note 4(b) in Chapter 8 of the List of Tariff Provisions.

Regulations

(9) The Governor in Council may, on the recommendation of the Minister, make regulations that are consistent with the Canada-United States Free Trade Agreement for carrying out the purposes of this section and to prescribe anything that, by this section, is to be prescribed.

Exemption from  
*Statutory  
Instruments Act*

(10) An order made under subsection (1) is exempt from the application of sections 3, 5 and 11 of the *Statutory Instruments Act*.

Publication

(11) Every order made under subsection (1) must be published in the *Canada Gazette*.

Bilateral Safeguard Measures for Mexican Agricultural Goods

Purpose

69. (1) The purpose of this section is to give effect to paragraphs 3 and 4 of Article 703 of the North American Free Trade Agreement.

Application

(2) This section applies to goods of any of tariff item Nos. 0603.10.12, 0603.10.21, 0702.00.92, 0703.10.32, 0707.00.92, 0710.80.21, 0811.10.11, 0811.10.91 and 2002.90.10 that are entitled to the benefit of the Mexico Tariff.

Limits on  
reduction of duty

(3) The Governor in Council may, on the recommendation of the Minister, by order, specify limits on the aggregate quantity of goods of any tariff item referred to in subsection (2) that are entitled to benefit from a reduction of customs duty provided for in the List of Tariff Provisions and the periods during which such limits apply.

Application of  
special measures

(4) An order made under subsection 51(1), section 56 or subsection 59(1) or under subsection 5(3), (3.2), (4.01) or (4.2) of the *Export and Import Permits Act* has effect in respect of goods referred to in subsection (2) only during any period in which the limits specified under subsection (3) for those goods have not been exceeded.

Cessation

(5) This section ceases to have effect on December 31, 2002.

Bilateral Emergency Measures for Textile and Apparel Goods Imported from a  
NAFTA Country

Order by Governor  
in Council

70. (1) If it appears to the satisfaction of the Governor in Council, on the basis of a report of the Minister further to a complaint under subsection 23(1.03) of the *Canadian International Trade Tribunal Act* or as a result of an inquiry made by the Canadian International Trade Tribunal under subparagraph 26(1)(a)(i.3) of that Act, that textile and apparel goods set out in Appendix 1.1 of Annex 300-B of Chapter Three of the North American Free Trade Agreement and entitled to the benefit of the United States Tariff or the Mexico Tariff are being imported in such increased quantities, in absolute terms or relative to the domestic market for the goods, and under such conditions as to cause serious damage or an actual threat of serious damage to domestic producers of like or directly competitive goods, the Governor in Council may, on the recommendation of the Minister, by order,

(a) suspend any further reduction of any rate of customs duty in respect of the goods that would otherwise result under section 45; or

(b) impose, in addition to any other duty imposed under this or any other Act of Parliament, a temporary duty on the goods at a rate specified in the order.

Limit on amount of  
temporary duty

(2) A rate of temporary duty imposed under paragraph (1)(b) may not, when added to the rate of customs duty specified in the List of Tariff Provisions for the goods, exceed the lesser of

(a) the Most-Favoured-Nation Tariff rate for the goods in effect when the order is made, and

(b) the Most-Favoured-Nation Tariff rate for the goods in effect on December 31, 1993.

#### Period

(3) Subject to subsection (4), an order made under subsection (1) remains in effect for a period, not exceeding three years, specified in the order.

#### Duration of order

(4) If an order is made under subsection (1) on the basis of a report of the Minister, the order ceases to have effect at the end of the one hundred and eightieth day after the day on which the order is made unless, before the order so ceases to have effect, the Canadian International Trade Tribunal reports to the Governor in Council, on the basis of an inquiry made under subparagraph 26(1)(a)(i.3) of the *Canadian International Trade Tribunal Act*, that the goods described in the report of the Minister are being imported from the country named in the report under such conditions as to cause or threaten serious damage to domestic producers of like or directly competitive goods.

#### Extension of order

(5) The Governor in Council may, on the recommendation of the Minister, by order, extend the period of an order made as a result of an inquiry of the Canadian International Trade Tribunal made under subparagraph 26(1)(a)(i.3) of the *Canadian International Trade Tribunal Act* or an order that remains in effect by virtue of subsection (4) on the basis of a report of that Tribunal, but the total period of the order may not exceed three years.

#### Rate of duty after order ceases to have effect

(6) If an order made under subsection (1) ceases to have effect in a particular calendar year,

(a) the rate of customs duty applicable to the goods after the order ceases to have effect and until December 31 of that year is the rate that would have been applicable one year after the making of the order, as reduced in accordance with section 45; and

(b) the rate of customs duty applicable to the goods beginning on January 1 of the following year is the rate specified by the Minister under subsection (7).

#### Specification of applicable rates

(7) For the purposes of subsection (6), the Minister shall, by order, specify that the rate referred to in paragraph (6)(b) is

(a) the rate of customs duty that would have been applicable on January 1 of the year following the year in which the order ceases to have effect if the

rate of customs duty had been reduced in accordance with section 45, reduced to "Free" in accordance with that section; or

(b) the rate of customs duty that would have been applicable one year after the making of the order, reduced to "Free" in equal annual stages beginning on January 1 of the year following the year in which the order ceases to have effect and ending on the day on which the rate of customs duty for the goods would be reduced to "Free" in accordance with section 45.

Further orders

(8) An order under subsection (1) may not be made more than once during the period beginning on January 1, 1994 and ending on December 31, 2003 in respect of goods of a particular kind.

#### Measures Relating to Television Picture Tubes

Order increasing  
duty on certain  
cathode-ray  
television picture  
tubes

**71.** (1) For the purposes of giving effect to Annex 308.2 of Chapter Three of the North American Free Trade Agreement, notwithstanding any other provision of this Act imposing customs duties, the Minister may, by order, amend the schedule to prescribe a rate of customs duty for goods described in that Annex, which may not exceed the rate provided for in subsection 45(2) or paragraph 45(9)(c), as the case may be.

Duration of  
application

(2) This section ceases to have effect on December 31, 2003.

#### Surtaxes

Surtax

**72.** (1) If at any time it appears to the satisfaction of the Governor in Council, on a report of the Minister, that Canada's external financial position and its balance of payments are such as to require special measures respecting Canadian imports, the Governor in Council may, by order, subject goods that originate in a country or that are entitled to the benefit of any tariff treatment under regulations made under section 16, or any class of such goods, to a surtax over and above the customs duties imposed under this Act.

Amount of surtax

(2) A surtax referred to in subsection (1) may differ in amount for different goods or classes of goods.

Order ceases to  
have effect unless  
approved by  
Parliament

(3) An order the period of which is longer than 180 days ceases to have effect on the one hundred and eightieth day after it is made if Parliament is then sitting or, if Parliament is not then sitting, at the end of the fifteenth

sitting day of the next sitting of Parliament, unless before that day the order is approved by a resolution adopted by both Houses of Parliament.

Meaning of  
"sitting day"

(4) For the purposes of subsection (3), a day on which either House of Parliament sits is deemed to be a sitting day.

#### Goods in Transit

Goods in transit

73. An order made under subsection 49(2) or 51(1), section 56 or subsection 59(1), 65(2), 66(2), 67(1) or 70(1) may provide that goods that are in transit to Canada at the time the order comes into force are entitled to the benefit of the tariff treatment that was applicable to those goods immediately before that time.

### PART 3

#### DUTIES RELIEF

##### *Interpretation*

Definitions

74. The definitions in this section apply in this Part.

"customs duties"  
« *droits de douane* »

"customs duties", other than for the purposes of sections 76, 89, 90 and 115, means customs duties imposed under Part 2, other than surtaxes imposed under section 49, 51, 56, 59, 64 or 72 or temporary duties imposed under any of sections 65 to 70.

"duties"  
« *droits* »

"duties" means duties or taxes levied or imposed on imported goods under Part 2, under the *Excise Tax Act*, the *Excise Act* or the *Special Import Measures Act* or under any other Act of Parliament relating to customs, but for the purposes of sections 83 and 106 does not include the goods and services tax.

"excise taxes"  
« *taxes d'accise* »

"excise taxes" means the taxes imposed under the *Excise Tax Act* other than the goods and services tax.

"goods and  
services tax"  
« *taxe sur les  
produits et  
services* »

"goods and services tax" means the tax imposed under Part IX of the *Excise Tax Act*.

"process"  
« *traiter* »

"process", in respect of goods, includes the adjustment, alteration, assembly, manufacture, modification, production or repair of the goods.

Part binds Her  
Majesty

75. This Part is binding on Her Majesty in right of Canada or of a province.

DIVISION 1

REDUCTION OF RATES OF CUSTOMS DUTY

Reduction of rates  
of customs duty

76. (1) The Governor in Council may, on the recommendation of the Minister, by order, amend the List of Tariff Provisions and the "F" Staging List to reduce a rate of customs duty, in respect of goods used in the production of other goods or the provision of services, subject to such conditions as are set out in the order.

Retroactivity

(2) An order made under subsection (1) may, if it so provides, be retroactive and have effect in respect of a period before it is made, but no such order may have effect in respect of a period before this section comes into force.

DIVISION 2

IMPORTATION WITHOUT FULL PAYMENT OF DUTIES

Reduced Value for Duty

Goods of heading  
No. 98.04

77. (1) The value for duty of goods, as determined under section 46 of the *Customs Act*, that, but for the fact that their value for duty exceeds the maximum value specified under tariff item No. 9804.10.00, 9804.20.00 or 9804.30.00, would be classified under one of those tariff items, shall be reduced by an amount equal to that maximum specified value.

Highest maximum  
value to be  
applied

(2) If goods referred to in subsection (1) could, but for the fact that their value exceeds the maximum specified value, be classified under more than one of the tariff items referred to in that subsection, the value for duty of the goods shall be reduced in accordance with the regulations made under paragraph 80(b).

Goods of tariff  
item No.  
9805.00.00

78. The value for duty of goods, as determined under section 46 of the *Customs Act*, that, but for the fact their value for duty exceeds \$10,000, would be classified under tariff item No. 9805.00.00, shall be reduced by \$10,000.



Goods of tariff  
item No.  
9816.00.00

**79.** The value for duty of goods, as determined under section 46 of the *Customs Act*, that, but for the fact that their value for duty exceeds the maximum value specified in tariff item No. 9816.00.00, would be classified under that tariff item, shall be reduced by that maximum value.

#### Regulations

**80.** The Governor in Council may make regulations respecting

(a) the conditions under which, or circumstances in which, sections 77 to 79 apply; and

(b) the manner of reducing the value for duty of goods under subsection 77(2).

Goods of tariff  
item No.  
9971.00.00

**81.** (1) Notwithstanding subsection 20(2), the value for duty of goods of tariff item No. 9971.00.00 that are entitled to the Mexico Tariff or the Mexico-United States Tariff is the value of the repairs or alterations made to those goods outside Canada.

#### Limitation

(2) Subsection (1) ceases to have effect on January 1, 2004.

#### Ethno-cultural Groups

Goods of tariff  
item No.  
9937.00.00

**82.** A group desiring to be recognized as an ethno-cultural group for the purposes of tariff item No. 9937.00.00 shall submit an application to the Minister of National Revenue supported by evidence that the group satisfies the criteria set out in that tariff item.

#### Duty Deferral

#### Relief

**83.** (1) Subject to subsection (2), section 89 and any regulations made under section 93, if an application for relief is made within the prescribed time, in accordance with subsection (4), by a person of a prescribed class, relief may be granted from the payment of duties that would but for this section be payable in respect of imported goods that are

(a) released and subsequently exported in the same condition in which they were imported;

(b) released, processed in Canada and subsequently exported;

(c) released and directly consumed or expended in the processing in Canada of goods that are subsequently exported;

(d) released, if the same quantity of domestic or imported goods of the same class is processed in Canada and subsequently exported; or

(e) released, if the same quantity of domestic or imported goods of the same class is directly consumed or expended in the processing in Canada of goods that are subsequently exported.

Exception for  
tobacco products  
or designated  
goods

(2) Relief of the duties or taxes levied or imposed under the *Excise Act*, the *Excise Tax Act* or section 21 may not be granted under subsection (1) on tobacco products or designated goods.

Deemed exportation

(3) For the purposes of subsection (1), goods are deemed to have been exported if they are

(a) designated as ships' stores by regulations made under paragraph 93(g) and supplied for use on board a conveyance of a class prescribed under that paragraph;

(b) used for the equipment, repair or reconstruction of ships or aircraft of a class prescribed under paragraph 93(d);

(c) delivered to a telegraph cable ship of a class prescribed under paragraph 93(d);

(d) supplied for exportation to a department or agency of, or a corporation owned, controlled or operated by, the Government of Canada or the government of a province, that is designated by the Minister of National Revenue;

(e) placed in a bonded warehouse or duty free shop for exportation, or placed in a bonded warehouse for use in accordance with paragraph (a) or (c);

(f) transferred from a person who has been issued a certificate under section 84 to another person who has been issued such a certificate; or

(g) used or destined for use in any other prescribed manner.

Application

(4) An application for relief under subsection (1) must be in a form and contain information satisfactory to the Minister of National Revenue.

Certificate

**84.** (1) Subject to regulations made under paragraph 93(e), the Minister of National Revenue may issue a numbered certificate to a person of a prescribed class referred to in section 83.

Amendment,  
suspension, etc.,  
of certificate

(2) The Minister of National Revenue may, subject to regulations made under paragraph 93(e), amend, suspend, renew, cancel or reinstate a certificate issued under subsection (1).

Release of goods

(3) Goods in respect of which relief is granted under section 83 may be released without payment of the duties relieved under that section if the number of the certificate issued under subsection (1) is disclosed when the goods are accounted for under section 32 of the *Customs Act* and the certificate is in force at that time.

Minister may issue  
licence for  
operation of  
bonded warehouse

**85.** (1) If the Minister of National Revenue considers it advisable, that Minister may issue a licence for the operation of any place as a bonded warehouse to a person who meets the requirements prescribed by regulations made under paragraph 93(f).

Licence  
restriction

(2) Subject to regulations made under paragraph 93(f), the Minister of National Revenue may impose in a licence issued under subsection (1) any restriction as to the classes of goods that may be received, or the circumstances under which goods may be received, in the bonded warehouse.

Amendment of  
licence

(3) The Minister of National Revenue may, subject to regulations made under paragraph 93(f), amend, suspend, renew, cancel or reinstate a licence issued under subsection (1).

Security

(4) A person to whom a licence is issued under subsection (1) shall, at the request of the Minister of National Revenue, provide security, of a type and in accordance with such conditions as may be prescribed, in an amount satisfactory to that Minister.

Duties not payable  
in respect of  
goods in bonded  
warehouse

**86.** (1) Subject to section 31 of the *Customs Act* and to any regulations made under paragraph 93(f) or section 94, if a bonded warehouse licence has been issued under section 85, duties imposed on goods that are delivered to the bonded warehouse are not payable until the goods are removed from the bonded warehouse.

Relief on goods  
removed from  
bonded warehouse

(2) Relief shall be granted from the payment of duties that, but for this section, would be payable in respect of goods removed from a bonded warehouse that are

(a) subject to section 89, exported directly from the bonded warehouse; or

(b) designated as ships' stores by regulations made under paragraph 93(g), supplied for use on board a conveyance of a class prescribed by regulations under that paragraph and exported.

Submission of  
evidence

87. If relief has been granted under section 83 or 86, the Minister of National Revenue may require the submission of evidence satisfactory to that Minister for the purpose of administering section 89.

Definition of  
"customs duties"

88. (1) In sections 89 and 90, "customs duties" means customs duties imposed under Part 2, other than additional customs duties levied under section 21, surtaxes imposed under section 49, 51, 56, 59, 64 or 72 or temporary duties imposed under any of sections 65 to 70.

For greater  
certainty

(2) For greater certainty, in sections 89 and 90, "customs duties" does not include any duties or taxes levied or imposed on imported goods under the *Excise Act*, the *Excise Tax Act* or the *Special Import Measures Act*.

Repayment of  
relief

89. (1) If relief is granted under section 83 or 86 in respect of goods that are subsequently exported to a NAFTA country on or after the effective date determined under subsection (3),

(a) the person who exported the goods shall, within 60 days after exporting the goods, report the exportation in the prescribed manner to an officer at a customs office and pay the portion of the duties relieved under that section that are customs duties; and

(b) subject to subsections (4) to (6), notwithstanding any other provision of this Part, the person who exported the goods and any other person who was granted the relief are, from the time of exporting the goods, jointly and severally liable to pay to Her Majesty in right of Canada the portion of the duties relieved under that section that are customs duties.

Debt to Her  
Majesty

(2) An amount referred to in subsection (1), while it remains unpaid, is deemed to be a debt owing to Her Majesty in right of Canada under the *Customs Act*.

Effective date

(3) For the purposes of subsection (1), the effective date for the exportation of goods to a NAFTA country is

(a) in respect of exports to the United States or Mexico of goods referred to in paragraph 8 of Article 303 of the North American Free Trade Agreement, January 1, 1994;

(b) in respect of other exports to the United States, January 1, 1996;

(c) in respect of other exports to Mexico, January 1, 2001; and

(d) in respect of exports to any other NAFTA country, the date fixed by order of the Governor in Council on the recommendation of the Minister.

Reduction of  
amount repayable

(4) The amount of the customs duties levied under subsection (1) in respect of goods other than goods referred to in paragraph 8 of Article 303 of the North American Free Trade Agreement shall be reduced in accordance with subsection (5) if, within 60 days after the goods are exported, evidence satisfactory to the Minister of National Revenue is submitted to that Minister that customs duties in respect of the exportation of the goods have been paid to the government of a NAFTA country other than Canada.

Amount of  
reduction

(5) Subject to subsection (4), the amount of customs duties levied under subsection (1) shall be reduced by the amount of customs duties paid to the government of the NAFTA country or, if that amount is equal to or greater than the amount of the customs duties levied, the amount levied shall be reduced to zero.

Exceptions

(6) Subsection (1) and sections 90 to 92 do not apply in respect of

(a) imported goods that originate in a NAFTA country that are

(i) subsequently exported to a NAFTA country,

(ii) used as materials in the production of goods that are subsequently exported to a NAFTA country, or

(iii) substituted by identical or similar goods used as materials in the production of other goods that are subsequently exported to a NAFTA country;

(b) imported orange or grapefruit concentrates used in the manufacture or production of orange or grapefruit products of heading No. 20.09 that are exported to the United States;

(c) imported goods used as materials to make apparel that is exported to the United States and subject to the Most-Favoured-Nation Tariff in accordance with the laws of that country, or imported goods substituted by identical or similar goods used as materials to make such apparel;

(d) imported goods used as materials in the production of, or for which identical or similar goods are substituted and used as materials in the production of, quilted cotton piece goods and quilted man-made piece goods provided for under subheading No. 5811.00 and furniture moving pads provided for under subheading No. 6307.90, that are exported to the United States and subject to the Most-Favoured-Nation Tariff in accordance with the laws of that country;

(e) imported goods that are subsequently exported in the condition in which they were imported;

(f) imported goods referred to in subsection 83(1) that are deemed to have been exported by reason of their having been

- (i) placed in a duty free shop for exportation,
- (ii) designated as ships' stores by regulations made under paragraph 93(g),
- (iii) supplied for use on board a conveyance of a class prescribed by regulations made under paragraph 93(g), or
- (iv) used or destined for use, in such other manner as may be prescribed, solely and exclusively in conjunction with a project undertaken jointly by the Government of Canada and the government of a NAFTA country, or with a project in Canada undertaken by the government of the NAFTA country and destined to become the property of the government of the NAFTA country; and

(g) such other imported goods or any imported goods used as materials, or any class of such goods, as may, on the recommendation of the Minister, be prescribed by the Governor in Council pursuant to an agreement between the Government of Canada and the government of a NAFTA country relating to the application of this subsection.

Definition of  
"identical or  
similar goods" and  
"used"

(7) In this section, "identical or similar goods" and "used" have the meanings assigned to those expressions by paragraph 9 of Article 303 of the North American Free Trade Agreement.

Definition of  
"materials"

(8) In this section, "materials" means goods that are used in the processing of other goods, and includes parts or ingredients.

Regulations

(9) The Governor in Council may, on the recommendation of the Minister, make regulations prescribing anything that by this section is to be prescribed.

Maximum drawback

**90.** (1) Subject to subsection 89(6), a drawback, granted under section 106, of customs duties paid in respect of imported goods that are or were exported to the United States on or after January 1, 1996, that are exported to Mexico on or after January 1, 2001, or that are exported to any other NAFTA country on or after a date fixed by order of the Governor in Council, may not exceed the lesser of

(a) the amount of customs duties paid or owed in respect of the imported goods at the time of importation, and

(b) the amount of customs duties paid to the NAFTA country to which the imported goods were subsequently exported.

No drawback on  
certain goods

(2) No drawback of customs duties paid in respect of goods referred to in paragraph 8 of Article 303 of the North American Free Trade Agreement may be granted under section 106.

No relief or  
drawback of SIMA  
duties

91. Subject to subsection 89(6), relief may not be granted under section 83 or 86 and a drawback may not be granted under section 106 of duties paid under the *Special Import Measures Act* on imported goods that are or were exported to the United States on or after January 1, 1996, that are exported to Mexico on or after January 1, 2001 or that are exported to any other NAFTA country on or after a date fixed by order of the Governor in Council.

Exports to NAFTA  
country

92. (1) Subject to subsection 89(6), if relief or a drawback of duties levied under the *Special Import Measures Act* has been granted in respect of imported goods and the goods are or were exported to the United States on or after January 1, 1996, to Mexico on or after January 1, 2001 or to any other NAFTA country on or after a date fixed by order of the Governor in Council and, at the time the goods are exported, the relief or drawback could not be granted because of section 91,

(a) the person who exported the goods shall, within 60 days after exporting the goods, report the exportation in the prescribed manner to an officer at a customs office and pay the amount of the duties levied under that Act that were relieved or on which a drawback was granted; and

(b) notwithstanding any other provision of this Part, any person who exported the goods or who was granted the relief or drawback is, from the time of exporting the goods, jointly and severally liable to pay to Her Majesty in right of Canada the amount of the duties levied under that Act that were relieved or on which a drawback was granted.

Debt to Her  
Majesty

(2) An amount referred to in subsection (1), while it remains unpaid, is deemed to be a debt owing to Her Majesty in right of Canada under the *Customs Act*.

Regulations

93. The Governor in Council may, on the recommendation of the Minister of National Revenue, make regulations

(a) prescribing, for the purposes of section 83,

(i) classes of persons who may apply for relief,

(ii) classes of goods for which, and the circumstances and conditions under which, relief may not be granted,

(iii) the circumstances in which, and the classes of goods in respect of which, relief of duties levied under section 21 or under the *Special Import Measures Act*, a surtax imposed under section 49, 51, 56, 59, 64 or 72, a temporary duty imposed under any of sections 65 to 70, a tax levied under the *Excise Tax Act* or a duty imposed under the *Excise Act* may not be granted,

(iv) the period after the release of the goods within which those goods or the goods processed in Canada must be exported, and

- (v) the portion of duties otherwise payable that may be relieved;
- (b) prescribing, for the purposes of paragraph 83(1)(a), the uses to which goods may be put or operations that goods may undergo after which the goods are considered to be in the same condition;
- (c) prescribing, for the purposes of paragraphs 83(1)(d) and (e), goods that are to be considered to be of the same class;
- (d) prescribing,
  - (i) for the purposes of paragraph 83(3)(b), classes of ships or aircraft, and
  - (ii) for the purposes of paragraph 83(3)(c), classes of telegraph cable ships;
- (e) prescribing, for the purposes of section 84, the circumstances and conditions in which a certificate may be issued, amended, suspended, renewed, cancelled or reinstated;
- (f) for the purposes of section 85,
  - (i) prescribing qualifications that must be met by an operator of a bonded warehouse,
  - (ii) prescribing the conditions under which a licence for the operation of a bonded warehouse may be issued, including the security that may be required of an operator of a bonded warehouse in order to be granted a licence, the duration of such a licence and the fees or the manner of determining any fees to be paid for such a licence,
  - (iii) prescribing the form, nature and conditions of any required security,
  - (iv) prescribing the circumstances under which a licence for the operation of a bonded warehouse may be amended, suspended, renewed, cancelled or reinstated,
  - (v) establishing standards for the operation and maintenance of the facilities of a bonded warehouse,
  - (vi) prescribing the manner of acknowledging receipt of goods in a bonded warehouse,
  - (vii) prescribing facilities, equipment and personnel that must be provided at a bonded warehouse,
  - (viii) regulating the transfer of ownership of goods in a bonded warehouse,
  - (ix) prescribing restrictions as to the classes of goods that may be received in a bonded warehouse,
  - (x) prescribing circumstances in which goods shall not be received in a bonded warehouse,
  - (xi) prescribing the period within which goods that have been delivered to a bonded warehouse shall be removed,
  - (xii) prescribing classes of goods that may be forfeited if they are not removed from a bonded warehouse within the prescribed period, and



(xiii) otherwise regulating the operation of a bonded warehouse;

(g) designating certain classes of goods as ships' stores for use on board a conveyance of a prescribed class and limiting the quantity of such goods that may be so used within a prescribed period;

(h) regulating or prohibiting the delivery to conveyances of goods designated as ships' stores;

(i) regulating or prohibiting the transfer from one conveyance to another of goods designated as ships' stores; and

(j) prescribing anything required to be prescribed by the Governor in Council under sections 83 to 88 and 90 to 92.

#### Regulations

**94.** The Governor in Council may, on the recommendation of the Minister and the Minister of National Revenue, make regulations prescribing the circumstances under which and the extent to which goods may be manipulated, unpacked, packed, altered or combined with other goods while in a bonded warehouse.

#### Canadian Goods Abroad

Relief for  
Canadian goods  
abroad

**95.** (1) Subject to section 98, if an application is made in accordance with section 96, relief shall be granted in accordance with section 99 from payment of the portion of the duties that, but for this section, would be payable in respect of goods returned to Canada within one year or such other time as may be prescribed after their exportation in the prescribed manner if

(a) the goods were repaired outside Canada after being exported for the declared purpose of being repaired;

(b) equipment was added to the goods outside Canada; or

(c) the goods were the product of Canada and work was done outside Canada on the goods.

#### Emergency repairs

(2) Subject to section 98, if an application is made in accordance with section 96, relief shall be granted from the payment of the whole of the duties that, but for this section, would be payable in respect of aircraft, vehicles or vessels returned to Canada after their exportation if

(a) the aircraft, vehicles or vessels were repaired outside Canada as a result of an unforeseen contingency that occurred outside Canada; and

(b) the repairs were necessary to ensure the safe return to Canada of the aircraft, vehicles or vessels.

#### Regulations

(3) The Governor in Council may make regulations

(a) on the recommendation of the Minister, prescribing the manner for determining what goods are considered to be a product of Canada for the purposes of subsection (1); and

(b) on the recommendation of the Minister of National Revenue, defining the words "aircraft", "vehicles" and "vessels" for the purposes of subsection (2).

#### Application

**96.** An application for relief under section 95 must be

(a) accompanied by evidence satisfactory to the Minister of National Revenue that the goods were exported and

(i) in respect of goods referred to in paragraph 95(1)(a), repairs could not have been made in Canada at the place the goods were located before their exportation or within a reasonable distance of that place,

(ii) in respect of equipment referred to in paragraph 95(1)(b), the equipment added could not practicably have been added in Canada, or

(iii) in respect of goods referred to in paragraph 95(1)(c), it would not have been practicable to do the work in Canada; or

(b) if the application is made under subsection 95(2), made in the prescribed form and manner, with the prescribed information, at the time of the return to Canada of the goods in respect of which the application is made.

#### Release of returned goods

**97.** Subject to section 98, goods in respect of which relief is granted under section 95 before they are released may be released without any payment of duties.

#### Conditions for relief

**98.** Relief shall be granted under section 95 in respect of goods that were returned to Canada after being exported only if

(a) relief, conditional on the exportation of the goods, was not granted in respect of any duties paid or payable; or

(b) if an application for relief under subsection 95(1) is made, the portion of the duties, calculated in accordance with paragraph 99(1)(b), has been paid.

#### Value for duty of work abroad

**99.** (1) For the purposes of subsection 95(1), the portion of the duties in respect of which relief is granted under that subsection shall be

(a) the amount that, but for that subsection, would be payable in respect of the returned goods

less

(b) the amount obtained by applying the rate that would, but for that subsection, be applied to determine the duties under paragraph (a) to the value of

(i) in respect of goods referred to in paragraph 95(1)(a), the repairs made outside Canada,

(ii) in respect of equipment referred to in paragraph 95(1)(b), the equipment added and related work done outside Canada, or

(iii) in respect of goods referred to in paragraph 95(1)(c), the work done outside Canada.

(2) For the purposes of subsection (1), the Governor in Council may make regulations prescribing the method of determining the value of repairs made, equipment added and work done outside Canada.

#### General

##### Effect of relief

**100.** (1) Subject to section 89, if relief is granted under section 83, 86 or 95 from the payment of the whole or a portion of duties,

(a) no duties are payable, if the relief was from the payment of the whole; and

(b) the portion is not payable, if the relief was only from the payment of the portion.

##### Effect of relief on duty paid value

(2) Notwithstanding subsection (1), the amount of the customs duties payable on goods shall, for the purposes of determining the duty paid value of the goods, be determined as if relief had not been granted under section 83, 86 or 95.

##### Effect of relief on value under *Excise Tax Act*

(3) Notwithstanding subsection (1), the amount of customs duties payable on goods shall, for the purposes of determining the value of the goods under section 215 of the *Excise Tax Act*, be determined as if relief had been granted under section 95 but had not been granted under section 83 or 86.

##### Refund or cancellation of security

**101.** The Minister of National Revenue shall refund or cancel any security given

(a) in respect of the issuance of a licence under section 85, when the licence is cancelled;

(b) in respect of goods that would have been classified under tariff item No. 9993.00.00 if they had met the conditions set out in that tariff item, when the goods are accounted for under section 32 of the *Customs Act* and all duties payable in respect of the goods are paid;

(c) in respect of goods of tariff item No. 9993.00.00, if the goods are destroyed in the manner that the Minister of National Revenue directs or the destruction is certified by a customs officer or another person designated by that Minister;

(d) in respect of goods of any tariff item in respect of which security is required, other than goods of tariff item No. 9993.00.00, when the goods are exported in the manner and within the period referred to in the tariff item in respect of which security was given or within the period established or extended by the regulations; and

(e) in respect of goods of tariff item No. 9993.00.00, when the goods are exported, destroyed, consumed or expended in the manner and within the period referred to in that tariff item or within the period established or extended by the regulations.

### DIVISION 3

#### OBSOLETE OR SURPLUS GOODS

Definition of  
"obsolete or  
surplus goods"

**102.** In this Division, "obsolete or surplus goods" means goods that are

(a) found to be obsolete or surplus

(i) in the case of imported goods, by their importer or owner, or

(ii) in any other case, by their manufacturer, producer or owner;

(b) not used in Canada;

(c) destroyed in such manner as the Minister of National Revenue may direct;  
and

(d) not damaged before their destruction.

Relief for  
obsolete or  
surplus goods

**103.** If an application is made in accordance with section 104, a refund shall be granted of

(a) all duties, other than the goods and services tax, paid in respect of imported obsolete or surplus goods;

(b) all duties, other than taxes imposed under the *Excise Tax Act*, paid in respect of imported goods processed in Canada, if the goods that result from the processing become obsolete or surplus goods; and

(c) all duties, other than taxes imposed under the *Excise Tax Act*, paid in respect of imported goods, other than fuel or plant equipment, that are directly consumed or expended in the processing in Canada of goods that become obsolete or surplus goods.

Application

**104.** An application under section 103 must be

- (a) made in the prescribed form and manner, with the prescribed information,
  - (i) if the obsolete or surplus goods were imported, by the importer or owner of those goods, or
  - (ii) in any other case, by the manufacturer, producer or owner of the obsolete or surplus goods;
- (b) accompanied by a waiver referred to in section 112, if applicable, and by the prescribed documents; and
- (c) made within five years, or such other time as may be prescribed, after the goods in respect of which it is made are released.

#### Regulations

**105.** The Governor in Council may, on the recommendation of the Minister of National Revenue, make regulations prescribing documents that must accompany an application under section 103 and the period within which such an application must be made.

#### DIVISION 4

#### ADDITIONAL RELIEF

#### Refund or drawback

**106.** (1) Subject to subsection (2), section 90 and any regulations made under subsection (4), a refund or drawback shall be granted of all or a portion of duties if

- (a) relief or a refund of all or a portion of the duties could have been, but was not, granted under section 83, 95 or 103;
- (b) all or a portion of the duties was paid; and
- (c) an application is made in accordance with subsection (3) and section 112.

#### No refund or drawback in respect of tobacco products

(2) No refund or drawback of the duties or taxes imposed or levied on tobacco products under the *Excise Tax Act* or section 21 shall be granted under subsection (1), except if a refund of the whole or the portion of the duties is required to be granted under Division 3.

#### Application

- (3) For the purposes of subsection (1), an application must
  - (a) be supported by such evidence as the Minister of National Revenue may require;
  - (b) be made by a prescribed person or by a person belonging to a prescribed class of persons;
  - (c) be made in the prescribed form and manner, with the prescribed information, within four years, or within such other time as may be prescribed, after the goods in respect of which it is made are released; and

(d) if the goods have not been exported or deemed exported for the purposes of relief under section 83, disclose the number of the certificate issued under section 84.

#### Regulations

(4) For the purposes of this section, the Governor in Council may, on the recommendation of the Minister of National Revenue, make regulations prescribing

(a) the circumstances in which, and the classes of goods in respect of which, a refund or drawback of duties levied under section 21 or under the *Special Import Measures Act*, a surtax levied under section 49, 51, 56, 59, 64 or 72 or a temporary duty levied under any of sections 65 to 70, a tax levied under the *Excise Tax Act* or a duty levied under the *Excise Act* may not be granted under subsection (1);

(b) the portion of duties paid that may be granted as a refund or drawback under subsection (1);

(c) the persons or classes of persons who may make an application for a refund or drawback under subsection (1);

(d) the uses to which goods may be put or operations that goods may undergo after which the goods will be considered to be in the same condition;

(e) goods that are considered to be of the same class;

(f) the time within which an application for a refund or drawback must be made;

(g) the circumstances in which an application for a refund or drawback may be made;

(h) restrictions as to the classes of goods for which a refund or drawback may be granted; and

(i) the circumstances in which a refund or drawback may not be granted.

#### Designated goods

(5) Notwithstanding the exception in subsection 83(2), a refund or drawback of duties or taxes levied or imposed under section 21, the *Excise Act* or the *Excise Tax Act* shall be granted under paragraph (1)(a) on designated goods.

#### Overpayment of refund or drawback

**107.** (1) If a refund or drawback is granted under section 103 or 106 to a person who is not eligible for the refund or drawback or in an amount exceeding the amount for which the person is eligible, that person shall pay to Her Majesty in right of Canada, on the day that the refund or drawback is received,

(a) any amount for which the person is not eligible; and

(b) any interest granted under section 120 on the amount referred to in paragraph (a).

#### Debt to Her Majesty

(2) An amount referred to in subsection (1), while it remains unpaid, is deemed to be a debt owing to Her Majesty in right of Canada under the *Customs Act*.

Discretionary  
relief

**108.** (1) The Governor in Council may, on the recommendation of the Minister or the Minister of National Revenue, by order, remit duties.

Scope of relief

(2) A remission under subsection (1) may be conditional or unconditional, may be granted in respect of the whole or any portion of the duties and may be granted before any liability to pay the duties has arisen.

Remission by way  
of refund

(3) If duties have been paid, a remission under subsection (1) shall be made by granting a refund of the duties to be remitted.

DIVISION 5

GENERAL

Debts due the  
Crown

**109.** Relief under section 83 or 95 may be refused if, at the time the relief is authorized or required to be granted, the person to whom the relief is to be granted is indebted to

(a) Her Majesty in right of Canada; or

(b) Her Majesty in right of a province in respect of tax payable to the province, if there is an agreement between the Government of Canada and the government of the province authorizing Canada to collect the tax on behalf of the province.

Sum in lieu of  
drawback, refund,  
etc.

**110.** If circumstances exist that render it difficult to determine the exact amount of relief under section 83, of a refund under section 103 or of a refund or drawback under section 106 or the exact amount of a general remission of duties under an order made under section 108 of this Act or section 23 of the *Financial Administration Act*, the Minister of National Revenue may, with the consent of the applicant for the relief, refund, drawback or remission, grant to the applicant a sum, in an amount determined by that Minister, in lieu of the relief, refund, drawback or remission.

Failure to comply  
with conditions

**111.** (1) If relief from, or remission of, duties is granted under this Act, other than under section 86, or if remission of duties is granted under section 23 of the *Financial Administration Act* and a condition to which the relief or remission is subject is not complied with, the person who did not comply with the

condition shall, within 90 days or such other period as may be prescribed after the day of the failure to comply,

(a) report the failure to comply to an officer at a customs office; and

(b) pay to Her Majesty in right of Canada an amount equal to the amount of the duties in respect of which the relief or remission was granted, unless that person can provide evidence satisfactory to the Minister of National Revenue that

(i) at the time of the failure to comply with the condition, a refund or drawback would otherwise have been granted if duties had been paid, or

(ii) the goods in respect of which the relief or remission was granted qualify in some other manner for relief or remission under this Act or the *Financial Administration Act*.

#### Diversions

(2) If a drawback has been granted of duties paid in respect of imported goods by reason of a deemed exportation under subsection 83(3), the goods are not subsequently exported and the goods are diverted to a use other than a use set out in that subsection, the person who diverted the goods shall, within 90 days after the day of the diversion,

(a) report the diversion to an officer at a customs office; and

(b) pay the amount of the drawback and the amount of any interest granted on the drawback under section 120.

#### Debt to Her Majesty

(3) An amount referred to in paragraph (1)(b) or (2)(b), while it remains unpaid, is deemed to be a debt owing to Her Majesty in right of Canada under the *Customs Act*.

#### Regulations

(4) The Governor in Council may make regulations

(a) on the recommendation of the Minister of National Revenue, prescribing time limits for the application of subsection (1) and the goods or classes of goods in respect of which, or the circumstances in which, those limits apply; and

(b) on the recommendation of the Minister, prescribing the circumstances in which certain goods are exempted from the application of subsection (1) and the goods or classes of goods in respect of which, and the period for which and the conditions under which, those exemptions apply.

#### Waivers

**112.** An application under section 103 or 106 must be accompanied by a waiver, in the prescribed form, from every other person eligible to claim a drawback, refund or remission of the duties in respect of which the application is made, waiving that person's right to apply for the drawback, refund or remission.

#### Definition of "value"



**113.** For the purposes of sections 114 and 115, "value" means, in respect of a by-product, goods or merchantable scrap or waste,

(a) if the processor has sold the by-product, goods or merchantable scrap or waste in an arms-length transaction, the price at which the processor sold the by-product, goods or merchantable scrap or waste; and

(b) in any other case, the price at which the processor would ordinarily have sold the by-product, goods or merchantable scrap or waste in an arms-length transaction,

(i) in the case of an application for a drawback or refund, at the time the application is made, or

(ii) if relief from the payment of duties has been granted under section 83, at the time the goods are exported.

Relief reduced by  
value of  
by-product

**114.** (1) If relief from payment of duties is granted in respect of goods under section 83 and the goods enter into a process that produces a by-product in respect of which relief could not have been granted, the processor shall, within 90 days after production of the by-product, pay to Her Majesty in right of Canada an amount that bears the same proportion to the amount of the relief as the value of the by-product bears to the total value of the products produced from the processing of the goods.

Debt to Her  
Majesty

(2) An amount referred to in subsection (1), while it remains unpaid, is deemed to be a debt owing to Her Majesty in right of Canada under the *Customs Act*.

Amount of drawback  
or refund not paid  
reduced by value  
of by-product

(3) If goods in respect of which an application was made under section 103 or 106 enter into a process that produces a by-product in respect of which a refund or drawback cannot be granted and the drawback or refund has not yet been paid, the amount of the drawback or refund shall be reduced by the same proportion that the value of the by-product bears to the total value of the products produced from the processing of the goods.

Relief reduced by  
value of  
merchantable scrap  
or waste

**115.** (1) If goods in respect of which relief is granted under section 83 enter into a process that produces merchantable scrap or waste in respect of which the relief could not have been granted, the processor shall, within 90 days after the production of the scrap or waste, pay to Her Majesty in right of Canada an amount equal to the product obtained by multiplying the value of the merchantable scrap or waste by the rate of customs duty that applies, at the time that the scrap or waste was produced, to merchantable scrap or waste of the same kind.

Debt to Her  
Majesty

(2) An amount referred to in subsection (1), while it remains unpaid, is deemed to be a debt owing to Her Majesty in right of Canada under the *Customs Act*.

Drawback or refund  
reduced by value  
of merchantable  
scrap or waste

(3) If goods in respect of which an application was made under section 103 or 106 enter into a process that produces merchantable scrap or waste in respect of which a refund or drawback cannot be granted and the drawback or refund has not yet been paid, the amount of the drawback or refund shall be reduced by an amount equal to the product obtained by multiplying the value of the merchantable scrap or waste by the rate of customs duty that applies, at the time the merchantable scrap or waste results from the process, to merchantable scrap or waste of the same kind.

Interest on  
overpayment in  
relation to a  
refund or drawback

**116.** (1) Any person who is liable under subsection 107(1) to pay an amount, other than an amount in respect of duty levied under the *Special Import Measures Act*, shall pay, in addition to the amount, interest at the specified rate for the period beginning on the first day after the refund or drawback was granted and ending on the day the amount is paid in full, calculated on the amount of the balance outstanding.

Interest on  
failure to comply  
or diversion

(2) Subject to subsection (4), a person who is liable under subsection 111(1) or (2) to pay an amount, other than an amount in respect of duty levied under the *Special Import Measures Act*, shall pay, in addition to the amount, interest at the specified rate for the period beginning on the day that is 90 days before the liability was incurred and ending on the day the amount is paid in full, calculated on the amount of the balance outstanding.

Interest on  
by-products and  
merchantable scrap  
or waste

(3) Subject to subsection (4), a person who is liable under section 114 or 115 to pay an amount, other than an amount in respect of duty levied under the *Special Import Measures Act*, shall pay, in addition to the amount, interest at the specified rate for the period beginning on the first day after the production of the by-product or merchantable scrap or waste and ending on the day the amount is paid in full, calculated on the amount of the balance outstanding.

Exception

(4) If a person pays an amount owing under paragraph 111(1)(b) or section 114 or 115 within the 90 day period referred to in that paragraph or section, no interest on the amount is payable by the person under subsection (2) or (3).

Computation of  
interest on  
certain duties

(5) A person who is liable under paragraph 111(1)(b) or section 114 or 115 to pay an amount in respect of duty levied under the *Special Import Measures Act* shall pay interest at the prescribed rate in respect of each month or fraction of a month during the period beginning on the ninety-first day after the day the amount became payable and ending on the day the amount is paid in full, calculated on the amount of the balance outstanding.

Computation of  
interest on  
certain duties

(6) A person who is liable under section 92, subsection 107(1) or paragraph 111(2)(b) to repay the amount of a drawback or relief in respect of duty levied under the *Special Import Measures Act* and any interest on the drawback shall pay, in addition to those amounts, interest at the prescribed rate in respect of each month or fraction of a month during the period beginning on the first day after the day the drawback was granted or the person failed to comply with a condition to which the relief was subject, as the case may be, and ending on the day those amounts are repaid in full, calculated on the amount of the balance outstanding.

Interest on the  
payment of relief  
for NAFTA

(7) A person who is liable under subsection 89(1) to pay an amount, other than an amount in respect of duty levied under the *Special Import Measures Act*, shall pay, in addition to the amount, interest at the specified rate for the period beginning on the sixty-first day after the day the amount became payable and ending on the day the amount is paid in full, calculated on the amount of the balance outstanding.

Interest to be  
compounded

**117.** Interest computed at a prescribed rate or at a specified rate, other than in respect of an amount in respect of duty levied under the *Special Import Measures Act*, shall be compounded daily and, if interest computed in respect of an amount under a provision of this Act is unpaid on the day it would, but for this section, have ceased to be computed under that provision, interest at the specified rate, computed and compounded daily on the unpaid interest from that day to the day it is paid, shall be paid in the same manner as the provision requires the principal amount to be paid.

Prescribed rate  
may be authorized

**118.** The Minister of National Revenue may authorize persons who are required under a provision of this Act to pay interest on an amount at a specified rate to instead pay interest under that provision at the prescribed rate.

Waiver of interest

**119.** (1) The Minister of National Revenue may at any time waive or cancel payment of all or any portion of any interest otherwise payable under this Part.

Interest on  
interest refunded

(2) If, as a result of a waiver or cancellation under subsection (1), a person is refunded an amount of interest that was paid, the person shall be given, in addition to the refund, interest at the prescribed rate for the period beginning on the first day after the day the amount was paid and ending on the day the refund is given, calculated on the amount of the refund.

#### Interest

**120.** (1) A person who is granted a refund or drawback of duties under section 103 or 106, other than duty levied under the *Special Import Measures Act*, shall be granted, in addition to the drawback or refund, interest on the drawback or refund at the prescribed rate for the period beginning on the ninety-first day after an application for the drawback or refund is made in accordance with this Part and ending on the day the drawback or refund is granted.

#### Interest on SIMA duty

(2) A person who, under a provision of this Part other than section 108, is granted a drawback or refund of an amount in respect of duty levied under the *Special Import Measures Act* shall be granted, in addition to the drawback or refund, interest thereon at the prescribed rate in respect of each month or fraction of a month during the period beginning on the ninety-first day after the day an application for the drawback or refund is made in accordance with this Part and ending on the day the drawback or refund is granted.

#### Payment out of C.R.F.

**121.** A drawback or refund granted under this Part shall be paid out of the Consolidated Revenue Fund.

## PART 4

### REGULATIONS AND ORDERS

#### Regulations

**122.** The Minister of National Revenue may make regulations

(a) for the purposes of tariff item No. 9813.00.00 or 9814.00.00, permitting the importation free of customs duties of containers not originating in Canada, if that Minister is satisfied that a like quantity of usable containers has been exported; and

(b) for the purposes of tariff item No. 9897.00.00, prescribing

(i) conditions under which specimens of aigrettes, egret plumes or osprey plumes and the feathers, quills, heads, wings, tails, skins or parts of skins of wild birds of that tariff item may be imported for any museum or for scientific or educational purposes, and

(ii) the manner in which materials from used or second-hand mattresses shall be cleaned and fumigated and the certificates that shall accompany those materials.

#### Prescribed documentation

**123.** The Minister of National Revenue may prescribe documentation that is considered acceptable for the purposes of tariff item No. 9827.00.00.

Administrative  
powers of Minister  
of National  
Revenue

**124.** The Minister of National Revenue may recognize authorities, representatives or authorized persons in a country of origin as competent for the purposes of conditions of classification of goods under a tariff item.

Regulations

**125.** (1) The Governor in Council may, on the recommendation of the Minister, make regulations

(a) amending the List of Tariff Provisions to change or prescribe conditions of classification of goods for the purposes of Chapter 99 of that List;

(b) amending the List of Tariff Provisions to prescribe conditions for the classification of goods under heading No. 98.04 and any of tariff item Nos. 9807.00.00, 9814.00.00, 9816.00.00, 9938.00.00 and 9989.00.00;

(c) prescribing territories for the purposes of the definition "country" in subsection 2(1);

(d) prescribing eligible Commonwealth countries or conditions for eligibility of Commonwealth countries for the purposes of a tariff item of heading No. 51.11, 51.12 or 58.03;

(e) prescribing a rate of interest or rules for determining a rate of interest for the purposes of any provision of this Act;

(f) amending the schedule to exempt goods of a tariff item of Chapter 98 of the List of Tariff Provisions from customs duty imposed under section 20 or duties imposed under section 21 or 22 or under any other Act of Parliament relating to customs;

(g) prescribing conditions for the classification of conveyances or containers under tariff item No. 9801.00.10, 9801.00.20 or 9808.00.00;

(h) prescribing conditions for the classification of goods under tariff item No. 9805.00.00;

(i) reducing the maximum value of goods that are entitled to be classified under a tariff item of heading No. 98.04;

(j) withdrawing privileges from a country that refuses to grant the same privileges to Canadian officials holding corresponding or equivalent posts in that country, for the purposes of tariff item No. 9808.00.00;

(k) designating foreign countries, military service agencies and institutions, and withdrawing privileges from a country that refuses to grant corresponding privileges, for the purposes of tariff item No. 9810.00.00;

(l) amending the list of products set out in tariff item No. 9905.00.00;

(m) designating goods for the purposes of tariff item No. 9938.00.00;

(n) amending the list of goods in tariff item No. 9987.00.00;

(o) in respect of goods or classes of goods of heading No. 98.26, amending the schedule to

(i) add, delete or amend tariff items relating to goods or classes of goods classified under each tariff item of that heading,

(ii) amend the rates of customs duty levied on goods or classes of goods classified under a tariff item of that heading,

(iii) amend the conditions under which goods or classes of goods may be imported under a tariff item of that heading,

(iv) exclude any goods or classes of goods from the application of a tariff item of that heading,

(v) define terms of that heading, and

(vi) amend the maximum value of goods that may be imported under a tariff item of that heading;

(p) reducing any duties, as defined in subsection 2(1) of the *Customs Act*, on goods of Chapter 89 in the List of Tariff Provisions in such circumstances and under such conditions as are prescribed;

(q) for the purposes of tariff item No. 9993.00.00, limiting or restricting the use, kinds or quantity of goods that may be classified under that tariff item;

(r) for the purposes of tariff item No. 9897.00.00,

(i) amending that tariff item to exclude goods manufactured or produced wholly or in part by prison labour from that tariff item, or prescribing the conditions under which such goods may be excluded from that tariff item,

(ii) amending that tariff item to exclude used or second-hand motor vehicles manufactured before the calendar year in which importation is sought to be made from that tariff item, or prescribing the conditions under which such vehicles may be excluded from that tariff item, and

(iii) amending that tariff item to exclude used or second-hand aircraft from that tariff item, or prescribing the conditions under which such aircraft may be excluded from that tariff item;

(s) for the purposes of tariff item No. 9898.00.00, amending that tariff item to prescribe conditions under which arms, military stores, munitions of war or offensive weapons are excluded from that tariff item;

(t) prescribing anything that is to be prescribed under a tariff item in Chapter 98 or 99 in the List of Tariff Provisions;

(u) prescribing anything required to be prescribed by the Governor in Council under this Act; and

(v) generally, for carrying out the purposes and provisions of this Act.

Approval by  
Parliament

(2) Regulations made under paragraph (1)(f) or (i), or under subparagraph (1)(o)(vi) that reduce the maximum value of goods, cease to have effect on the one hundred and eightieth day after the day on which they become effective or,

if Parliament is not then sitting, the fifteenth day thereafter that either House of Parliament is sitting unless, not later than that day, the regulations are approved by a resolution adopted by both Houses of Parliament.

Meaning of  
"sitting day"

(3) For the purposes of subsection (2), a day on which either House of Parliament sits is deemed to be a sitting day.

Maximum value  
restored

(4) At the time regulations referred to in subsection (2) cease to have effect, the customs duty or duties exempted, or the maximum value reduced, by the regulations shall be restored.

Retroactive effect

(5) A regulation made under subsection (1) that provides that it is to come into force on a day earlier than the day on which it is registered under section 6 of the *Statutory Instruments Act* comes into force on that earlier day if it gives effect to a public announcement made on or before that earlier day.

Regulations

**126.** The Governor in Council may, on the recommendation of the Minister of National Revenue, make regulations

- (a) prescribing, for the purposes of section 95,
  - (i) the period after the exportation of goods within which the goods must be returned to Canada, and
  - (ii) what constitutes satisfactory proof of exportation of the goods;
- (b) defining the expressions "baggage", "conveyance", "former resident", "resident" and "temporary resident" for the purposes of Chapter 98 of the List of Tariff Provisions;
- (c) prescribing conditions for the classification of goods of any of tariff item Nos. 9801.00.10, 9801.00.20, 9808.00.00 and 9810.00.00;
- (d) for the purposes of tariff item No. 9802.00.00,
  - (i) prescribing conditions under which conveyances may be imported,
  - (ii) limiting the length of time that any imported conveyance may remain in Canada and the use that may be made of the conveyance while it remains in Canada, and authorizing the Minister of National Revenue to extend those limits,
  - (iii) excluding any class of conveyance from classification under that tariff item, and
  - (iv) authorizing the Minister of National Revenue to require security for imported conveyances and limit the amount and type of security that may be required;
- (e) for the purposes of tariff item No. 9803.00.00,

(i) prescribing conditions under which goods or conveyances may be imported and authorizing the Minister of National Revenue to establish such conditions in specified circumstances,

(ii) limiting the quantity of any class of goods that may be imported and authorizing the Minister of National Revenue to increase those limits in specified circumstances,

(iii) limiting the length of time that imported goods or conveyances may remain in Canada and authorizing the Minister of National Revenue to extend those limits,

(iv) excluding any class of goods or conveyances from the operation of that tariff item, and

(v) authorizing the Minister of National Revenue to require security for imported goods or conveyances and limit the amount and type of security that may be required;

(f) for the purposes of tariff item No. 9805.00.00,

(i) exempting goods or classes of goods imported by any class of persons referred to in that tariff item from any of its requirements relating to the period during which goods must be owned, possessed or used abroad, and

(ii) substituting less exigent requirements relating to the period during which goods or classes of goods of that tariff item must be owned, possessed or used abroad by any class of persons referred to in that tariff item;

(g) for the purposes of tariff item No. 9807.00.00,

(i) defining the word "settler",

(ii) exempting goods or classes of goods imported by any classes of persons referred to in that tariff item from any of its requirements relating to ownership, possession or use, and

(iii) substituting less exigent requirements relating to the ownership, possession or use of goods or classes of goods of that tariff item;

(h) for the purposes of tariff item No. 9897.00.00,

(i) defining the expressions "periodical" and "special edition",

(ii) prescribing conditions under which an issue of a periodical will be found to be an issue of a special edition, and

(iii) prescribing conditions under which an issue of a periodical will be found to be an issue more than five per cent of the advertising space in which consisted of space used for advertisements that indicated specific sources of availability in Canada, or specific conditions relating to the sale or provision in Canada, of any goods or services; and

(i) for the purposes of tariff item No. 9993.00.00,

(i) extending any period of time that the goods imported under that tariff item may remain in Canada, if it is impracticable or impossible for the importer to export the goods,

(ii) setting out the conditions under which the requirement for security or for prescribed documents may be waived,



(iii) prescribing the form, nature and conditions of any security satisfactory to the Minister of National Revenue, and

(iv) prescribing any other thing to be prescribed for the purposes of that tariff item.

Other orders

**127.** (1) The Minister of National Revenue or Deputy Minister of National Revenue may order that goods, specified in the order, that would otherwise be classified under a tariff item in Chapter 7 or 8 of the List of Tariff Provisions shall be classified under another tariff item in that Chapter when those goods are imported through a customs office in a region or part of Canada specified in the order during a period specified in the order.

Exempt goods

(2) If, before the coming into force of an order under subsection (1), a person purchased goods for importation through a customs office in a region or part of Canada specified in the order in the expectation in good faith that the "Free" rate of customs duty set out in a tariff item specified in the order would apply to the goods and, at the time of coming into force of the order, the goods were in transit to the purchaser in Canada, the order does not apply to those goods.

Exempt from SIA

(3) An order made under subsection (1) is deemed not to be a regulation within the meaning of the *Statutory Instruments Act*.

Discretion  
exercisable

**128.** An order or regulation made under any of sections 122 to 127 may authorize the Minister of National Revenue or a customs officer designated by that Minister to exercise discretion as to whether conditions set out in a tariff item have been satisfied, including any conditions as to reasonability, necessity or practicability.

PART 5

PROHIBITED GOODS

Prohibited imports

**129.** (1) No person shall import goods of tariff item No. 9897.00.00, 9898.00.00 or 9899.00.00.

Subsection 10(1)  
does not apply

(2) Subsection 10(1) does not apply in respect of goods referred to in subsection (1).

PART 6

TRANSITIONAL PROVISIONS

Definition of  
"former Act"

130. In sections 132, 133 and 135 to 140, "former Act" means the *Customs Tariff* as it read immediately before the coming into force of section 215.

Amendment of  
schedule

131. (1) The Minister may, by order, amend the schedule, if the Minister considers it necessary to do so as a consequence of the enactment of this Act.

Retroactivity

(2) An order made under subsection (1) may, if it so provides, be retroactive and have effect in respect of a period before it is made, but no such order may have effect in respect of a period before this section comes into force.

Expiry date

(3) Subsection (1) ceases to have effect three years after the day on which this section comes into force.

Amendment of other  
Acts

132. (1) The Governor in Council may, on the recommendation of the Minister, by order, amend any Act of Parliament other than this Act, by

(a) substituting, for any reference made therein to a tariff item or code or portion of a tariff item or code in the former Act, a reference to a tariff item or portion of a tariff item in this Act;

(b) substituting, for any reference made therein to a schedule other than Schedule VII to the former Act, a reference to the schedule to this Act;

(c) substituting, for any reference made therein to Schedule VII to the former Act, a reference to tariff item Nos. 9897.00.00 to 9899.00.00; and

(d) making such other modifications as the Governor in Council considers necessary as a consequence of a substitution made under paragraphs (a) to (c) or as a consequence of the enactment of this Act.

Expiry date

(2) Subsection (1) ceases to have effect three years after the day on which this section comes into force.

References to  
former tariff  
items and codes

133. If a tariff item or code or portion of a tariff item or code of the former Act is referred to in an Act of Parliament, or in a regulation or order made thereunder, the reference to that tariff item, code or portion shall, unless the context otherwise requires, be construed as a reference to the tariff item or portion of a tariff item of this Act referring to goods that correspond most closely to goods referred to in the tariff item, code or portion of a tariff item or code of the former Act.

Retroactivity of  
order and  
regulations

134. (1) An order or regulation made under this Act may, if it so provides, be retroactive and have effect in respect of any period before it is made, but no such order or regulation may have effect from a day earlier than the day on which this section comes into force.

Expiry date

(2) Subsection (1) ceases to have effect 18 months after the day on which this section comes into force.

Continuation of  
regulations and  
orders

135. If goods were accounted for under section 32 of the *Customs Act* before the day on which this section comes into force and were subject to the former Act, the *Customs Act* or any other Act of Parliament, or to any regulation or order made thereunder, those Acts, regulations or orders continue to apply to those goods after the coming into force of this section.

Orders under  
former Act

136. (1) Every order made under section 59.11(2) of the former Act before the coming into force of this section is deemed to have been made under subsection 51(1) of this Act.

Orders under  
former Act

(2) Every order made under subsection 59.11(13) of the former Act before the coming into force of this section is deemed to have been made under subsection 59(1) of this Act.

Orders under  
former Act

137. (1) Every order made under subsection 59.1(1) of the former Act before the coming into force of this section is deemed to have been made under subsection 51(1) of this Act.

Orders under  
former Act

(2) Every order made under subsection 59.1(8) of the former Act before the coming into force of this section is deemed to have been made under subsection 59(1) of this Act.

Orders under  
former Act

(3) Every order made under section 60.01 of the former Act before the coming into force of this section is deemed to have been made under section 64 of this Act.

Orders under  
former Act

(4) Every order made under section 60.1 of the former Act before the coming into force of this section is deemed to have been made under section 65 of this Act.

Orders under  
former Act

(5) Every order made under section 60.11 of the former Act before the coming into force of this section is deemed to have been made under section 66 of this Act.

Orders under  
former Act

(6) Every order made under section 60.12 of the former Act before the coming into force of this section is deemed to have been made under section 67 of this Act.

Orders under  
former Act

(7) Every order made under section 60.2 of the former Act before the coming into force of this section is deemed to have been made under section 68 of this Act.

Orders under  
former Act

(8) Every order made under section 60.3 of the former Act before the coming into force of this section is deemed to have been made under section 69 of this Act.

Orders under  
former Act

(9) Every order made under section 60.4 of the former Act before the coming into force of this section is deemed to have been made under section 70 of this Act.

Bonded warehouse  
licences continued

138. Licences issued under section 81 of the former Act and in effect on the day on which section 85 of this Act comes into force continue to have effect under that section on and after that day.

Security

139. Security held by the Minister of National Revenue to secure the payment of duties under subsection 81(4) of the former Act is continued as security for the purposes of subsection 85(4) of this Act on and after the day on which this section comes into force.

Certificates  
continued

140. Certificates issued under section 80.1 of the former Act and in effect on the day on which section 84 of this Act comes into force continue to have effect under that section on and after that day.

PART 7

RELATED AMENDMENTS

R.S., c. 1 (2nd  
Supp.)

*Customs Act*

R.S., c. 41 (3rd  
Supp.), s. 118;  
1992, c. 28, s.  
1(2)(F); 1993, c.  
44, s. 81; 1995,  
c. 41, s. 1(1);  
1996, c. 33, s.  
28(2)

**141. (1) The definitions "bonded warehouse", "duties", "preferential tariff treatment under CIFTA", "preferential tariff treatment under NAFTA", "prescribed" and "tariff classification" in subsection 2(1) of the *Customs Act* are replaced by the following:**

"bonded warehouse"  
« *entrepôt de  
stockage* »

"bonded warehouse" means a place licensed as a bonded warehouse by the Minister under subsection 85(1) of the *Customs Tariff*;

"duties"  
« *droits* »

"duties" means any duties or taxes levied or imposed on imported goods under the *Customs Tariff*, the *Excise Tax Act*, the *Excise Act*, the *Special Import Measures Act* or any other Act of Parliament, but, for the purposes of subsection 3(1), paragraphs 59(3)(b) and 65(1)(b), sections 69 and 73 and subsections 74(1), 75(2) and 76(1), does not include taxes imposed under Part IX of the *Excise Tax Act*;

"preferential  
tariff treatment  
under CIFTA"  
« *traitement  
tarifaire  
préférentiel de  
l'ALÉCI* »

"preferential tariff treatment under CIFTA" means, in respect of goods, entitlement to the benefit of the Canada-Israel Agreement Tariff under sections 46 and 47 of the *Customs Tariff*;

"preferential  
tariff treatment  
under NAFTA"  
« *traitement  
tarifaire  
préférentiel de  
l'ALÉNA* »

"preferential tariff treatment under NAFTA" means, in respect of goods, entitlement to the benefit of the United States Tariff, the Mexico Tariff or the Mexico-United States Tariff under section 45 of the *Customs Tariff*;

"prescribed"  
« *réglementaire* »

"prescribed" means

(a) in respect of a form, the information to be provided with a form, or the manner of filing a form, prescribed by the Minister, and

(b) in any other case, prescribed by regulation or determined in accordance with rules prescribed by regulation;

"tariff  
classification"  
« *classement  
tarifaire* »

"tariff classification" means the classification of imported goods under a tariff item in the List of Tariff Provisions set out in the schedule to the *Customs Tariff*;

1995, c. 41, s.  
1(3)

**(2) The portion of subsection 2(1.1) of the Act before the definition "alcohol", "ethyl alcohol" and "spirits" is replaced by the following:**

Definitions

(1.1) For the purpose of the definition "designated goods" in subsection (1),

1995, c. 41, s.  
1(3)

**(3) The definitions "diamonds", "pearls" and "precious and semi-precious stones" in subsection 2(1.1) of the Act are replaced by the following:**

"diamonds"  
« *diamants* »

"diamonds" means goods for personal use or for adornment of the person and classified under subheading Nos. 7102.10, 7102.31 and 7102.39 in the List of Tariff Provisions set out in the schedule to the *Customs Tariff*;

"pearls"  
« *perles* »

"pearls" means goods for personal use or for adornment of the person and classified under heading No. 71.01 in the List of Tariff Provisions set out in the schedule to the *Customs Tariff*;

"precious and  
semi-precious  
stones"  
« *pierres  
précieuses ou  
fines* »

"precious and semi-precious stones" means goods for personal use or for adornment of the person and classified under heading No. 71.03 in the List of Tariff Provisions set out in the schedule to the *Customs Tariff*;

**142. The Act is amended by adding the following after section 8:**

*Electronic Filing*

Meaning of  
"electronic  
filing"

**8.1** (1) For the purposes of this section, "electronic filing" means using electronic media in a manner specified in writing by the Minister.

Application for  
electronic filing

(2) A person who is required to file forms with the Minister under this Act or the *Customs Tariff* and who meets the criteria specified in writing by the Minister may file with the Minister in the prescribed manner an application, in the prescribed form with the prescribed information, for authorization to file the forms by way of electronic filing.

Authorization

(3) If the Minister receives an application of a person under subsection (2) and is satisfied that the person meets the criteria referred to in that subsection, the Minister may, in writing, authorize the person to file forms by way of electronic filing, subject to such conditions as the Minister may at any time impose.

Revocation

(4) The Minister may revoke an authorization granted to a person under subsection (3) if

- (a) the person, in writing, requests the Minister to revoke the authorization;
- (b) the person fails to comply with any condition imposed in respect of the authorization or any provision of this Act or the *Customs Tariff*;
- (c) the Minister is no longer satisfied that the criteria referred to in subsection (2) are met; or
- (d) the Minister considers that the authorization is no longer required.

Notice of  
revocation

(5) If the Minister revokes the authorization, the Minister shall notify the person in writing of the revocation and its effective date.

Deemed filing

(6) For the purposes of this Act and the *Customs Tariff*, if a person files a form by way of electronic filing in accordance with the conditions, if any, imposed under subsection (3), it is deemed to be filed in the prescribed form with the Minister on the day the Minister acknowledges receipt of it.

**143. (1) Section 12 of the Act is amended by adding the following after subsection (3):**

Goods returned to  
Canada

(3.1) For greater certainty, for the purposes of the reporting of goods under subsection (1), the return of goods to Canada after they are taken out of Canada is an importation of those goods.

R.S., c. 41 (3rd  
Supp.), s. 119

**(2) The portion of subsection 12(7) of the Act before paragraph (a) is replaced by the following:**

Certain goods not  
subject to seizure

(7) Goods described in tariff item No. 9813.00.00 or 9814.00.00 in the List of Tariff Provisions set out in the schedule to the *Customs Tariff*

1995, c. 41, s.  
3(1)

**144. (1) Paragraph 19(1)(c) of the Act is replaced by the following:**

(c) where such goods are designated as ships' stores by regulations made under paragraph 93(g) of the *Customs Tariff*, remove them or cause them to be removed from a customs office or sufferance warehouse for use on board a conveyance of a class prescribed under that paragraph in accordance with regulations made under that paragraph;

1995, c. 41, s.  
3(3)

**(2) Paragraph 19(2)(c) of the Act is replaced by the following:**

(c) where the goods are designated as ships' stores by regulations made under paragraph 93(g) of the *Customs Tariff*, remove them or cause them to be removed from a bonded warehouse for use on board a conveyance of a class prescribed under that paragraph in accordance with regulations made under that paragraph;

1995, c. 41, s. 4

**145. Paragraph 20(2)(c) of the Act is replaced by the following:**

(c) where the goods are designated as ships' stores by regulations made under paragraph 93(g) of the *Customs Tariff*, received on board a conveyance of a class prescribed under that paragraph for use on the conveyance in accordance with regulations made under that paragraph;

1993, c. 44, s. 82

**146. Subsections 32.2(2) and (3) of the Act are replaced by the following:**

Corrections to  
other declarations

(2) Subject to regulations made under subsection (7), an importer or owner of goods or a person who is within a prescribed class of persons in relation to



goods or is authorized under paragraph 32(6)(a) or subsection 32(7) to account for goods shall, within ninety days after the importer, owner or person has reason to believe that the declaration of origin (other than a declaration of origin referred to in subsection (1) or (1.1)), declaration of tariff classification or declaration of value for duty for those goods made under this Act is incorrect,

(a) make a correction to the declaration in the prescribed form and manner, with the prescribed information; and

(b) pay any amount owing as duties as a result of the correction to the declaration and any interest owing or that may become owing on that amount.

Correction treated  
as re-  
determination

(3) A correction made under this section is to be treated for the purposes of this Act as if it were a re-determination under paragraph 59(1)(a).

Four-year limit on  
correction  
obligation

(4) The obligation under this section to make a correction in respect of imported goods ends four years after the goods are accounted for under subsection 32(1), (3) or (5).

Correction not to  
result in refund

(5) This section does not apply to require or allow a correction that would result in a claim for a refund of duties.

Diversions

(6) The obligation under this section to make a correction to a declaration of tariff classification includes an obligation to correct a declaration of tariff classification that is rendered incorrect by a failure, after the goods are accounted for under subsection 32(1), (3) or (5), to comply with a condition imposed under a tariff item in the List of Tariff Provisions set out in the schedule to the *Customs Tariff* or under any regulations made under that Act in respect of a tariff item in that List.

Regulations

(7) The Governor in Council may make regulations prescribing the circumstances in which certain goods are exempt from the operation of subsection (6) and the classes of goods in respect of which, the length of time for which and the conditions under which the exemptions apply.

Duties

(8) If a declaration of tariff classification is rendered incorrect by a failure referred to in subsection (6), for the purposes of paragraph (2)(b), duties do not include duties or taxes levied under the *Excise Tax Act*, the *Excise Act* or the *Special Import Measures Act*.

1992, c. 28, s.  
7(1)

**147. Section 33.1 of the Act is replaced by the following:**

Penalty for  
failure to account

**33.1** Every person who fails to account for imported goods, or fails to account for imported goods in accordance with this Part and the regulations made under this Act, is liable to a penalty of \$100 for each failure.

1992, c. 28, s.  
7(1)

**148. Subsections 33.4(3) and (4) of the Act are replaced by the following:**

When duties deemed  
payable

(3) For the purposes of subsection (1), any duties in respect of goods payable under paragraph 59(3)(a) or 65(1)(a) are deemed to have become payable on the day duties became payable in respect of the goods under this Part.

Interest-free  
period

(4) If an amount of duties in respect of goods that is payable by a person under paragraph 59(3)(a) or 65(1)(a) in accordance with a determination, re-determination or further re-determination is paid by the person within thirty days after the day (in this subsection referred to as the "decision day") the determination, re-determination or further re-determination, as the case may be, is made, interest is not payable under subsection (1) on the amount for the period beginning on the day after the decision day and ending on the day the amount is paid.

1993, c. 44, s. 83

**149. Section 35.01 of the Act is replaced by the following:**

Requirement to  
comply with  
marking  
regulations

**35.01** No person shall import goods that are required to be marked by any regulations made under section 19 of the *Customs Tariff* unless the goods are marked in accordance with those regulations.

1993, c. 44, s. 83

**150. Paragraph 35.02(2)(a) of the Act is replaced by the following:**

(a) to mark imported goods in accordance with the regulations made under section 19 of the *Customs Tariff*, within such reasonable time as may be stipulated in the notice, if there has been a failure to comply with section 35.01 with respect of the goods; or

1995, c. 41, s. 12

**151. Subsection 37(2) of the Act is replaced by the following:**

Unclaimed goods in  
a bonded warehouse

(2) Goods, other than goods of a class prescribed by regulations made under subparagraph 93(f)(xii) of the *Customs Tariff*, that have not been removed from a bonded warehouse within such time as may be prescribed by regulations made under subparagraph 93(f)(xi) of that Act may be deposited by an officer in a place of safe-keeping designated by the Minister for that purpose.

1995, c. 41, s. 13

**152. Subsection 39.1(2) of the Act is replaced by the following:**

Goods in bonded  
warehouse forfeit  
if not removed

(2) Goods of a class prescribed by regulations made under subparagraph 93(f)(xii) of the *Customs Tariff* that have not been removed from a bonded warehouse within such period of time as may be prescribed by regulations made under subparagraph 93(f)(xi) of that Act are, at the end of that period of time, forfeit.

1995, c. 41, s. 15

**153. Paragraphs 40(3)(c) and (d) of the Act are replaced by the following:**

- (c) granted a certificate under section 84 of the *Customs Tariff*, or
- (d) granted a licence under section 85 of that Act,

**154. The Act is amended by adding the following after section 42:**

*Verifications*

Method of  
verification

**42.01** An officer, or an officer within a class of officers, designated by the Minister for the purposes of this section, may conduct a verification of origin (other than a verification of origin referred to in section 42.1), verification of tariff classification or verification of value for duty in respect of imported goods. The methods by which the verification may be conducted include prescribed methods.

1995, c. 41, s. 16

**155. Subparagraphs 42.1(1)(b)(i) and (ii) of the Act are replaced by the following:**

- (i) a relief under section 83 of the *Customs Tariff* from the payment of any duties payable in respect of imported goods that are subsequently exported to a NAFTA country, or
- (ii) a drawback under section 106 of the *Customs Tariff* of duties paid in respect of imported goods that are subsequently exported to a NAFTA country.

1993, c. 44, s. 86

**156. Subsection 42.2(2) of the Act is replaced by the following:**

Statement of  
origin

(2) On completion of a verification of origin under paragraph 42.1(1)(a) or by such other manner as may be prescribed, an officer designated under subsection 42.1(1) shall provide the exporter or producer whose goods are subject to the verification of origin with a statement as to whether the goods are eligible for preferential tariff treatment under NAFTA under the regulations made pursuant to section 16 of the *Customs Tariff*.

1993, c. 44, s. 86

**157. Subsections 42.3(1) to (3) of the Act are replaced by the following:**

Effective date of  
re-determination  
of origin of goods  
subject to  
verification of  
origin

**42.3** (1) Subject to subsection (3), a re-determination or further re-determination of origin in respect of goods that are the subject of a verification of origin under this Act does not take effect until notice of it is given to the importer of the goods, and to any person who completed and signed a Certificate of Origin for the goods, if the result of the re-determination or further re-determination of origin is that

(a) the goods are not eligible for preferential tariff treatment under NAFTA on the basis of the tariff classification or value of one or more materials used in their production; and

(b) that tariff classification or value differs from the tariff classification or value applied to those materials by the NAFTA country from which the goods were exported.

Limitation

(2) A re-determination or further re-determination of origin referred to in subsection (1) shall not be applied to goods imported before the date on which the notice was given, if the customs administration of the NAFTA country from which the goods were exported has, before that date,

(a) given an advance ruling under Article 509 of NAFTA, or other ruling referred to in paragraph 12 of Article 506 of NAFTA, on the tariff classification or value of the materials referred to in subsection (1); or

(b) given consistent treatment with respect to the tariff classification or value of the materials referred to in subsection (1) on their importation into the NAFTA country.

Postponement of  
effective date

(3) The date on which a re-determination or further re-determination of origin referred to in subsection (1) takes effect shall be postponed for a period not exceeding ninety days if the importer of the goods that are the subject of the re-determination or further re-determination, or any person who completed and signed a Certificate of Origin for the goods, establishes to the satisfaction of the Minister that the importer or the person, as the case may be, has relied in good faith, to the detriment of the importer or person, on the tariff classification or value applied to the materials referred to in that subsection by the customs administration of the NAFTA country from which the goods were exported.

1993, c. 44, s. 86

**158. Subsection 42.4(2) of the Act is replaced by the following:**

Denial or  
withdrawal of  
benefit

(2) Notwithstanding section 24 of the *Customs Tariff*, the Minister may, subject to the prescribed conditions, deny or withdraw preferential tariff treatment under NAFTA in respect of goods imported from a NAFTA country for which that treatment is claimed, if the exporter or producer of the goods has made false representations that identical goods exported or produced by that exporter or producer that are imported from a NAFTA country and for which preferential tariff treatment under NAFTA is claimed are eligible for that treatment.

1996, c. 33, s. 32

**159. Subsection 42.6(1) of the Act is replaced by the following:**

Statement of  
origin

**42.6** (1) On completion of a verification of origin under subsection 42.5(1), an officer designated under that subsection shall provide the exporter or producer whose goods are subject to the verification of origin with a statement as to whether the goods are eligible for preferential tariff treatment under CIFTA under the regulations made under section 16 of the *Customs Tariff*.

1993, c. 44, s. 88

**160. Section 57.01 of the Act is replaced by the following:**

Marking  
determination

**57.01** (1) Any officer, or any officer within a class of officers, designated by the Minister for the purposes of this section may, at or before the time goods imported from a NAFTA country are accounted for under subsection 32(1), (3) or (5), in the prescribed manner and subject to the prescribed conditions, make a determination as to whether the goods have been marked in the manner referred to in section 35.01 and shall give notice of the determination to the prescribed persons.

Deemed  
determination

(2) If an officer does not make a determination under subsection (1) in respect of goods imported from a NAFTA country at or before the time the goods are accounted for under subsection 32(1), (3) or (5), a determination as to whether the goods have been marked in the manner referred to in section 35.01 shall be deemed to have been made in accordance with any representations that have been made in respect of the marking of the goods by the person who accounted for the goods.

1988, c. 65, s.  
70; 1992, c. 28,  
ss. 11(1), 12(1),  
14; 1993, c. 44,  
ss. 89 to 95;  
1995, c. 41, s.

19; 1996, c. 33,  
s. 34

**161. The heading before section 57.1 and sections 57.1 to 64 of the Act are replaced by the following:**

*Determination, Re-determination and Further Re-determination of Origin, Tariff Classification and Value for Duty of Imported Goods*

Application of  
sections 58 to 70

**57.1** For the purposes of sections 58 to 70,

(a) the origin of imported goods is to be determined in accordance with section 16 of the *Customs Tariff* and the regulations under it;

(b) the tariff classification of imported goods is to be determined in accordance with section 10 of the *Customs Tariff*, unless otherwise provided in that Act; and

(c) the value for duty of imported goods is to be determined in accordance with sections 47 to 55 of this Act and section 81 of the *Customs Tariff*.

Determination by  
officer

**58.** (1) Any officer, or any officer within a class of officers, designated by the Minister for purposes of this section, may determine the origin, tariff classification and value for duty of imported goods at or before the time they are accounted for under subsection 32(1), (3) or (5).

Deemed  
determination

(2) If the origin, tariff classification and value for duty of imported goods are not determined under subsection (1), the origin, tariff classification and value for duty of the goods are deemed to be determined, for the purposes of this Act, to be as declared by the person accounting for the goods in the form prescribed under paragraph 32(1)(a). That determination is deemed to be made at the time the goods are accounted for under subsection 32(1), (3) or (5).

Review of  
determination

(3) A determination made under this section is not subject to be restrained, prohibited, removed, set aside or otherwise dealt with except and to the extent and in the manner provided by section 59.

Re-determination

**59.** (1) An officer, or any officer within a class of officers, designated by the Minister for the purposes of this section may

(a) re-determine a determination of origin, tariff classification or value for duty of imported goods under section 58 at any time within

(i) four years after the date of the determination, on the basis of an audit or examination under section 42, a verification under section 42.01 or a verification of origin under section 42.1, or

(ii) four years after the date of the determination, if the Minister considers it advisable to make the re-determination; and

(b) further re-determine the origin, tariff classification or value for duty of imported goods, within four years or such further time as may be prescribed, on the basis of an audit or examination under section 42, a verification under section 42.01 or a verification of origin under section 42.1, after the granting of a refund under paragraphs 74(1)(c.1), (c.11), (e) or (f) that is treated by subsection 74(1.1) as a re-determination under paragraph (a) or the making of a correction under section 32.2 that is treated by subsection 32.2(3) as a re-determination under paragraph (a).

#### Notice requirement

(2) An officer who makes a determination under subsection 58(1) or a re-determination or further re-determination under subsection (1) shall without delay give notice of the determination, re-determination or further re-determination, including the rationale on which it is made, to the prescribed persons.

#### Actions required

(3) If a determination is made under subsection 58(1) or a re-determination or further re-determination is made under subsection (1) in respect of goods, such persons who were given notice under subsection (2) as may be prescribed shall, in accordance with the determination, re-determination or further re-determination, as the case may be,

(a) pay any amount owing, or additional amount owing, as the case may be, as duties in respect of the goods or, where a request is made under section 60, pay that amount or give security satisfactory to the Minister in respect of that amount and any interest owing or that may become owing on that amount; or

(b) be given a refund of any duties, or a refund of any duties and interest paid (other than interest that was paid because duties were not paid when required by subsection 32(5) or section 33), in excess of the duties owing in respect of the goods.

#### When amounts payable

(4) Any amount owing by or to a person under subsection (3) or 66(3) in respect of goods, other than an amount in respect of which security is given, is payable within thirty days after the day the person is given notice of the decision under subsection (2), whether or not a request is made under section 60.

#### Exception for par. (3)(a)

(5) For the purposes of paragraph (3)(a), the amount owing as duties in respect of goods under subsection (3) as a result of a determination made under subsection 58(1) does not include any amount owing as duties in respect of the goods under section 32 or 33.

#### Review of re-determination or further re-determination

(6) A re-determination or further re-determination made under this section is not subject to be restrained, prohibited, removed, set aside or otherwise dealt with except to the extent and in the manner provided by subsection 59(1) and sections 60 and 61.

*Re-determination and Further Re-determination by Deputy Minister*

Request for re-determination or further re-determination

**60.** (1) A person to whom notice of a decision is given under subsection 59(2) in respect of goods may, within ninety days after being given the notice, request a re-determination or further re-determination of origin, tariff classification or value for duty. The request may be made only after all amounts owing as duties and interest in respect of the goods are paid or security satisfactory to the Minister is given in respect of the total amount owing.

Request for review

(2) A person who is given an advance ruling under section 43.1, or who is given notice of a marking determination made under subsection 57.01(1), may, within ninety days after the time the person is given the advance ruling or the notice, request a review of the advance ruling or a re-determination of the marking determination.

How request to be made

(3) A request under this section must be made to the Deputy Minister, or to an officer, or an officer within a class of officers, designated by the Deputy Minister. The request must be made in the prescribed form and manner, with the prescribed information.

Deputy Minister's duty on receipt of request

(4) On receipt of a request under this section, the Deputy Minister or the officer shall, without delay,

- (a) re-determine or further re-determine the origin, tariff classification or value for duty;
- (b) affirm, revise or reverse the advance ruling; or
- (c) re-determine the marking determination.

Notice requirement

(5) The Deputy Minister or the officer shall without delay give notice of a decision made under subsection (4), including the rationale on which the decision is made, to the person who made the request.

What Deputy Minister may do

**61.** (1) The Deputy Minister may



(a) re-determine or further re-determine the origin, tariff classification or value for duty of imported goods

(i) at any time after a re-determination or further re-determination is made under paragraph 60(4)(a), but before an appeal is heard under section 67, on the recommendation of the Attorney General for Canada, if the re-determination or further re-determination would reduce duties payable on the goods,

(ii) at any time, if the person who accounted for the goods under subsection 32(1), (3) or (5) fails to comply with any provision of this Act or the regulations or commits an offence under this Act in respect of the goods, and

(iii) at any time, if the re-determination or further re-determination would give effect to a decision of the Canadian International Trade Tribunal, the Federal Court of Appeal or the Supreme Court of Canada made in respect of the goods;

(b) re-determine or further re-determine the marking determination of imported goods

(i) within four years after the determination is made under section 57.01, if the Minister considers it advisable to make the re-determination,

(ii) at any time, if the person who is given notice of a marking determination under section 57.01 fails to comply with any provision of this Act or the regulations or commits an offence under this Act in respect of the goods,

(iii) at any time, if the re-determination or further re-determination would give effect to a decision made in respect of the goods by the Canadian International Trade Tribunal, the Federal Court of Appeal or the Supreme Court of Canada, and

(iv) at any time after a re-determination is made under paragraph 60(4)(c), but before an appeal is heard under section 67, on the recommendation of the Attorney General for Canada; and

(c) re-determine or further re-determine the origin, tariff classification or value for duty of imported goods (in this paragraph referred to as the "subsequent goods"), at any time, if the re-determination or further re-determination would give effect, in respect of the subsequent goods, to a decision of the Canadian International Trade Tribunal, the Federal Court of Appeal or the Supreme Court of Canada, or of the Deputy Minister under subparagraph (a)(i),

(i) that relates to the origin or tariff classification of other like goods imported by the same importer or owner on or before the date of importation of the subsequent goods, or

(ii) that relates to the manner of determining the value for duty of other goods previously imported by the same importer or owner on or before the date of importation of the subsequent goods.

#### Notice requirement

(2) If the Deputy Minister makes a re-determination or further re-determination under this section, the Deputy Minister shall without delay give notice of that decision, including the rationale on which the decision is made, to the prescribed persons.

No review

**62.** A re-determination or further re-determination under section 60 or 61 is not subject to be restrained, prohibited, removed, set aside or otherwise dealt with except to the extent and in the manner provided by section 67.

1993, c. 44, s.  
96(E)

**162. (1) The portion of subsection 65(1) of the Act before paragraph (a) is replaced by the following:**

Effect of re-  
determinations

**65. (1)** If a re-determination or further re-determination is made under paragraph 60(4)(a) or 61(1)(a) or (c) in respect of goods, such persons who are given notice of the decision as may be prescribed shall, in accordance with the decision,

**(2) Subsection 65(3) of the Act is repealed.**

1992, c. 28, ss.  
17(1) and 18(1)

**163. Sections 65.1 and 66 of the Act are replaced by the following:**

Refund to person  
other than payer

**65.1 (1)** If a person (in this subsection referred to as the "applicant") to whom notice of a decision under subsection 59(1) or paragraph 60(4)(a) or 61(1)(a) or (c) was given would be entitled under paragraph 59(3)(b) or 65(1)(b) to a refund of an amount if the applicant had been the person who paid the amount, the amount may be paid to the applicant and any amount so paid to the applicant is deemed to have been refunded to the applicant under that paragraph.

Effect of refund

**(2)** If an amount in respect of goods has been refunded to a person under paragraph 59(3)(b) or 65(1)(b), no other person is entitled to a refund of an amount in respect of the goods under either of those paragraphs.

Interest on  
payments

**66. (1)** If the amount paid by a person on account of duties expected to be owing under paragraph 59(3)(a) or 65(1)(a) exceeds the amount of duties, if any, owing under that paragraph as a result of a determination, re-determination or further re-determination, the person shall be paid, in addition to the excess amount, interest at the prescribed rate for the period beginning on the first day after the day the amount was paid and ending on the day the determination, re-determination or further re-determination, as the case may be, was made, calculated on the excess amount.

Interest where  
security given

**(2)** If, as a result of a determination, re-determination or further re-determination made in respect of goods, a person is required under paragraph 59(3)(a) or 65(1)(a) to pay an amount owing as duties in respect of the goods and

the person gives security under that paragraph pending a subsequent re-determination or further re-determination in respect of the goods, the interest payable under subsection 33.4(1) on any amount owing as a result of the subsequent re-determination or further re-determination is to be computed at the prescribed rate for the period beginning on the first day after the day the security was given and ending on the day the subsequent re-determination or further re-determination is made.

Interest on  
refunds

(3) A person who is given a refund under paragraph 59(3)(b) or 65(1)(b) of an amount paid shall be given, in addition to the refund, interest at the prescribed rate for the period beginning on the first day after the day the amount was paid and ending on the day the refund is given, calculated on the amount of the refund.

R.S., c. 47 (4th  
Supp.), s. 52  
(Sch., item 2(2))

**164. Subsection 67(1) of the Act is replaced by the following:**

Appeal to the  
Canadian  
International  
Trade Tribunal

**67.** (1) A person aggrieved by a decision of the Deputy Minister made under section 60 or 61 may appeal from the decision to the Canadian International Trade Tribunal by filing a notice of appeal in writing with the Deputy Minister and the Secretary of the Canadian International Trade Tribunal within ninety days after the time notice of the decision was given.

1992, c. 28, s.  
19(1)

**165. Paragraphs 69(2)(a) and (b) of the Act are replaced by the following:**

(a) if a re-determination or further re-determination is made by the Deputy Minister under subparagraph 61(1)(a)(iii) and a portion of the amount refunded as a result of that decision is owing as duties and interest, pay interest at the prescribed rate for the period beginning on the first day after the day the refund is given and ending on the day the amount of the refund found to be owing as duties and interest has been paid in full, calculated on the outstanding balance of that amount of the refund, except that if the amount of the refund found to be owing is paid within thirty days after the day that decision is made, interest shall not be payable on that amount from that day to the day the amount is paid; or

(b) if a re-determination or further re-determination is made by the Deputy Minister under subparagraph 61(1)(a)(iii) and a portion of the amount refunded as a result of that decision is not owing as duties and interest, be given interest at the prescribed rate for the period beginning on the day after the amount refunded was originally paid by that person and ending on the day it was refunded, calculated on the amount of the refund found not to be owing.

R.S., c. 47 (4th  
Supp.), s. 52  
(Sch., item 2(4))

**166. Subsection 70(1) of the Act is replaced by the following:**

References to  
Canadian  
International  
Trade Tribunal

**70.** (1) The Deputy Minister may refer to the Canadian International Trade Tribunal for its opinion any questions relating to the origin, tariff classification or value for duty of any goods or class of goods.

R.S., c. 41 (3rd  
Supp.), s. 120; c.  
47 (4th Supp.), s.  
52 (Sch., item  
2(5))

**167. Subsection 71(1) of the Act is replaced by the following:**

Special provisions

**71.** (1) If the release of goods is refused because the goods have been determined to be prohibited goods classified under tariff item No. 9899.00.00 of the List of Tariff Provisions set out in the schedule to the *Customs Tariff*, re-determination or further re-determination may be requested under section 60 or made under section 61 and appeals may be taken under sections 67 and 68 in respect of the determination, subject to the following modifications:

(a) subparagraph 61(1)(a)(iii) and paragraph 61(1)(c) are deemed to include a reference to the court; and

(b) in sections 67 and 68, the expression "court" is deemed to be substituted for the expression "Canadian International Trade Tribunal" and the expression "clerk of the court" is deemed to be substituted for the expression "Secretary of the Canadian International Trade Tribunal".

1990, c. 36, s. 1;  
1995, c. 41, s.  
21; 1996, c. 33,  
s. 35

**168. Sections 72 to 72.2 of the Act are replaced by the following:**

Limitation  
relating to  
security

**72.** No security may be given under paragraph 59(3)(a) or 65(1)(a) or subsection 69(1) in respect of any amount owing as surtaxes levied under section 49, 51, 56, 59, 64 or 72 of the *Customs Tariff* or temporary duties levied under any of sections 65 to 70 of that Act.

Limitation -  
heading No. 98.26  
of List of Tariff  
Provisions

**72.1** Notwithstanding subsection 59(1) and sections 60 and 61, no re-determination or further re-determination of the tariff classification of imported goods classified under heading No. 98.26 of the List of Tariff

Provisions set out in the schedule to the *Customs Tariff* may be made unless the re-determination or further re-determination is to

(a) change the classification of the goods to another tariff item under that heading; or

(b) change the classification of all those goods accounted for under the same accounting document to tariff items in Chapters 1 to 97 of that List.

**169. The headings before section 73 of the Act are replaced by the following:**

PART IV

ABATEMENTS AND REFUNDS

**170. (1) The portion of subsection 74(1) of the Act before paragraph (a) is replaced by the following:**

Refund

**74. (1)** Subject to this section, section 75 and any regulations made under section 81, a person who paid duties on imported goods may, in accordance with subsection (3), apply for a refund of all or part of those duties, and the Minister may grant to that person a refund of all or part of those duties, if

1988, c. 65, s.  
72; 1996, c. 33,  
s. 36(1)

**(2) Paragraphs 74(1)(c.2) and (d) of the Act are replaced by the following:**

(d) the calculation of duties owing was based on a clerical, typographical or similar error;

(e) the duties were paid or overpaid as a result of an error in the determination under subsection 58(2) of origin (other than in the circumstances described in paragraph (c.1) or (c.11)), tariff classification or value for duty in respect of the goods and the determination has not been the subject of a decision under any of sections 59 to 61; or

(f) the goods, or other goods into which they have been incorporated, are sold or otherwise disposed of to a person, or are used, in compliance with a condition imposed under a tariff item in the List of Tariff Provisions set out in the schedule to the *Customs Tariff*, or under any regulations made under that Act in respect of a tariff item in that List, before any other use is made of the goods in Canada.

1993, c. 44, s.  
98(2); 1996, c.  
33, s. 36(2)

**(3) Subsections 74(1.1) to (2) of the Act are replaced by the following:**

Refund treated as  
re-determination

(1.1) The granting of a refund under paragraph (1)(c.1), (c.11), (e) or (f) is to be treated, for the purposes of this Act other than section 66, as if it were a re-determination made under paragraph 59(1)(a).

## Duties

(1.2) The duties that may be refunded under paragraph (1)(f) do not include duties or taxes levied under the *Excise Tax Act*, the *Excise Act* or the *Special Import Measures Act*.

## Claims for refund

(2) No refund shall be granted under any of paragraphs (1)(a) to (c) and (d) in respect of a claim unless written notice of the claim and the reason for it is given to an officer within the prescribed time.

1993, c. 44, s.  
98(3); 1996, c.  
33, s. 36(3)

**(4) Subparagraphs 74(3)(b)(i) and (ii) of the Act are replaced by the following:**

(i) in the case of an application for a refund under paragraph (1)(a), (b), (c), (c.11), (d), (e) or (f), four years after the goods are accounted for under subsection 32(1), (3) or (5), and

(ii) in the case of an application for a refund under paragraph (1)(c.1), one year after the goods are accounted for under subsection 32(1), (3) or (5) or such longer period as may be prescribed.

1993, c. 44, s.  
98(4); 1996, c.  
33, s. 36(4)

**(5) Subsections 74(4) to (6) of the Act are replaced by the following:**

## Effect of denial of refund

(4) A denial of an application for a refund of duties paid on goods is to be treated for the purposes of this Act as if it were a re-determination under paragraph 59(1)(a) if

(a) the application is for a refund under paragraph (1)(c.1) or (c.11) and the application is denied because at the time the goods were accounted for under subsection 32(1), (3) or (5), they were not eligible for preferential tariff treatment under NAFTA or CIFTA under the regulations made under section 16 of the *Customs Tariff*; or

(b) the application is for a refund under paragraph (1)(e) or (f) and the application is denied because the origin, tariff classification or value for duty of the goods as claimed in the application is incorrect.

## Effect of denial of refund

(5) For greater certainty, a denial of an application for a refund under paragraph (1)(c.1), (c.11), (e) or (f) on the basis that complete or accurate documentation has not been provided, or on any ground other than the ground specified in subsection (4), is not to be treated for the purposes of this Act as if it were a re-determination under this Act of origin, tariff classification or value for duty.

1990, c. 36, s. 2

**171. Section 74.1 of the Act is repealed.**

**172. Section 77 of the Act is repealed.**

1992, c. 28, s.  
20(1)

**173. Subsection 80(1) of the Act is replaced by the following:**

Interest on  
refunds

**80.** (1) Any person who is granted a refund of duties (other than amounts in respect of duty levied under the *Special Import Measures Act*) under section 74, 76 or 79 shall be granted, in addition to the refund, interest on the refund at the prescribed rate for the period beginning on the ninety-first day after the day an application for the refund is received in accordance with paragraph 74(3)(b) and ending on the day the refund is granted.

1992, c. 28, s.  
21(4)

**174. Section 80.1 of the Act is replaced by the following:**

Interest on past  
refunds

**80.1** Notwithstanding subsection 80(1), any person who, under paragraph 74(1)(e), is granted a refund of duties on imported goods on which the rate of customs duty is reduced by a retroactive order of the Governor in Council made under section 76 or 131 of the *Customs Tariff* shall be granted, in addition to the refund, interest at the prescribed rate for the period beginning on the day after the day the duties were paid and ending on the day the refund is granted, calculated on the amount of the refund.

**175. The Act is amended by adding the following after section 80.1:**

Excess to be  
repaid

**80.2** If an abatement or refund is granted to a person under sections 73 to 76 and the person is not entitled to it, or it is more than the amount to which the person is entitled, the person shall repay the amount of the abatement or refund, or the amount of the excess, to Her Majesty in right of Canada, on the day it is received by the person, together with any interest that was granted to the person under section 80 or 80.1 on that amount.

1992, c. 28, s.  
24(1); 1993, c.  
25, ss. 77, 78;  
1995, c. 41, ss.  
23 to 26

**176. The headings before section 88 and sections 88 to 94 of the Act are repealed.**

1995, c. 41, s. 29

**177. Paragraphs 109.1(a) and (b) of the Act are replaced by the following:**

(a) with the terms and conditions on which a licence was issued under section 24 of this Act or section 85 of the *Customs Tariff*, or

(b) with a regulation made under section 30 or 40 of this Act or any of paragraphs 93(f) to (i) or section 94 of the *Customs Tariff*,

1995, c. 41, s. 29

**178. Section 109.11 of the Act is replaced by the following:**

Definition of  
"duties payable"

**109.11** (1) In this section, "duties payable" means duties that have not been paid but does not include, for the purposes of calculating a penalty under subsection (2) or (3) in respect of a failure to comply with subsection 111(1) or (2) or 114(1) or 115(1) of the *Customs Tariff*, an amount in respect of duty levied under the *Special Import Measures Act*.

Contravention  
relating to  
release

(2) Every person who fails to comply with section 31 or 32.2 of this Act or subsection 89(1), 111(1) or (2), 114(1) or 115(1) of the *Customs Tariff* is liable to a penalty equal to the total of

(a) an amount equal to 5% of the duties payable, and

(b) an amount equal to the product obtained when 1% of the duties payable that were unpaid when the amount was required to be paid, is multiplied by the number of complete months, not exceeding 12, from the day on which the amount was required to be paid to the day on which the amount was paid.

Repeated failures

(3) Every person who fails to comply with section 31 or 32.2 of this Act or subsection 89(1), 111(1) or (2), 114(1) or 115(1) of the *Customs Tariff* and by whom, at the time of failure, a penalty was payable under this subsection or subsection (2) in respect of a failure to comply in any of the three preceding years is liable to a penalty equal to the total of

(a) an amount equal to 10% of the duties payable, and

(b) an amount equal to the product obtained when 2% of the duties payable that were unpaid when the amount was required to be paid, is multiplied by the number of complete months, not exceeding 20, from the day on which the amount was required to be paid to the day on which the amount was paid.

1995, c. 41, s. 29

**179. Subsection 109.2(1) of the Act is replaced by the following:**

Definition of  
"designated goods"

**109.2** (1) In this section, "designated goods" includes firearms, weapons, ammunition and any other goods classified under Chapter 93 of the List of Tariff Provisions set out in the schedule to the *Customs Tariff* or under tariff item No. 9898.00.00 of that List.



1995, c. 41, s. 31

**180. Clause 117(a)(i)(A) of the Act is replaced by the following:**

(A) at the time of seizure, if the goods have not been accounted for under subsection 32(1), (2) or (5) or if duties or additional duties have become due on the goods under paragraph 32.2(2)(b) in circumstances to which subsection 32.2(6) applies, or

1995, c. 41, s. 32

**181. Clause 119(1)(a)(i)(A) of the Act is replaced by the following:**

(A) at the time of seizure, if the animals or perishable goods have not been accounted for under subsection 32(1), (2) or (5) or if duties or additional duties have become due on the goods under paragraph 32.2(2)(b) in circumstances to which subsection 32.2(6) applies, or

1995, c. 41, s. 33

**182. Paragraph 124(2)(a) of the Act is replaced by the following:**

(a) at the time the notice is served, if the goods have not been accounted for under subsection 32(1), (2) or (5) or if duties or additional duties have become due on the goods under paragraph 32.2(2)(b) in circumstances to which subsection 32.2(6) applies; or

1995, c. 41, s. 34

**183. Section 126.1 of the Act is replaced by the following:**

No review or  
appeal

**126.1** Sections 127 to 133 do not apply to a contravention of subsection 40(3) of this Act by a person referred to in paragraph (c) of that subsection, or to a contravention of section 32.2 of this Act in circumstances to which subsection 32.2(6) of this Act applies, or to a contravention of subsection 89(1), 111(1) or (2), 114(1) or 115(1) of the *Customs Tariff*.

1995, c. 41, s.  
35(1)

**184. (1) Subparagraph 133(2)(a)(i) of the Act is replaced by the following:**

(i) at the time of seizure, if the goods have not been accounted for under subsection 32(1), (2) or (5) or if duties or additional duties have become due on the goods under paragraph 32.2(2)(b) in circumstances to which subsection 32.2(6) applies, or

1995, c. 41, s.  
35(2)

**(2) Paragraph 133(4)(a) of the Act is replaced by the following:**

(a) at the time of seizure or of service of the notice under section 124, if the goods have not been accounted for under subsection 32(1), (2) or (5) or if duties or additional duties have become due on the goods under paragraph 32.2(2)(b) in circumstances to which subsection 32.2(6) applies; or

1992, c. 28, s.  
29(1)

**185. Paragraphs 147.1(6)(b) and (c) of the Act are replaced by the following:**

(b) duties have not been collected by the Corporation in respect of the mail, the mail has not been delivered and a request for a re-determination or further re-determination has been made under subsection 60(1) in respect of the mail; or

(c) in any other case, duties have not been collected by the Corporation in respect of the mail, the mail has not been delivered and the period in which a request for a re-determination or further re-determination may be made under subsection 60(1) in respect of the mail has not expired.

1993, c. 44, s.  
106

**186. Paragraph 159.1(c) of the Act is replaced by the following:**

(c) with intent to conceal the information given by or contained in the mark, alters, defaces, removes or destroys a mark on imported goods made pursuant to the regulations made under subsection 19(2) of the *Customs Tariff*.

PART 8

CONSEQUENTIAL AMENDMENTS

R.S., c. 47 (4th  
Supp.)

*Canadian International Trade Tribunal Act*

1996, c. 33, s. 16

**187. (1) Subsection 2(2.1) of the *Canadian International Trade Tribunal Act* is amended by striking out the word "and" at the end of paragraph (a) and by replacing paragraph (b) with the following:**

(b) "Canada-Israel Free Trade Agreement Tariff" means the rates of customs duty referred to in section 46 of the *Customs Tariff*; and

(c) "imported from Israel or another CIFTA beneficiary" and "Israel or another CIFTA beneficiary" have the same meaning as in subsection 2(1) of the *Customs Tariff*.

1993, c. 44, s.  
32(3)

**(2) Subsection 2(3) of the French version of the Act is replaced by the following:**

Marchandises  
importées d'un  
pays ALÉNA

(3) Pour l'application de la présente loi, les marchandises sont importées d'un pays ALÉNA si elles sont transportées directement au Canada en provenance du pays ALÉNA en conformité avec les articles 17 et 18 du *Tarif des douanes*.

1993, c. 44, s.  
36; 1994, c. 47,  
par. 46(a)(F)

**188. Subsections 19.01(2) and (3) of the Act are replaced by the following:**

Inquiry into U.S.  
tariff matters

(2) The Tribunal shall inquire into and report to the Governor in Council on the question whether goods that are entitled to the benefit of the United States Tariff in the List of Tariff Provisions set out in the schedule to the *Customs Tariff*, other than textile and apparel goods, are, as a result of the reduction of that tariff, being imported in such increased quantities and under such conditions that they alone constitute a principal cause of serious injury to domestic producers of like or directly competitive goods, if the Governor in Council, on the recommendation of the Minister, refers the question to it for inquiry and report.

Inquiry into  
Mexico and Mexico-  
United States  
tariff matters

(3) The Tribunal shall inquire into and report to the Governor in Council on the question whether goods that are entitled to the benefit of the Mexico Tariff, or the Mexico-United States Tariff, in the List of Tariff Provisions set out in the schedule to the *Customs Tariff*, other than textile and apparel goods, are, as a result of the reduction of that tariff, being imported in such increased quantities and under such conditions that they alone constitute a principal cause of serious injury, or threat thereof, to domestic producers of like or directly competitive goods, if the Governor in Council, on the recommendation of the Minister, refers the question to it for inquiry and report.

1994, c. 47, s.  
32(E); 1996, c.  
33, s. 18

**189. Subsection 19.02(1) of the Act is replaced by the following:**

Mid-term review

**19.02** (1) If an order made under subsection 51(1), section 56 or subsection 59(1) of the *Customs Tariff* or subsection 5(3), (3.2), (4.01) or (4.8) of the *Export and Import Permits Act* specifies that it remains in effect for a period of more than three years, the Tribunal shall, before the mid-point of the period,

(a) review developments since the order was made respecting the goods that are subject to the order and like or directly competitive goods produced by domestic producers;

(b) in light of the review, prepare a report on the developments and provide advice on whether the order should remain in effect, be repealed or be amended; and

(c) submit a copy of the report to the Governor in Council and the Minister.

1988, c. 65, s. 52

**190. Subsection 19.1(2) of the Act is replaced by the following:**

Inquiry into U.S.  
tariff matters

(2) The Tribunal shall inquire into and report to the Governor in Council on the question whether goods that are entitled to the benefit of the United States Tariff in the List of Tariff Provisions set out in the schedule to the *Customs Tariff* are, as a result of the reduction or elimination of that tariff, being imported in such increased quantities and under such conditions that they alone constitute a principal cause of serious injury to domestic producers of like or directly competitive goods, if the Governor in Council, on the recommendation of the Minister of Finance, refers the question to it for inquiry and report.

1993, c. 44, s.  
40; 1994, c. 47,  
paras. 46(d)(F)  
and 47(a)(F)

**191. (1) Subsections 23(1.01) to (1.03) of the Act are replaced by the following:**

Filing of  
complaint

(1.01) Any domestic producer of goods that are like or directly competitive with any goods, other than textile and apparel goods, being imported into Canada and that are entitled to the benefit of the United States Tariff in the List of Tariff Provisions set out in the schedule to the *Customs Tariff*, or any person or association acting on behalf of any such domestic producer, may file a written complaint with the Tribunal alleging that, as a result of the reduction of that tariff, the imported goods are being imported in such increased quantities and under such conditions as to alone constitute a cause of serious injury to domestic producers of like or directly competitive goods.

Filing of  
complaint

(1.02) Any domestic producer of goods that are like or directly competitive with any goods, other than textile and apparel goods, being imported into Canada and that are entitled to the benefit of the Mexico Tariff, or the Mexico-United States Tariff, in the List of Tariff Provisions set out in the schedule to the *Customs Tariff*, or any person or association acting on behalf of any such domestic producer, may file a written complaint with the Tribunal alleging that, as a result of the reduction of that tariff, the imported goods are being imported in such increased quantities and under such conditions as to alone constitute a cause of serious injury, or threat thereof, to domestic producers of like or directly competitive goods.

Filing of  
complaint

(1.03) Any domestic producer of any textile and apparel goods that are like or directly competitive with any textile and apparel goods being imported into Canada and that are entitled, either under section 24 of the *Customs Tariff* or, in respect of goods that have been integrated into the General Agreement on Tariffs and Trade pursuant to a commitment made by Canada under any successor agreement to the Multifibre Arrangement, under subsection 45(13) of the *Customs Tariff*, to the benefit of the United States Tariff, or the Mexico Tariff, in the List of Tariff Provisions set out in the schedule to that Act, or any person or association acting on behalf of any such domestic producer, may file a written complaint with the Tribunal alleging that, as a result of the reduction of that tariff, the imported goods are being imported in such increased quantities, in

absolute terms or relative to the domestic market in Canada for the goods, and under such conditions as to cause serious damage, or actual threat thereof, to domestic producers of like or directly competitive textile and apparel goods.

1988, c. 65, s. 56

**(2) Subsection 23(1.1) of the Act is replaced by the following:**

Filing of  
complaint

(1.1) Any domestic producer of goods that are like or directly competitive with any goods being imported into Canada and that are entitled to the benefit of the United States Tariff in the List of Tariff Provisions set out in the schedule to the *Customs Tariff*, or any person or association acting on behalf of any such domestic producer, may file a written complaint with the Tribunal alleging that as a result of the reduction or elimination of that tariff, the imported goods are being imported in such increased quantities and under such conditions as to alone constitute a cause of serious injury to domestic producers of like or directly competitive goods.

1993, c. 44, s.  
42(1); 1994, c.  
47, paras.  
46(e)(F) and  
47(b)(F)

**192. (1) Subparagraphs 26(1)(a)(i.1) to (i.3) of the Act are replaced by the following:**

(i.1) in the case of a complaint filed under subsection 23(1.01), the goods that are entitled to the benefit of the United States Tariff in the List of Tariff Provisions set out in the schedule to the *Customs Tariff* are, as a result of the reduction of that tariff, being imported in such increased quantities and under such conditions that they alone constitute a cause of serious injury to domestic producers of like or directly competitive goods,

(i.2) in the case of a complaint filed under subsection 23(1.02), the goods that are entitled to the benefit of the Mexico Tariff, or the Mexico-United States Tariff, in the List of Tariff Provisions set out in the schedule to the *Customs Tariff* are, as a result of the reduction of that tariff, being imported in such increased quantities and under such conditions that they alone constitute a cause of serious injury, or threat thereof, to domestic producers of like or directly competitive goods,

(i.3) in the case of a complaint filed under subsection 23(1.03), the textile and apparel goods that are entitled to the benefit of the United States Tariff, or the Mexico Tariff, in the List of Tariff Provisions set out in the schedule to the *Customs Tariff* are, as a result of the reduction of that tariff, being imported in such increased quantities, in absolute terms or relative to the market in Canada for the goods, and under such conditions as to cause serious damage, or actual threat thereof, to domestic producers of like or directly competitive textile and apparel goods,

1988, c. 65, s. 57

**(2) Subparagraph 26(1)(a)(ii) of the Act is replaced by the following:**

(ii) in the case of a complaint filed under subsection 23(1.1), the goods that are entitled to the benefit of the United States Tariff in the List of Tariff Provisions set out in the schedule to the *Customs Tariff* are, as a

result of the reduction or elimination of that tariff, being imported in such increased quantities and under such conditions that they alone constitute a cause of serious injury to domestic producers of like or directly competitive goods;

1996, c. 33, s.  
22(2)

**(3) Subsection 26(7) of the Act is replaced by the following:**

Time limit on  
inquiry

(7) If subsection 51(5) of the *Customs Tariff* or subsection 5(3.1) of the *Export and Import Permits Act* prohibits the making of an order under subsection 51(1) of the *Customs Tariff* or subsection 5(3) of the *Export and Import Permits Act* in respect of any goods during any period, the Tribunal may commence an inquiry into a complaint under subsection (1) in respect of the goods no earlier than one hundred and eighty days before the end of the period.

1993, c. 44, s.  
43(1); 1994, c.  
47, paras.  
46(g)(F) and  
47(c)(F)

**193. (1) Paragraphs 27(1)(a.1) to (a.3) of the Act are replaced by the following:**

(a.1) in the case of a complaint filed under subsection 23(1.01), the goods that are entitled to the benefit of the United States Tariff in the List of Tariff Provisions set out in the schedule to the *Customs Tariff* are, as a result of the reduction of that tariff, being imported in such increased quantities and under such conditions that they alone constitute a principal cause of serious injury to domestic producers of like or directly competitive goods;

(a.2) in the case of a complaint filed under subsection 23(1.02), the goods that are entitled to the benefit of the Mexico Tariff, or the Mexico-United States Tariff, in the List of Tariff Provisions set out in the schedule to the *Customs Tariff* are, as a result of the reduction of that tariff, being imported in such increased quantities and under such conditions that they alone constitute a principal cause of serious injury, or threat thereof, to domestic producers of like or directly competitive goods;

(a.3) in the case of a complaint filed under subsection 23(1.03), the textile and apparel goods that are entitled to the benefit of the United States Tariff, or the Mexico Tariff, in the List of Tariff Provisions set out in the schedule to the *Customs Tariff* are, as a result of the reduction of that tariff, being imported in such increased quantities, in absolute terms or relative to the market in Canada for the goods, and under such conditions as to cause serious damage, or actual threat thereof, to domestic producers of like or directly competitive textile and apparel goods; or

1988, c. 65, s. 58

**(2) Paragraph 27(1)(b) of the Act is replaced by the following:**

(b) in the case of a complaint filed under subsection 23(1.1), the goods that are entitled to the benefit of the United States Tariff in the List of Tariff Provisions set out in the schedule to the *Customs Tariff* are, as a result of

the reduction or elimination of that tariff, being imported in such increased quantities and under such conditions that they alone constitute a principal cause of serious injury to domestic producers of like or directly competitive goods.

1994, c. 47, s. 37

**194. Paragraph 30.01(2)(a) of the Act is replaced by the following:**

(a) any goods are subject to a surtax under subsection 51(1) or 59(1) of the *Customs Tariff* or are included on the Import Control List under subsection 5(3) or (3.2) of the *Export and Import Permits Act*; and

1996, c. 33, s. 24

**195. Paragraph 30.011(1)(a) of the Act is replaced by the following:**

(a) any goods are subject to a surtax under subsection 51(1) or 59(1) of the *Customs Tariff* or are included on the Import Control List under subsection 5(3) or (3.2) of the *Export and Import Permits Act*; and

1996, c. 33, s. 25

**196. Subsection 30.03(1) of the Act is replaced by the following:**

Notice of expiring  
orders

**30.03** (1) The Tribunal shall cause to be published in the *Canada Gazette* a notice of the expiry date of any order that imposes a surtax on any goods under subsection 51(1), section 56 or subsection 59(1) of the *Customs Tariff* or includes any goods on the Import Control List under subsection 5(3), (3.2), (4.01) or (4.8) of the *Export and Import Permits Act*, but no notice shall be published if

(a) the order is repealed or ceases to have effect under subsection 52(1) or (2), 55(2) or 59(5) or section 60 of the *Customs Tariff* or subsection 5(4.04) of the *Export and Import Permits Act* before the end of the effective period specified in the order; or

(b) the total of the effective period specified in the order and any periods during which the goods were subject to any related orders made under subsection 51(1), section 56 or subsection 59(1) of the *Customs Tariff* or subsection 5(3), (3.2), (4.01) or (4.8) of the *Export and Import Permits Act* is eight years.

1996, c. 33, s. 26

**197. Subsection 30.04(1) of the Act is replaced by the following:**

Filing of request  
relating to  
extension orders

**30.04** (1) Any domestic producer of goods that are like or directly competitive with any goods that are subject to an order referred to in subsection 30.03(1), or any person or association acting on behalf of any such domestic producer, may file with the Tribunal a written request that an extension order be made under subsection 59(1) of the *Customs Tariff* or subsection 5(3.2) of the *Export and Import Permits Act* because an order continues to be necessary to prevent or

remedy serious injury to domestic producers of like or directly competitive goods.

R.S., c. C-24

*Canadian Wheat Board Act*

1988, c. 65, s.  
60; 1993, c. 44,  
s. 49

**198. Paragraphs 46(b.1) and (b.2) of the *Canadian Wheat Board Act* are replaced by the following:**

(b.1) to permit the importation into Canada of wheat or wheat products that are entitled to the benefit of the United States Tariff in the List of Tariff Provisions set out in the schedule to the *Customs Tariff* and that are owned by a person other than the Board subject, if the Governor in Council considers it appropriate, to any of the following requirements, namely,

(i) that the wheat be accompanied by an end-use certificate referred to in subsection 87.1(1) of the *Canada Grain Act*, completed by the person importing the wheat, declaring that the wheat is imported for consumption in Canada and is consigned directly to a milling, manufacturing, brewing, distilling or other processing facility for consumption at that facility,

(ii) that the wheat be denatured in a prescribed manner, if the wheat is imported for feed use, or

(iii) that the wheat be accompanied by a certificate issued under section 4.1 of the *Seeds Act*, if the wheat is imported for seed use;

(b.2) to permit the importation into Canada of wheat or wheat products that are entitled to the benefit of the Mexico Tariff in the List of Tariff Provisions set out in the schedule to the *Customs Tariff* and that are owned by a person other than the Board;

R.S., c. C-42

*Copyright Act*

R.S., c. 41 (3rd  
Supp.), s. 116

**199. Section 44 of the *Copyright Act* is replaced by the following:**

Importation of  
certain copyright  
works prohibited

**44.** Copies made out of Canada of any work in which copyright subsists that if made in Canada would infringe copyright and as to which the owner of the copyright gives notice in writing to the Department of National Revenue that the owner desires that the copies not be so imported into Canada, shall not be so imported and are deemed to be included in tariff item No. 9897.00.00 in the List of Tariff Provisions set out in the schedule to the *Customs Tariff* and section 129 of that Act applies accordingly.

R.S., c. 41 (3rd  
Supp.), s. 117;



1994, c. 47, s.  
67(1)

**200. Subsections 45(1) and (2) of the Act are replaced by the following:**

No importation  
where right to  
reproduce in  
Canada granted

**45.** (1) If the owner of the copyright has by licence or otherwise granted the right to reproduce any book in Canada, it shall not be lawful except as provided in subsections (3) and (4) to import into Canada copies of the book, and the copies are deemed to be prohibited goods under tariff item No. 9897.00.00 in the List of Tariff Provisions set out in the schedule to the *Customs Tariff*, and section 129 of that Act applies accordingly.

Notice required of  
intention to  
import

(2) Except as provided in subsections (3) and (4), it shall be unlawful to import into Canada copies of any book in which copyright subsists until fourteen days after publication of the book and during that period or any extension of the period the copies are deemed to be prohibited goods under tariff item No. 9897.00.00 in the List of Tariff Provisions set out in the schedule to the *Customs Tariff*, and section 129 of that Act applies accordingly, but if within that period of fourteen days an application for a licence has been made in accordance with the provisions of this Act relating thereto, the Minister may in the Minister's discretion extend the period, and shall forthwith notify the Department of National Revenue of the extension, and the prohibition against importation shall be continued accordingly.

R.S., c. E-14

*Excise Act*

R.S., c. 15 (1st  
Supp.), s. 51(1)

**201. Subsection 138(1.1) of the *Excise Act* is replaced by the following:**

Refund or drawback

(1.1) A refund or drawback of the customs duty imposed under section 21 of the *Customs Tariff*, in respect of spirits, wine or flavouring materials having a spirit content, on which the customs duty has been paid and not refunded and that are brought into a distillery for the purpose of blending with spirits in bond, may be granted under such terms and conditions as the Governor in Council may, by regulation, prescribe.

R.S., c. E-19

*Export and Import Permits Act*

1993, c. 44, s.  
146; 1996, c. 33,  
s. 57

202. (1) The definitions "goods imported from a NAFTA country" and "goods imported from Israel or another CIFTA beneficiary" in section 2 of the *Export and Import Permits Act* are repealed.

(2) Section 2 of the Act is amended by adding the following in alphabetical order:

"imported  
from  
a NAFTA  
country"  
« *importé*  
*d'un pays*  
*ALÉNA* »

"imported from a NAFTA country" means shipped directly to Canada from a NAFTA country within the meaning of sections 17 and 18 of the *Customs Tariff*;

"imported  
from  
Israel or  
another CIFTA  
beneficiary"  
« *importé*  
*d'Israël ou*  
*d'un autre*  
*bénéficiaire de*  
*l'ALÉCI* »

"imported from Israel or another CIFTA beneficiary" has the meaning assigned by regulations made under section of the *Customs Tariff*;

1996, c. 33, s.  
59(1)

203. (1) Subsections 5(3.1) to (3.3) of the Act are replaced by the following:

Prohibition  
against further  
orders

(3.1) No order may be made under subsection (3) with respect to goods that have already been the subject of an order made under that subsection or subsection 51(1) of the *Customs Tariff* unless, following the expiry of the order and any related orders made under subsection (3.2), (4.01) or (4.8) or under section 56 or subsection 59(1) of the *Customs Tariff*, there has elapsed a period equal to the greater of two years and the total period during which the order or orders were in effect.

Extension order

(3.2) If at any time before the expiry of an order made with respect to any goods under this subsection or subsection (3), (4.01) or (4.8) or under subsection 51(1), section 56 or subsection 59(1) of the *Customs Tariff* it appears to the satisfaction of the Governor in Council, as a result of an inquiry made by the Canadian International Trade Tribunal under section 30.07 of the *Canadian International Trade Tribunal Act*, that

(a) an order continues to be necessary to prevent or remedy serious injury to domestic producers of like or directly competitive goods, and

(b) there is evidence that the domestic producers are adjusting, as determined in accordance with any regulations made under paragraph 40(b) of the *Canadian International Trade Tribunal Act*,

the Governor in Council may, on the recommendation of the Minister, make an extension order including any of the goods on the Import Control List.

Period and  
revocation of  
extension orders

(3.3) Every extension order made under subsection (3.2) shall, subject to this section, remain in effect for such period as is specified in the order, but the total of the specified period and the periods during which the goods were previously subject to any related orders made under subsection (3), (3.2), (4.01) or (4.8) or under subsection 51(1), section 56 or subsection 59(1) of the *Customs Tariff* shall not exceed eight years.

1994, c. 47, s.  
103(4)

**(2) Paragraph 5(4.03)(b) of the Act is replaced by the following:**

(b) to which goods an order made under subsection 51(1) or 59(1) of the *Customs Tariff* does not apply because the goods did not meet the conditions set out in subsection 55(1) or 59(4) of that Act,

1988, c. 65, s.  
117(1)

**(3) Subsection 5(4.4) of the Act is replaced by the following:**

Addition to Import  
Control List

(4.4) If at any time it appears to the satisfaction of the Governor in Council that it is advisable to collect information with respect to the importation of any goods originating in the United States to which an order under subsection (3) does not apply because the goods did not meet the conditions set out in subsection (4.1), the Governor in Council may, by order, include those goods on the Import Control List in order to facilitate the collection of that information.

1996, c. 33, s.  
59(2)

**(4) Paragraph 5(4.91)(b) of the Act is replaced by the following:**

(b) for which goods no order was made under subsection 51(1) or 59(1) of the *Customs Tariff* because the goods did not meet the conditions set out in subsection 55(1) or 59(4) of that Act,

1996, c. 33, s.  
59(3)

**(5) Subsection 5(6) of the Act is replaced by the following:**

Addition to Import  
Control List

(6) If, for the purpose of facilitating the implementation of action taken under subsection 14(2), section 35, 39 or 43, paragraph 49(2)(d), subsection 51(1), section 56 or subsection 59(1) or 76(1) of the *Customs Tariff*, the Governor in Council considers it necessary to control the importation of any goods or collect information with respect to their importation, the Governor in Council may, by order, include those goods on the Import Control List for that purpose.

1994, c. 47, s.  
103(7)

**(6) Subparagraph 5(7.1)(b)(ii) of the Act is replaced by the following:**

(ii) in the case of an order under subsection (4.03) in respect of goods referred to in paragraph (4.03)(b), the order under subsection 51(1) or 59(1) of the *Customs Tariff* that applies to goods of the same kind imported from any other country ceases to have effect.

1988, c. 65, s.  
117(2)

**(7) Paragraph 5(8)(b) of the Act is replaced by the following:**

(b) the day on which, in the case of an order under subsection (4.2) or (4.4), goods of the same kind originating in other countries that were included on that List by an order made under subsection (3) are removed from that List.

1993, c. 44, s.  
148

**204. Subsection 5.11(3) of the Act is replaced by the following:**

Addition to Import  
Control List

(3) If at any time it appears to the satisfaction of the Governor in Council that it is advisable to collect information with respect to the importation of any goods in respect of which a specified quantity is eligible for a benefit of any reduction of customs duty under subsection 69(3) of the *Customs Tariff*, the Governor in Council may, by order and without reference to that quantity, include those goods on the Import Control List in order to facilitate the collection of that information.

1993, c. 44, s.  
149

**205. Subsection 6.1(1) of the Act is replaced by the following:**

Definition of  
"originating  
goods"

**6.1** (1) In this section, "originating goods" means goods that are entitled under section 24 of the *Customs Tariff* to the benefit of the United States Tariff or the Mexico Tariff.

R.S., c. I-3

1988, c. 65, s.  
132(1); 1993, c.  
44, s. 160(2)

**206. Paragraphs 3(2)(b.01) and (b.1) of the *Importation of Intoxicating Liquors Act* are replaced by the following:**

(b.01) the importation of distilled spirits in bulk into a province from a NAFTA country for the purpose of bottling by any person duly licensed by the Government of Canada to carry on the business or trade of a distiller, if the distilled spirits

(i) are entitled to the benefit of the United States Tariff, the Mexico Tariff or the Mexico-United States Tariff in the List of Tariff Provisions set out in the schedule to the *Customs Tariff*, and

(ii) while kept by the distiller, are kept by the distiller in a place or warehouse that conforms in all respects to the requirements of the law governing such places or warehouses;

(b.1) the importation of distilled spirits in bulk into a province from the United States for the purpose of bottling by any person duly licensed by the Government of Canada to carry on the business or trade of a distiller, if the distilled spirits

(i) are entitled to the benefit of the United States Tariff in the List of Tariff Provisions set out in the schedule to the *Customs Tariff*, and

(ii) while kept by the distiller, are kept by the distiller in a place or warehouse that conforms in all respects to the requirements of the law governing such places or warehouses; or

1994, c. 47

*World Trade Organization Agreement Implementation Act*

**207. Section 189 of the *World Trade Organization Agreement Implementation Act* is replaced by the following:**

Application to  
goods from a NAFTA  
country

189. Sections 144 to 188, any provision of the *Special Import Measures Act* as enacted by any of those sections, or any rule or regulation made under the *Special Import Measures Act* as amended as a result of the Agreement and any regulations under subsection 16(2) of the *Customs Tariff*, to the extent that they apply for the purposes of the *Special Import Measures Act*, apply to goods from a NAFTA country, within the meaning assigned to that expression by subsection 2(1) of the *Special Import Measures Act*.

## PART 9

### CONDITIONAL AMENDMENTS, REPEAL AND COMING INTO FORCE

#### *Conditional Amendments*

Bill C-81

208. If Bill C-81, introduced in the second session of the thirty-fifth Parliament and entitled *An Act to implement the Canada-Chile Free Trade Agreement and related agreements*, is assented to and comes into force before the coming into force of this section, then

(a) paragraph 2(3)(b) of the *Canadian International Trade Tribunal Act* is replaced by the following:

(b) "Chile Tariff" means the rates of customs duty referred to in section 45.1 of the *Customs Tariff*.

(b) the portion of subsection 19.02(1) of the *Canadian International Trade Tribunal Act* before paragraph (a) is replaced by the following:

Mid-term review

19.02 (1) If an order made under subsection 51(1), section 56 or subsection 59(1) of the *Customs Tariff* or subsection 5(3), (3.2) or (4.1) of the *Export and Import Permits Act* specifies that it remains in effect for a period of more than three years, the Tribunal shall, before the mid-point of the period,

(c) subsection 23(1.06) of the *Canadian International Trade Tribunal Act* is replaced by the following:

Filing of  
complaint - Chile  
Tariff

(1.06) Any domestic producer of any textile and apparel goods that are like or directly competitive with any textile and apparel goods being imported into Canada and that are entitled, either under section 24 of the *Customs Tariff* or, in respect of goods that fall under the scope of the Agreement on Textiles and Clothing in Annex 1A of the World Trade Organization Agreement pursuant to a commitment made by Canada, under section 45.3 of the *Customs Tariff*, to the Chile Tariff, or any person or association acting on behalf of such a domestic producer, may file a written complaint with the Tribunal alleging that, as a result of that entitlement, the imported goods are being imported in such increased quantities, in absolute terms or relative to the domestic market in Canada for the goods, and under such conditions as to cause serious damage, or actual threat of serious damage, to domestic producers of like or directly competitive textile and apparel goods.

(d) paragraph 30.012(2)(a) of the *Canadian International Trade Tribunal Act* is replaced by the following:

(a) any goods are subject to a surtax under subsection 51(1) or 59(1) of the *Customs Tariff* or are included on the Import Control List under subsection 5(3) or (3.2) of the *Export and Import Permits Act*; and

(e) subsection 30.03(1) of the *Canadian International Trade Tribunal Act* is replaced by the following:

Notice of expiring  
orders

30.03 (1) The Tribunal shall cause to be published in the *Canada Gazette* a notice of the expiry date of any order that imposes a surtax on any goods under subsection 51(1), section 56 or subsection 59(1) of the *Customs Tariff* or includes any goods on the Import Control List under subsection 5(3), (3.2) or (4.1) of the *Export and Import Permits Act*, but no notice shall be published if

(a) the order is revoked or ceases to have effect under subsection 52(1) or (2), 55(2) or 59(5) or section 60 of the *Customs Tariff* or subsection 5(4.4) of the *Export and Import Permits Act* before the end of the effective period specified in the order; or

(b) the total of the effective period specified in the order and any periods during which the goods were subject to any related orders made under subsection 51(1), section 56 or subsection 59(1) of the *Customs Tariff* or subsection 5(3), (3.2) or (4.1) of the *Export and Import Permits Act* is eight years.

Bill C-81

**209. If Bill C-81, introduced in the second session of the thirty-fifth Parliament and entitled *An Act to implement the Canada-Chile Free Trade Agreement and related agreements*, is assented to, then**

**(a) if subsection 35(3) of that Act comes into force before the day on which section 141 of this Act comes into force, the definition "preferential tariff treatment under CCFTA" in subsection 2(1) of the *Customs Act* is replaced by the following:**

"preferential  
tariff treatment  
under CCFTA"  
« traitement  
tarifaire  
préférentiel de  
l'ALÉCC »

"preferential tariff treatment under CCFTA" means, in respect of goods, entitlement to the benefit of the Chile Tariff under section 45.1 of the *Customs Tariff*;

**(b) if section 38 of that Act comes into force before the day on which section 156 of this Act comes into force, section 156 of this Act is repealed and subsection 42.2(1) of the *Customs Act* is replaced by the following:**

Statement of  
origin

**42.2 (1)** On completion of a verification of origin under paragraph 42.1(1)(a), an officer designated under subsection 42.1(1) shall provide the exporter or producer whose goods are subject to the verification of origin with a statement as to whether the goods are eligible, under the regulations made under section 16 of the *Customs Tariff*, for the preferential tariff treatment that was claimed.

**(c) if section 38 of that Act comes into force before the day on which section 157 of this Act comes into force, section 157 of this Act is repealed and subsections 42.3(2) to (4) of the *Customs Act* are replaced by the following:**

Effective date of  
re-determination  
of origin of goods  
subject to  
verification of  
origin

(2) Subject to subsection (4), a re-determination or further re-determination of origin does not take effect until notice of it is given to the importer of the goods and any person who completed and signed a Certificate of Origin for the

goods if the result of the re-determination or further re-determination of origin made under subsection 59(1) in respect of goods for which preferential tariff treatment under NAFTA or preferential tariff treatment under CCFTA is claimed and that are the subject of a verification of origin under this Act is that

(a) the goods are not eligible for that preferential tariff treatment on the basis of the tariff classification or value of one or more materials used in their production; and

(b) that tariff classification or value differs from the tariff classification or value applied to those materials by the NAFTA country from which the goods were exported or from Chile, as the case may be.

#### Limitation

(3) A re-determination or further re-determination of origin referred to in subsection (2) shall not be applied to goods imported before the date on which the notice was given if the customs administration of the NAFTA country from which the goods were exported or of Chile, as the case may be, has, before that date,

(a) given an advance ruling under Article 509 of NAFTA or Article E-09 of CCFTA, as the case may be, or given another ruling referred to in paragraph 12 of Article 506 of NAFTA or paragraph 12 of Article E-06 of CCFTA, as the case may be, on the tariff classification or value of the materials referred to in subsection (2); or

(b) given consistent treatment with respect to the tariff classification or value of the materials referred to in subsection (2) on their importation into the NAFTA country or Chile, as the case may be.

#### Postponement of effective date

(4) The date on which a re-determination or further re-determination of origin referred to in subsection (2) takes effect shall be postponed for a period not exceeding ninety days if the importer of the goods that are the subject of the re-determination or further re-determination, or any person who completed and signed a Certificate of Origin for the goods, establishes to the satisfaction of the Minister that the importer or the person, as the case may be, has relied in good faith, to the detriment of the importer or person, on the tariff classification or value applied to the materials referred to in that subsection by the customs administration of the NAFTA country from which the goods were exported or of Chile, as the case may be.

**(d) on the later of the coming into force of section 38 of that Act and the coming into force of this section, subsection 42.4(2) of the *Customs Act* is replaced by the following:**

Denial or  
withdrawal of  
benefit: NAFTA  
country or Chile

(2) Notwithstanding section 24 of the *Customs Tariff*, the Minister may, subject to the prescribed conditions, deny or withdraw preferential tariff treatment under NAFTA or preferential tariff treatment under CCFTA in respect of goods for which that treatment is claimed if the exporter or producer of the goods has made false representations that identical goods exported or produced by that exporter or producer and for which that treatment was claimed were eligible for that treatment.



(e) on the coming into force of section 38 of that Act, section 159 of this Act is repealed;

(f) on the later of the coming into force of section 42 of that Act and this section, section 72 of the *Customs Act* is replaced by the following:

Limitation  
relating to  
security

72. No security may be given under paragraph 59(3)(a) or 65(1)(a) or subsection 69(1) in respect of any amount owing as surtaxes levied under section 49, 51, 56, 59, 64 or 72 of the *Customs Tariff* or temporary duties levied under any of sections 65 to 70.1 of that Act.

(g) if subsection 43(2) of that Act comes into force before the day on which subsection 170(2) of this Act comes into force, subsection 170(2) of this Act is repealed and subsection 74(1) of the *Customs Act* is amended by striking out the word "or" at the end of paragraph (c.11) and by replacing paragraph (d) with the following:

(d) the calculation of duties owing was based on a clerical, typographical or similar error;

(e) the duties were paid or overpaid as a result of an error in the determination under subsection 58(2) of origin (other than in the circumstances described in paragraph (c.1) or (c.11)), tariff classification or value in respect of the goods and the determination has not been the subject of a decision under section 59 or 61; or

(f) the goods, or other goods into which they have been incorporated, are sold or otherwise disposed of to a person, or are used, in compliance with a condition imposed under a tariff item in the List of Tariff Provisions set out in the schedule to the *Customs Tariff*, or under any regulations made under that Act in respect of a tariff item in that List, before any other use is made of the goods in Canada.

Bill C-81

210. If Bill C-81, introduced in the second session of the thirty-fifth Parliament and entitled *An Act to implement the Canada-Chile Free Trade Agreement and related agreements*, is assented to and comes into force before the coming into force of this section, then

(a) the definition "free trade partner" in subsection 2(1) of this Act is replaced by the following:

"free trade  
partner"  
« *partenaire de  
libre-échange* »

"free trade partner" means

- (a) a NAFTA country;
- (b) Chile; or
- (c) Israel or another CIFTA beneficiary.

**(b) subsection 2(1) of this Act is amended by adding the following in alphabetical order:**

"Canada-Chile Free Trade Agreement"  
« *Accord de libre-échange Canada - Chili* »

"Canada-Chile Free Trade Agreement" has the same meaning as "Agreement" in subsection 2(1) of the *Canada-Chile Free Trade Agreement Implementation Act*.

"Chile"  
« *Chili* »

"Chile" means the land, maritime, and air space under the sovereignty of Chile and the exclusive economic zone and the continental shelf over which it exercises sovereign rights and jurisdiction in accordance with its domestic law and international law.

**(c) section 5 of this Act is replaced by the following:**

Goods imported  
from a NAFTA  
country or from  
Chile

5. For the purposes of this Act, goods are imported from a NAFTA country or Chile if they are shipped directly to Canada from the NAFTA country or Chile, as the case may be.

**(d) paragraph 14(2)(c) of this Act is replaced by the following:**

(c) by way of compensation for any action taken under subsection 51(1), section 56, subsection 59(1), 65(2), 66(2), 66.1(2), 67(1), 70(1) or 70.1(1) or under subsection 5(3), (3.2) or (4.1) of the *Export and Import Permits Act*.

**(e) subsection 16(5) of this Act is replaced by the following:**

Uniform  
Regulations

(5) The Governor in Council may, on the recommendation of the Minister, make regulations for the uniform interpretation, application and administration of

(a) Chapters Three and Four of the North American Free Trade Agreement and any other matters agreed on from time to time by the parties to that Agreement for the purposes of that Agreement; and

(b) Chapters C and D of the Canada-Chile Free Trade Agreement and any other matters agreed on from time to time by the parties to that Agreement for the purposes of that Agreement.

**(f) paragraph 24(1)(b) of this Act is replaced by the following:**

(b) the goods are entitled to the benefit of that tariff treatment in accordance with regulations made under section 16 or an order made under paragraph 31(1)(a), 34(1)(a) or 38(1)(a), subsection 45(13) or section 45.3.

**(g) section 27 of this Act is replaced by the following:**

Abbreviation

27. For the purposes of the List of Tariff Provisions and the "F" Staging List, the abbreviations "UST", "MT", "MUST", "CT", "CIAT", "GPT", "LDCT", "CCCT", "AUT", and "NZT" refer, respectively, to "United States Tariff", "Mexico Tariff", "Mexico-United States Tariff", "Chile Tariff", "Canada-Israel Agreement Tariff", "General Preferential Tariff", "Least Developed Country Tariff", "Commonwealth Caribbean Countries Tariff", "Australia Tariff" and "New Zealand Tariff".

**(h) this Act is amended by adding the following after section 45:**

Chile Tariff

Application of CT

45.1 (1) Subject to section 24, goods that originate in Chile are entitled to the Chile Tariff rates of customs duty.

"A" final rate

(2) If "A" is set out in the column entitled "Preferential Tariff" in the List of Tariff Provisions following the abbreviation "CT" in relation to goods entitled to the Chile Tariff, the Chile Tariff rate of customs duty that applies to those goods is the final rate of "Free".

"F" staging for CT

(3) If "F" is set out in the column entitled "Preferential Tariff" in the List of Tariff Provisions following the abbreviation "CT" in relation to goods entitled to the Chile Tariff, the Chile Tariff rate of customs duty that applies to those goods is the initial rate, reduced as provided in the "F" Staging List.

Staging for CT

(4) If "G", "K", "K1", "D1", "I" or "L" is set out in the column entitled "Preferential Tariff" in the List of Tariff Provisions following the abbreviation "CT" in relation to goods entitled to the Chile Tariff, the Chile Tariff rate of customs duty that applies to those goods is the initial rate, reduced

(a) if "G" is set out, effective on January 1, 1999, to the final rate of "Free";

(b) if "K" is set out,

(i) effective on January 1, 1999, to four fifths of the initial rate,

(ii) effective on January 1, 2000, to three fifths of the initial rate, and

(iii) effective on January 1, 2001, to the final rate of "Free";

(c) if "K1" is set out,

(i) effective on January 1, 1999, to 82% of the initial rate,

(ii) effective on January 1, 2000, to 60% of the initial rate, and

(iii) effective on January 1, 2001, to the final rate of "Free";

(d) if "D1" is set out,

(i) effective on January 1, 1999, to three quarters of the initial rate,

- (ii) effective on January 1, 2000, to one half of the initial rate,
  - (iii) effective on January 1, 2001, to one quarter of the initial rate, and
  - (iv) effective on January 1, 2002, to the final rate of "Free";
- (e) if "I" is set out,
- (i) effective on January 1, 1999, to four fifths of the initial rate,
  - (ii) effective on January 1, 2000, to three fifths of the initial rate,
  - (iii) effective on January 1, 2001, to two fifths of the initial rate,
  - (iv) effective on January 1, 2002, to one fifth of the initial rate, and
  - (v) effective on January 1, 2003, to the final rate of "Free"; and
- (f) if "L" is set out, effective on January 1, 2003, to the final rate of "Free".

Rounding of  
specific rates

(5) If a reduction under subsection (3) or (4) results in a specific rate of customs duty that includes a fraction of one tenth of a cent, the rate shall be rounded down to the nearest one tenth of a cent.

Rounding of  
amounts

(6) If a reduction under subsection (3) or (4) results in a rate of customs duty that includes a fraction of one per cent other than 0.5, the resulting percentage shall be rounded down to the nearest percentage that divides evenly by 0.5.

Elimination of  
rates of less than  
two per cent

(7) If a reduction under subsection (3) or (4) or a rounding under subsection (6) results in a rate of customs duty that is a percentage of less than two per cent, the rate shall be further reduced to "Free" immediately.

Reduction of rate:  
"L" staging

**45.2** (1) For the purpose of giving effect to paragraphs X, XI and XII in the portion of the Tariff Schedule of Canada referred to in Annex C-02.2 of the Canada-Chile Free Trade Agreement, entitled "Tariff Elimination - Staging Category Descriptions", the Governor in Council may, by order, amend the List of Tariff Provisions and the "F" Staging List to reduce, for the period and subject to the conditions that are specified in the order, the initial rate for goods of a tariff item entitled to the Chile Tariff in respect of which "L" is set out in the column entitled "Preferential Tariff" in the List of Tariff Provisions following the abbreviation "CT" in that tariff item.

Increase of rate

(2) For the purpose of giving effect to paragraph 4 of Article C-14 of the Canada-Chile Free Trade Agreement in respect of agricultural goods, the Governor

in Council may, on the recommendation of the Minister, by order, amend the List of Tariff Provisions and the "F" Staging List to increase, for the period and subject to the conditions specified in the order, the Chile Tariff rate of customs duty that applies to those goods, but the rate may not exceed the Most-Favoured-Nation Tariff rate in effect on the coming into force of the order.

Period and repeal  
of order

(3) An order made under subsection (2)

(a) remains in effect, subject to this section, for the period that is specified in the order; and

(b) may, notwithstanding any other provision of this section, be amended at any time by the Governor in Council, unless, before that time, a resolution praying that the order be repealed has been adopted by both Houses of Parliament under subsection (4).

Resolution of  
Parliament  
repealing order

(4) If a resolution praying that an order made under subsection (2) be repealed is adopted by both Houses of Parliament, the order ceases to have effect on the day that the resolution is adopted or, if the adopted resolution specifies a day on which the order ceases to have effect, on that specified day.

Notice in *Canada*  
*Gazette*

(5) If an order ceases to have effect under subsection (4), the Minister shall publish a notice to that effect in the *Canada Gazette*.

Ceases to be in  
force

(6) This section ceases to be in force on December 31, 2002.

Extension of Chile  
Tariff

**45.3** Notwithstanding any other provision of this Act and for the purpose of giving effect to Appendix 5.1 of Annex C-00-B of the Canada-Chile Free Trade Agreement, the Minister may, by order, amend the schedule to extend the benefit of the Chile Tariff to any imported goods under such conditions as are specified in the order.

Limits on  
reduction of duty

**45.4** (1) The Governor in Council may, by order, specify limits on the quantity of goods of tariff item No. 0703.10.92, or on the aggregate quantity of goods of tariff item No. 0810.10.11 and of goods of tariff item No. 0810.10.92, that are entitled to the benefit of the Chile Tariff, and the limits apply during the periods that may be specified in the order.

Ceases to have  
effect

(2) This section ceases to have effect on December 31, 2002.

**(i) section 50 of this Act is replaced by the following:**

Definitions

50. The definitions in this section apply in sections 51 to 63.

"contribute  
importantly"  
« *contribuer de  
manière importante*  
»

"contribute importantly", in respect of goods imported from a NAFTA country or from Chile, means to be an important cause, but not necessarily the most important cause.

"surge"  
« *augmentation  
subite* »

"surge", in respect of goods imported from a NAFTA country or from Chile, has the meaning given that word by Article 805 of the North American Free Trade Agreement or Article F-05 of the Canada-Chile Free Trade Agreement, as the case may be.

**(j) subsection 51(5) of this Act is replaced by the following:**

Prohibition  
against further  
orders

(5) Subject to subsection (6), no order may be made under subsection (1) with respect to goods that have already been the subject of an order made under that subsection or subsection 5(3) of the *Export and Import Permits Act* unless, after the expiry of the order and any related orders made under subsection 5(3.2) or (4.1) of that Act or section 56 or subsection 59(1), there has elapsed a period equal to the greater of two years and the total period during which the order or orders were in effect.

**(k) subsection 57(2) of this Act is replaced by the following:**

Limitation

(2) If the Governor in Council makes an order under subsection 51(1) or 59(1) that applies to goods imported from a free trade partner that meet the conditions set out in subsection 55(1) or 59(4) or makes an order under section 56, the Governor in Council shall be guided by subparagraph 5(b) of Article 802 of the North American Free Trade Agreement, subparagraph 5(b) of Article F-02 of the Canada-Chile Free Trade Agreement or subparagraph 5(b) of Article 4.6 of the Canada-Israel Free Trade Agreement, as the case may be.

**(l) the portion of subsection 59(1) of this Act before paragraph (a) is replaced by the following:**

Extension order

59. (1) Subject to subsection (4), if, at any time before the expiry of an order with respect to any goods made under this subsection, subsection 51(1) or section 56 or under subsection 5(3), (3.2) or (4.1) of the *Export and Import Permits Act*, it appears to the satisfaction of the Governor in Council, as a

result of an inquiry made by the Canadian International Trade Tribunal under section 30.07 of the *Canadian International Trade Tribunal Act*, that

**(m) paragraph 59(5)(a) of this Act is replaced by the following:**

(a) remains in effect, subject to this section, for the period that is specified in the order, but the total of the specified period and the periods during which the goods were subject to related orders made under subsection (1) or 51(1) or section 56 or under subsection 5(3), (3.2) or (4.1) of the *Export and Import Permits Act* may not exceed eight years; and

**(n) this Act is amended by adding the following after section 66:**

Bilateral Emergency Measures – Chile

Non-application

**66.1** (1) This section does not apply in respect of textile and apparel goods set out in Appendix 1.1 of Annex C-00-B of the Canada-Chile Free Trade Agreement.

Order by Governor  
in Council

(2) Subject to subsection (3), if at any time it appears to the satisfaction of the Governor in Council, as a result of an inquiry made by the Canadian International Trade Tribunal under subsection 19.012(2) of the *Canadian International Trade Tribunal Act* or further to a complaint filed under subsection 23(1.05) of that Act, that goods that are entitled to the benefit of the Chile Tariff are, as a result of that entitlement, being imported in such increased quantities and under such conditions as to alone constitute a principal cause of serious injury, or a threat of serious injury, to domestic producers of like or directly competitive goods, the Governor in Council may, on the recommendation of the Minister, by order,

(a) suspend, during the period that the order is in effect, any reduction of the rate of customs duty with respect to those goods that would otherwise be made after that time by virtue of section 45.1;

(b) in respect of goods on which a customs duty is imposed on a seasonal basis, make those goods subject to a temporary duty, over and above any other duty specified in this Act or in any other Act of Parliament relating to customs, at a rate set out in the order, but no such rate may, when added to the rate of customs duty set out in the List of Tariff Provisions that is in effect in respect of those goods at that time, exceed the Most-Favoured-Nation Tariff rate of customs duty that was in effect in respect of those goods immediately before June 2, 1997; and

(c) in respect of goods other than goods referred to in paragraph (b), make those goods subject to a temporary duty, over and above any other duty specified in this Act or in any other Act of Parliament relating to customs, at a rate set out in the order, but no such rate may, when added to the rate of customs duty specified in the Chile Tariff that is in effect in respect of those goods at that time, exceed the lesser of

(i) the Most-Favoured-Nation Tariff rate of customs duty that was in effect in respect of those goods on June 1, 1997, and

(ii) the Most-Favoured-Nation Tariff rate of customs duty that is in effect in respect of those goods at the time the order is made.

Terms and  
conditions

(3) An order under subsection (2)

(a) may not be made more than once during the period beginning on June 2, 1997 and ending on December 31, 2002 in respect of goods of a particular kind and, if made during that period, remains in effect for the period, not exceeding three years, specified in the order; and

(b) may be made after December 31, 2002 only pursuant to an agreement between the Government of Canada and the Government of the Republic of Chile relating to the application of subsection (2).

Rate of duty when  
order ceases to  
have effect

(4) If an order made under subsection (2) ceases to have effect in a particular calendar year,

(a) the rate of customs duty applicable to the goods after the order ceases to have effect and until December 31 of that year is the rate that would otherwise have been applicable one year after the making of the order, as reduced in accordance with section 45.1; and

(b) the rate of customs duty applicable to the goods beginning on January 1 of the following year is the rate specified by the Minister under subsection (5).

Specification of  
applicable rate

(5) For the purposes of subsection (4), the Minister shall, by order, specify that the rate referred to in paragraph (4)(b) is

(a) the rate of customs duty that would have been applicable on January 1 of the year following the year in which the order ceases to have effect, if the rate of customs duty had been reduced in accordance with section 45.1, reduced for subsequent years in accordance with that section; or

(b) the rate of customs duty that would have been applicable one year after the making of the order, reduced in equal annual stages beginning on January 1 of the year following the year in which the order ceases to have effect and ending on the day on which the rate of customs duty for the goods would otherwise be reduced in accordance with section 45.1.

Definition of  
"principal cause"

(6) In this section, "principal cause" means, in respect of a serious injury or threat of serious injury, an important cause that is not less important than any other cause of the serious injury or threat.

Reference to  
customs duty in  
effect

(7) For the purposes of paragraph (2)(b), the Most-Favoured-Nation Tariff rate of customs duty in effect in respect of a fresh fruit or vegetable is



(a) in respect of a fresh vegetable, the rate of customs duty applicable to that vegetable set out in the applicable tariff item referred to in Supplementary Note 2(b) in Chapter 7 of the List of Tariff Provisions; and

(b) in respect of a fresh fruit, the rate of customs duty applicable to that fruit set out in the applicable tariff item referred to in Supplementary Note 4(b) in Chapter 8 of the List of Tariff Provisions.

**(o) subsection 68(4) of this Act is replaced by the following:**

If emergency  
actions taken

(4) No order may be made in respect of a fresh fruit or vegetable under subsection (1) during any period in which an order made under subsection 51(1), section 56 or subsection 59(1) or 65(2) or under subsection 5(3), (3.2) or (4.1) of the *Export and Import Permits Act* in respect of the same fresh fruit or vegetable is in force.

**(p) subsection 69(4) of this Act is replaced by the following:**

Application of  
special measures

(4) An order made under subsection 51(1), section 56 or subsection 59(1) or under subsection 5(3), (3.2) or (4.1) of the *Export and Import Permits Act* has effect in respect of goods referred to in subsection (2) only during any period in which the limits specified under subsection (3) for those goods have not been exceeded.

**(q) this Act is amended by adding the following after section 70:**

Bilateral Emergency Measures for Textile and Apparel Goods Imported from Chile  
  
Order by Governor  
in Council

**70.1** (1) If it appears to the satisfaction of the Governor in Council, on the basis of a report of the Minister further to a complaint under subsection 23(1.06) of the *Canadian International Trade Tribunal Act* or as a result of an inquiry made by the Canadian International Trade Tribunal under subparagraph 26(1)(a)(i.6) of that Act, that textile and apparel goods set out in Appendix 1.1 of Annex C-00-B of the Canada-Chile Free Trade Agreement and entitled to the benefit of the Chile Tariff are being imported in such increased quantities, in absolute terms or relative to the domestic market for the goods, and under such conditions as to cause serious damage or an actual threat of serious damage to domestic producers of like or directly competitive goods, the Governor in Council may, on the recommendation of the Minister, by order,

(a) suspend any further reduction of any rate of customs duty in respect of the goods that would otherwise result under section 45.1; or

(b) impose, in addition to any other duty imposed under this or any other Act of Parliament, a temporary duty on the goods at a rate specified in the order.

Limit on amount of  
temporary duty

(2) A rate of temporary duty imposed under paragraph (1)(b) may not, when added to the rate of customs duty specified in the List of Tariff Provisions for the goods, exceed the lesser of

(a) the Most-Favoured-Nation Tariff rate for the goods in effect when the order is made, and

(b) the Most-Favoured-Nation Tariff rate for the goods in effect on June 1, 1997.

#### Period

(3) Subject to subsection (4), an order made under subsection (1) remains in effect for a period, set out in the order, not exceeding three years.

#### Duration of order

(4) If an order is made under subsection (1) on the basis of a report of the Minister, the order ceases to have effect at the end of the one hundred and eightieth day after the day on which the order is made unless, before the order so ceases to have effect, the Canadian International Trade Tribunal reports to the Governor in Council, on the basis of an inquiry made under subparagraph 26(1)(a)(i.6) of the *Canadian International Trade Tribunal Act*, that the goods described in the report of the Minister are being imported from the country named in the report under such conditions as to cause or threaten serious damage to domestic producers of like or directly competitive goods.

#### Extension of order

(5) The Governor in Council may, on the recommendation of the Minister, by order, extend the period of an order made as a result of an inquiry of the Canadian International Trade Tribunal made under subparagraph 26(1)(a)(i.6) of the *Canadian International Trade Tribunal Act* or an order that remains in effect by virtue of subsection (4) on the basis of a report of that Tribunal, but the total period of the order may not exceed three years.

#### Rate of duty after order ceases to have effect

(6) If an order made under subsection (1) ceases to have effect in a particular calendar year,

(a) the rate of customs duty applicable to the goods after the order ceases to have effect and until December 31 of that year is the rate that would have been applicable one year after the making of the order, as reduced in accordance with section 45.1; and

(b) the rate of customs duty applicable to the goods beginning on January 1 of the following year is the rate specified by the Minister under subsection (7).

#### Specification of applicable rates

(7) For the purposes of subsection (6), the Minister shall, by order, specify that the rate referred to in paragraph (6)(b) is

(a) the rate of customs duty that would have been applicable on January 1 of the year following the year in which the order ceases to have effect if the rate of customs duty had been reduced in accordance with section 45.1, reduced to "Free" in accordance with that section; or

(b) the rate of customs duty that would have been applicable one year after the making of the order, reduced to "Free" in equal annual stages beginning

on January 1 of the year following the year in which the order ceases to have effect and ending on the day on which the rate of customs duty for the goods would otherwise be reduced to "Free" in accordance with section 45.1.

Further orders

(8) An order under subsection (1) may not be made more than once during the period beginning on June 2, 1997 and ending on June 1, 2003 in respect of goods of a particular kind.

**(r) section 73 of this Act is replaced by the following:**

Goods in transit

**73.** An order made under subsection 49(2) or 51(1), section 56 or subsection 59(1), 65(2), 66(2), 66.1(2), 67(1), 70(1) or 70.1(1) may provide that goods that are in transit to Canada at the time the order comes into force are entitled to the benefit of the tariff treatment that was applicable to those goods immediately before that time.

**(s) the definition "customs duties" in section 74 of this Act is replaced by the following:**

"customs duties"  
« *droits de douane*  
»

"customs duties", other than for the purposes of sections 76, 89 and 90, means customs duties imposed under Part 2, other than surtaxes imposed under section 49, 51, 56, 59, 64 or 72 or temporary duties imposed under any of sections 65 to 70.1.

**(t) subsection 88(1) of this Act is replaced by the following:**

Definition of  
"customs duties"

**88.** (1) In sections 89 and 90, "customs duties" means customs duties imposed under Part 2, other than additional customs duties levied under section 21, surtaxes imposed under section 49, 51, 56, 59, 64 or 72 or temporary duties imposed under any of sections 65 to 70.1.

**(u) subparagraph 93(a)(iii) of this Act is replaced by the following:**

(iii) the circumstances in which, and the classes of goods in respect of which, relief of duties levied under section 21 or under the *Special Import Measures Act*, a surtax imposed under section 49, 51, 56, 59, 64 or 72, a temporary duty imposed under any of sections 65 to 70.1, a tax levied under the *Excise Tax Act* or a duty imposed under the *Excise Act* may not be granted,

**(v) paragraph 106(4)(a) of this Act is replaced by the following:**

(a) the circumstances in which, and the classes of goods in respect of which, a refund or drawback of duties levied under section 21 or under the *Special Import Measures Act*, a surtax levied under section 49, 51, 56, 59, 64 or 72, a temporary duty levied under any of sections 65 to 70.1, a tax levied under the *Excise Tax Act* or a duty levied under the *Excise Act* may not be granted under subsection (1);

(w) the schedule to this Act is amended by adding "CT: N/A" directly under "MUST:" wherever it appears in the column entitled "Preferential Tariff" in the List of Tariff Provisions.

Bill C-81

211. If Bill C-81, introduced in the second session of the thirty-fifth Parliament and entitled *An Act to implement the Canada-Chile Free Trade Agreement and related agreements*, is assented to and comes into force before the coming into force of this section, then

(a) subsections 5(3.1) to (3.3) of the *Export and Import Permits Act* are replaced by the following:

Prohibition  
against further  
orders

(3.1) No order may be made under subsection (3) with respect to goods that have already been the subject of an order under that subsection or subsection 51(1) of the *Customs Tariff* unless, after the expiry of the order and any related orders made under subsection (3.2) or (4.1) or under section 56 or subsection 59(1) of the *Customs Tariff*, there has elapsed a period equal to the greater of two years and the total period during which the order or orders were in effect.

Extension order

(3.2) The Governor in Council may, on the recommendation of the Minister, make an extension order including on the Import Control List any goods with respect to which an order has been made under this subsection or subsection (3) or (4.1) or under subsection 51(1), section 56 or subsection 59(1) of the *Customs Tariff* if, at any time before the order expires, it appears to the satisfaction of the Governor in Council, as a result of an inquiry made by the Canadian International Trade Tribunal under section 30.07 of the *Canadian International Trade Tribunal Act*, that

(a) an order continues to be necessary to prevent or remedy serious injury to domestic producers of like or directly competitive goods; and

(b) there is evidence that the domestic producers are adjusting, as determined in accordance with any regulations made under paragraph 40(b) of the *Canadian International Trade Tribunal Act*.

Period and  
revocation of  
extension orders

(3.3) Every extension order made under subsection (3.2) shall, subject to this section, remain in effect for the period that is specified in the order, but the total of the specified period and the periods during which the goods were previously subject to any related orders made under subsection (3), (3.2) or (4.1) or under subsection 51(1), section 56 or subsection 59(1) of the *Customs Tariff* shall not exceed eight years.

(b) paragraph 5(4.3)(b) of the *Export and Import Permits Act* is replaced by the following:

(b) to which an order made under subsection 51(1) or 59(1) of the *Customs Tariff* does not apply because the goods did not meet the conditions set out in subsection 55(1) or 59(4) of that Act.

**(c) subparagraph 5(8)(b)(ii) of the *Export and Import Permits Act* is replaced by the following:**

(ii) in the case of an order under subsection (4.3) in respect of goods referred to in paragraph (4.3)(b), the order under subsection 51(1) or 59(1) of the *Customs Tariff* that applies to goods of the same kind imported from any other country ceases to have effect.

**(d) subsection 5.2(3) of the *Export and Import Permits Act* is replaced by the following:**

Addition to Import  
Control List

(3) If at any time it appears to the satisfaction of the Governor in Council that it is advisable to collect information with respect to the importation of any goods in respect of which a specified quantity is eligible for a benefit of any reduction of customs duty under subsection 45.4(1) or 69(3) of the *Customs Tariff*, the Governor in Council may, by order and without reference to that quantity, include those goods on the Import Control List in order to facilitate the collection of that information.

**(e) subsection 6.1(1) of the *Export and Import Permits Act* is replaced by the following:**

Definition of  
"originating  
goods"

**6.1** (1) In this section, "originating goods" means goods that are entitled under section 16 of the *Customs Tariff* to the benefit of the United States Tariff, the Mexico Tariff, the Mexico-United States Tariff or the Chile Tariff.

Bill C-81

**212.** (1) If Bill C-81, introduced in the second session of the thirty-fifth Parliament and entitled *An Act to implement the Canada-Chile Free Trade Agreement and related agreements*, is assented to and comes into force before the coming into force of this section, then

(a) every order made under subsection 60.13(2) of the former Act before the coming into force of this section is deemed to have been made under subsection 66.1(2) of this Act; and

(b) every order made under subsection 60.41(1) of the former Act before the coming into force of this section is deemed to have been made under subsection 70.1(1) of this Act.

Definition of  
"former Act"

(2) In this section, "former Act" means the *Customs Tariff* as it read immediately before the coming into force of this section.

Amendment of  
schedule

**213.** (1) If Bill C-81, introduced in the second session of the thirty-fifth Parliament and entitled *An Act to implement the Canada-Chile Free Trade Agreement and related agreements*, is assented to and comes into force before the coming into force of this section, the Governor in Council may, on the recommendation

of the Minister, by order, amend the schedule to the extent required to implement fully the Canada-Chile Free Trade Agreement.

Retroactivity

(2) Any order under subsection (1) may, if it so provides, be retroactive and have effect from the day of coming into force of this section.

Expiry date

(3) This section ceases to have effect on December 31, 1998.

*Repeal*

Repeal of R.S., c.  
41 (3rd Supp.)

214. The *Customs Tariff* is repealed.

*Coming into Force*

Coming into force

215. (1) This Act or any of its provisions, or any provision of an Act as enacted or amended by this Act, comes into force on a day or days to be fixed by order of the Governor in Council and applies, or is deemed to have applied, to all goods referred to in this Act imported on or after that day and to goods imported before that day that were not accounted for under section 32 of the *Customs Act* before that day.

Retroactive

(2) Any order under subsection (1) may, if it so provides, be retroactive and have effect from the date set out in the order.

*Customs Act*

*Clause 141:* (1) The definitions "bonded warehouse", "duties", "preferential tariff treatment under CIFTA", "preferential tariff treatment under NAFTA", "prescribed" and "tariff classification" in subsection 2(1) read as follows:

"bonded warehouse" means a place licensed as a bonded warehouse by the Minister under subsection 81(1) of the *Customs Tariff*;

"duties" means any duties or taxes levied or imposed on imported goods under the *Customs Tariff*, the *Excise Tax Act*, the *Excise Act*, the *Special Import Measures Act* or any other law relating to customs, but, for the purposes of subsection 3(1), paragraphs 58(2)(b), 62(1)(b) and 65(1)(b), sections 69 and 73 and subsections 74(1), 75(2) and 76(1), does not include taxes imposed under Part IX of the *Excise Tax Act*;

"preferential tariff treatment under CIFTA" means, in respect of goods, entitlement to the benefit of the Canada-Israel Free Trade Agreement Tariff, as defined in subsection 2(1) of the *Customs Tariff*;

"preferential tariff treatment under NAFTA" means, in respect of goods, entitlement to the benefit of the United States Tariff, the Mexico Tariff or the Mexico-United States Tariff of Schedules I and II to the *Customs Tariff*;

"prescribed" means

(a) in the case of a form, the information to be given on a form or the manner of filing a form, authorized by the Minister, and

(b) in any other case, prescribed by regulation or determined in accordance with rules prescribed by regulation;

"tariff classification" means the classification of imported goods under a tariff item in Schedule I to the *Customs Tariff* and, where applicable, under a code in Schedule II or VII to that Act or under any order made pursuant to section 62 or 68 of that Act;

(2) The relevant portion of subsection 2(1.1) reads as follows:

(1.1) For the purposes of the definition "designated goods" in subsection (1) and subsection 89(5),

(3) The definitions "diamonds", "pearls" and "precious and semi-precious stones" in subsection 2(1.1) read as follows:

"diamonds" means goods for personal use or for adornment of the person and classified under subheading Nos. 7102.10, 7102.31 and 7102.39 of Schedule I to the *Customs Tariff*;

"pearls" means goods for personal use or for adornment of the person and classified under heading No. 71.01 of Schedule I to the *Customs Tariff*;

"precious and semi-precious stones" means goods for personal use or for adornment of the person and classified under heading No. 71.03 of Schedule I to the *Customs Tariff*;

*Clause 142:* New.

*Clause 143:* (1) New.

(2) The relevant portion of subsection 12(7) reads as follows:

(7) Goods described in tariff item No. 9813.00.00 or 9814.00.00 of Schedule I to the *Customs Tariff*

Clause 144: (1) The relevant portion of subsection 19(1) reads as follows:

**19.** (1) Subject to section 20, any person who is authorized by an officer to do so may

...

(c) where such goods are designated as ships' stores by regulations made under paragraph 95(1)(g) of the *Customs Tariff*, remove them or cause them to be removed from a customs office or sufferance warehouse for use on board a conveyance of a class of conveyances prescribed under that paragraph in accordance with regulations made under that paragraph;

(2) The relevant portion of subsection 19(2) reads as follows:

(2) Subject to section 20, where goods that have been reported under section 12 have been described in the prescribed form at a customs office designated for that purpose, any person who is authorized by an officer to do so may

...

(c) where the goods are designated as ships' stores by regulations made under paragraph 95(1)(g) of the *Customs Tariff*, remove them or cause them to be removed from a bonded warehouse for use on board a conveyance of a class of conveyances prescribed under that paragraph in accordance with regulations made under that paragraph;

Clause 145: The relevant portion of subsection 20(2) reads as follows:

(2) Every person who transports or causes to be transported within Canada goods that have been imported but have not been released is liable for all duties thereon unless he proves, within such time as may be prescribed, that the goods were

...

(c) where the goods are designated as ships' stores by regulations made under paragraph 95(1)(g) of the *Customs Tariff*, received on board a conveyance of a class of conveyances prescribed under that paragraph for use on the conveyance in accordance with regulations made under that paragraph;

Clause 146: Subsections 32.2(4) to (8) are new. Subsections 32.2(2) and (3) read as follows:

(2) A correction to a declaration of origin for goods made under this section is not part of an accounting for the goods under subsection 32(1), (3) or (5).

(3) For greater certainty, this section does not apply where a correction to a declaration of origin would result in a claim for a refund of duties.

Clause 147: Section 33.1 reads as follows:

**33.1** Every person who fails to account for imported goods when and in the manner required under this Part or under the regulations made under this Act is liable to a penalty of \$100 for each failure to so account.

Clause 148: Subsections 33.4(3) and (4) read as follows:



(3) For the purposes of subsection (1), any duties in respect of goods payable under paragraph 58(2)(a), 62(1)(a) or 65(1)(a) shall be deemed to have become payable on the day duties became payable in respect of the goods under this Part.

(4) Where an amount of duties in respect of goods that is payable by a person under paragraph 58(2)(a), 62(1)(a) or 65(1)(a) in accordance with a determination, appraisal, re-determination or re-appraisal is paid by the person within thirty days after the day (in this subsection referred to as the "decision day") the determination, appraisal, re-determination or re-appraisal, as the case may be, is made, interest shall not be payable under subsection (1) on the amount for the period beginning on the day after the decision day and ending on the day the amount is paid.

Clause 149: Section 35.01 reads as follows:

**35.01** No person shall import goods that are required to be marked by any regulations made pursuant to section 63.1 of the *Customs Tariff* unless the goods are marked in accordance with those regulations.

Clause 150: The relevant portion of subsection 35.02(2) reads as follows:

(2) The Minister or any officer designated by the Minister for the purposes of this section may, by notice served personally or by registered mail, require any person

(a) to mark the imported goods with respect to which there has been a failure to comply with section 35.01 in accordance with the regulations made pursuant to section 63.1 of the *Customs Tariff* within such reasonable time as may be stipulated in the notice; or

Clause 151: Subsection 37(2) reads as follows:

(2) Goods, other than goods of a class prescribed by regulations made under subparagraph 95(1)(f)(xii) of the *Customs Tariff*, that have not been removed from a bonded warehouse within such time as may be prescribed by regulations made under subparagraph 95(1)(f)(xi) of that Act may be deposited by an officer in a place of safe-keeping designated by the Minister for that purpose.

Clause 152: Subsection 39.1(2) reads as follows:

(2) Goods of a class prescribed by regulations made under subparagraph 95(1)(f)(xii) of the *Customs Tariff* that have not been removed from a bonded warehouse within such period of time as may be prescribed by regulations made under subparagraph 95(1)(f)(xi) of that Act are, at the end of that period of time, forfeit.

Clause 153: The relevant portion of subsection 40(3) reads as follows:

(3) Every person who is

...

(c) granted a certificate under section 80.1 of the *Customs Tariff*, or

(d) granted a licence under section 81 of that Act,

Clause 154: New.

Clause 155: The relevant portion of subsection 42.1(1) reads as follows:

**42.1** (1) Any officer, or any officer within a class of officers, designated by the Minister for the purposes of this section may at all reasonable times and subject to the prescribed conditions enter any prescribed premises or place

...

(b) to verify the amount, if any, of

(i) a relief under section 80 of the *Customs Tariff* from the payment of any duties payable in respect of imported goods that are subsequently exported to a NAFTA country, or

(ii) a drawback under section 100 of the *Customs Tariff* of duties paid in respect of imported goods that are subsequently exported to a NAFTA country.

Clause 156: Subsection 42.2(2) reads as follows:

(2) On completion of a verification of origin under paragraph 42.1(1)(a) or by such other manner as may be prescribed, an officer designated pursuant to subsection 42.1(1) shall provide the exporter or producer whose goods are subject to the verification of origin with a statement as to whether the goods are eligible for preferential tariff treatment under NAFTA under the regulations made pursuant to section 13 of the *Customs Tariff*.

Clause 157: Subsections 42.3(1) to (3) read as follows:

**42.3** (1) Subject to subsection (3), where the result of a re-determination of origin made under section 61 as applied by subsection 57.2(3.1) in respect of goods that are the subject of a verification of origin under this Act, is that

(a) the goods are not eligible for preferential tariff treatment under NAFTA on the basis of the tariff classification or value of one or more materials used in their production, and

(b) that tariff classification or value differs from the tariff classification or value applied to those materials by the NAFTA country from which the goods were exported,

the re-determination of origin shall not take effect until notice of it is given to the importer of the goods and any person who completed and signed a Certificate of Origin for the goods.

(2) A re-determination of origin referred to in subsection (1) shall not be applied to goods imported before the date on which the notice was given, where the customs administration of the NAFTA country from which the goods were exported has, before that date,

(a) given an advance ruling pursuant to Article 509 of NAFTA, or other ruling referred to in paragraph 12 of Article 506 of NAFTA, on the tariff classification or value of the materials referred to in subsection (1); or

(b) given consistent treatment with respect to the tariff classification or value of the materials referred to in subsection (1) on their importation into the NAFTA country.

(3) The date on which a re-determination of origin referred to in subsection (1) takes effect shall be postponed for a period not exceeding ninety days, where the importer of the goods that are the subject of the re-determination or any person who completed and signed a Certificate of Origin for the goods establishes to the satisfaction of the Minister that the importer or the person, as the case may be, has relied in good faith, to the detriment of the importer or person, on

the tariff classification or value applied to the materials referred to in that subsection by the customs administration of the NAFTA country from which the goods were exported.

*Clause 158:* Subsection 42.4(2) reads as follows:

(2) Notwithstanding subsection 25.2(5.1) of the *Customs Tariff*, the Minister may, subject to the prescribed conditions, deny or withdraw preferential tariff treatment under NAFTA in respect of goods imported from a NAFTA country for which such treatment is claimed, where the exporter or producer of the goods has made false representations that identical goods exported or produced by that exporter or producer that are imported from a NAFTA country and for which preferential tariff treatment under NAFTA is claimed are eligible for such treatment.

*Clause 159:* Subsection 42.6(1) reads as follows:

**42.6** (1) On completion of a verification of origin under subsection 42.5(1), an officer designated pursuant to that subsection shall provide the exporter or producer whose goods are subject to the verification of origin with a statement as to whether the goods are eligible for preferential tariff treatment under CIFTA under the regulations made pursuant to section 13 of the *Customs Tariff*.

*Clause 160:* Section 57.01 reads as follows:

**57.01** (1) Any officer, or any officer within a class of officers, designated by the Minister for the purposes of this section may, at any time before or within thirty days after goods imported from a NAFTA country are accounted for under subsection 32(1), (3) or (5), in the prescribed manner and subject to the prescribed conditions, make a determination as to whether the goods have been marked in the manner referred to in section 35.01 and shall give notice of the determination to the prescribed class of persons.

(2) Where an officer does not make a determination under subsection (1) in respect of goods imported from a NAFTA country within thirty days after the time the goods are accounted for under subsection 32(1), (3) or (5), a determination as to whether the goods have been marked in the manner referred to in section 35.01 shall be deemed to have been made in accordance with any representations that have been made in respect of the marking of the goods by the person who accounted for the goods.

*Clause 161:* The heading before section 57.1 and sections 57.1 to 64 read as follows:

*Determination and Re-determination of Origin*

**57.1** For the purposes of section 57.2, the origin of imported goods shall be determined in accordance with section 13 of the *Customs Tariff* and the regulations thereunder.

**57.2** (1) An officer may determine the origin of imported goods at any time before or within thirty days after they are accounted for under subsection 32(1), (3) or (5).

(1.1) Where an officer makes a determination under subsection (1), the officer shall give notice of the determination to any person who has completed and signed a Certificate of Origin for the goods that were the subject of the determination, in addition to the person who accounted for the goods under subsection 32(1), (3) or (5).

(2) Where an officer does not make a determination under subsection (1) in respect of imported goods, a determination of the origin of the goods shall be

deemed to have been made under this section thirty days after the time the goods were accounted for under subsection 32(1), (3) or (5) in accordance with any representations made at that time in respect of the origin of goods by the person accounting for the goods.

(2.1) Subject to subsection (3.1), a determination of the origin of imported goods under this section is final unless, in the case of goods other than goods imported from a NAFTA country for which preferential tariff treatment under NAFTA is claimed, a re-determination of the origin of the imported goods is made by the Minister within two years after they are accounted for under subsection 32(1), (3) or (5).

(2.2) The operation of subsection (3) is suspended during the period in which subsection (2.1) is in force.

(3) Subject to subsection (4), a determination of the origin of imported goods under this section is final unless, in the case of goods other than goods imported from the United States, a re-determination of the origin of the imported goods is made by the Minister within two years after they are accounted for under subsection 32(1), (3) or (5).

(3.01) Subsections (2.1) and (3) do not apply in respect of goods imported from Israel or another CIFTA beneficiary for which preferential tariff treatment under CIFTA is claimed.

(3.1) Subject to this section, sections 58 to 72 apply, with such modifications as the circumstances require, in respect of a determination of origin under this section as to the origin of goods imported from a NAFTA country for which preferential tariff treatment under NAFTA is claimed as if it were a determination of the tariff classification of the goods, and, for greater certainty, any matter that may be prescribed in relation to a request referred to in subsection 60(2) or 63(2) may be prescribed in relation to a request for a re-determination or further re-determination of the origin of the goods.

(3.2) In addition to the importer or any person who is liable to pay duties owing on the goods, other than a person authorized by regulations made pursuant to paragraph 32(6)(a) or under subsection 32(7) to account for the goods, any person who has completed and signed a Certificate of Origin for goods imported from a NAFTA country for which preferential tariff treatment under NAFTA is claimed that are the subject of a determination of origin under this section is entitled to request a re-determination of the origin of those goods under subsection 60(1) as applied by subsection (3.1).

(3.3) In addition to the person who accounted for the goods under subsection 32(1), (3) or (5), the importer of the goods or the person who was the owner of the goods at the time of release, any person who has completed and signed a Certificate of Origin for goods imported from a NAFTA country for which preferential tariff treatment under NAFTA is claimed that are the subject of a determination of origin under this section is entitled to be given notice of the re-determination of the origin of those goods under section 61 or 64 as applied by subsection (3.1), as the case may be.

(3.4) In the case of a re-determination by a designated officer of the origin of goods imported from a NAFTA country for which preferential tariff treatment under NAFTA is claimed that are the subject of a determination of origin under this section, the reference in subsection 62(1) to "the person who was given notice of the decision thereunder" and the reference in subsection 62(2) to "the person referred to in that subsection" shall be read as a reference to

(a) in the case of a re-determination under section 60, "the importer or any person liable to pay duties owing on the goods (other than a person authorized under paragraph 32(6)(a) or subsection 32(7) to account for the goods)"; and

(b) in the case of a re-determination under section 61, "the person who accounted for the goods under subsection 32(1), (3) or (5), the importer of the goods, or the person who was the owner of the goods at the time of release".

(3.5) In the case of a re-determination by the Deputy Minister of the origin of goods imported from a NAFTA country for which preferential tariff treatment under NAFTA is claimed that are the subject of a determination of origin under this section, the reference in subsection 65(1) to "the person who is given notice of the decision thereunder" and in subsection 65(2) to "the person" shall be read as a reference to

(a) in the case of a re-determination under section 63 of a re-determination by a designated officer under section 60, "the importer or any person liable to pay duties owing on the goods (other than a person authorized under paragraph 32(6)(a) or subsection 32(7) to account for the goods)"; and

(b) in the case of a re-determination under section 63 of a re-determination by a designated officer under section 61 or in the case of a re-determination under section 64, "the person who accounted for the goods under subsection 32(1), (3) or (5), the importer of the goods, or the person who was the owner of the goods at the time of release".

(3.6) The operation of subsection (4) is suspended during the period in which subsections (3.1) to (3.5) are in force.

(4) Sections 58 to 72 apply, with such modifications as the circumstances require, in respect of a determination under this section as to the origin of goods imported from the United States, as if it were a determination of the tariff classification of the goods, and, for greater certainty, any matter that may be prescribed in relation to a request referred to in subsection 60(2) or 63(2) may be prescribed in relation to a request for a re-determination or further re-determination of the origin of goods.

(5) Subject to this section, sections 58 to 72 apply, with such modifications as the circumstances require, in respect of a determination of origin under this section as to the origin of goods imported from Israel or another CIFTA beneficiary for which preferential tariff treatment under CIFTA is claimed as if it were a determination of the tariff classification of the goods, and, for greater certainty, any matter that may be prescribed in relation to a request referred to in subsection 60(2) or 63(2) may be prescribed in relation to a request for a re-determination or further re-determination of the origin of the goods.

(6) In addition to the importer or any person who is liable to pay duties owing on the goods, other than a person authorized by regulations made pursuant to paragraph 32(6)(a) or under subsection 32(7) to account for the goods, any person who has completed and signed a Certificate of Origin for goods imported from Israel or another CIFTA beneficiary for which preferential tariff treatment under CIFTA is claimed that are the subject of a determination of origin under this section is entitled to request a re-determination of the origin of those goods under subsection 60(1) as applied by subsection (5).

(7) In addition to the person who accounted for the goods under subsection 32(1), (3) or (5), the importer of the goods or the person who was the owner of the goods at the time of release, any person who has completed and signed a Certificate of Origin for goods imported from Israel or another CIFTA beneficiary

for which preferential tariff treatment under CIFTA is claimed that are the subject of a determination of origin under this section is entitled to be given notice of the re-determination of the origin of those goods under section 61 or 64 as applied by subsection (5), as the case may be.

(8) In the case of a re-determination by a designated officer of the origin of goods imported from Israel or another CIFTA beneficiary for which preferential tariff treatment under CIFTA is claimed that are the subject of a determination of origin under this section, the reference in subsection 62(1) to "the person who was given notice of the decision under that section" and the reference in subsection 62(2) to "the person referred to in that subsection" shall be read as references to

(a) in the case of a re-determination under section 60, "the importer or any person liable to pay duties owing on the goods (other than a person authorized under paragraph 32(6)(a) or subsection 32(7) to account for the goods)"; and

(b) in the case of a re-determination under section 61, "the person who accounted for the goods under subsection 32(1), (3) or (5), the importer of the goods or the person who was the owner of the goods at the time of release".

(9) In the case of a re-determination by the Deputy Minister of the origin of goods imported from Israel or another CIFTA beneficiary for which preferential tariff treatment under CIFTA is claimed that are the subject of a determination of origin under this section, the reference in subsection 65(1) to "the person who is given notice of the decision under that section" and the reference in subsection 65(2) to "the person" shall be read as references to

(a) in the case of a re-determination under section 63 of a re-determination by a designated officer under section 60, "the importer or any person liable to pay duties owing on the goods (other than a person authorized under paragraph 32(6)(a) or subsection 32(7) to account for the goods)"; and

(b) in the case of a re-determination under section 63 of a re-determination by a designated officer under section 61 or in the case of a re-determination under section 64, "the person who accounted for the goods under subsection 32(1), (3) or (5), the importer of the goods or the person who was the owner of the goods at the time of release".

#### Determination of Tariff Classification and Appraisal for Value

**58.** (1) An officer may determine the tariff classification and appraise the value for duty of imported goods at any time before or within thirty days after they are accounted for under subsection 32(1), (3) or (5).

(2) Where a determination or appraisal is made under subsection (1) in respect of goods, the person who accounts for the goods shall, in accordance with the determination or appraisal,

(a) pay any amount owing as duties in respect of the goods or, where a request is made under section 60, give security satisfactory to the Minister in respect of that amount and any interest owing or that may become owing on that amount; or

(b) be given a refund of any duties paid in excess of the duties owing in respect of the goods.

(3) Any amount owing by or to a person under subsection (2) or 66(3) in respect of goods, other than an amount in respect of which security is given, is

payable within thirty days after the day the determination or appraisal is made, whether or not a request is made under section 60.

(4) For the purposes of paragraph (2)(a), the amount owing as duties in respect of goods under subsection (2) does not include any amount owing in respect thereof pursuant to section 32 or 33.

(5) Where an officer does not make a determination or an appraisal under subsection (1) in respect of goods, a determination of the tariff classification and an appraisal of the value for duty of the goods shall, for the purposes of sections 60, 61 and 63, be deemed to have been made thirty days after the time the goods were accounted for under subsection 32(1), (3) or (5) in accordance with any representations made at that time in respect of the tariff classification or value for duty by the person accounting for the goods.

(6) A determination of tariff classification or an appraisal of value for duty is not subject to review or to be restrained, prohibited, removed, set aside or otherwise dealt with except to the extent and in the manner provided by sections 60 to 65.

#### Re-determination and Re-appraisal by Designated Officer

**59.** Any officer, or any officer within a class of officers, designated by the Minister for the purposes of this section (in sections 60 and 61 referred to as a "designated officer") may make re-determinations of tariff classifications or re-appraisals of value for duty under sections 60 and 61.

**60.** (1) The importer or any person who is liable to pay duties owing on imported goods (other than a person authorized under paragraph 32(6)(a) or subsection 32(7) to account for the goods) may, after all amounts owing in respect of the goods as duties and interest have been paid or security satisfactory to the Minister has been given in respect of the total amount owing,

(a) within ninety days, or

(b) where the Minister deems it advisable, within two years

after the time the determination or appraisal was made in respect of the goods under section 58, request a re-determination of the tariff classification or a re-appraisal of the value for duty.

(2) A request under this section shall be made to a designated officer in the prescribed manner and in the prescribed form containing the prescribed information.

(3) On receipt of a request under this section, a designated officer shall, with all due dispatch, re-determine the tariff classification or re-appraise the value for duty, as the case may be, and give notice of his decision to the person who made the request.

**61.** A designated officer may, after imported goods have been released,

(a) within ninety days,

(b) where it was not possible for an officer to make a determination or an appraisal under subsection 58(1) because of insufficient information, within two years,

(c) where, on the basis of an audit or examination under section 42 or a verification of origin under this Act, the designated officer deems it advisable, within two years,

(d) in the case of a verification of origin under this Act where an election to average has been made under the regulations made pursuant to section 13 of the *Customs Tariff*, such further time as may be prescribed, or

(e) where the Minister deems it advisable, within two years

after the time a marking determination was made in respect of the goods under section 57.01 or a determination or an appraisal was made in respect of the goods under section 58, re-determine the marking determination, re-determine the tariff classification or re-appraise the value for duty of the goods and, where the designated officer makes such a re-determination or re-appraisal, the designated officer shall immediately give notice of that decision to

(f) the person who accounted for the goods under subsection 32(1), (3) or (5), the importer of the goods or the person who was the owner of the goods at the time of release, and

(g) persons who are members of the prescribed class, in the case of a re-determination of a marking determination.

**62.** (1) Where a re-determination, other than a re-determination of a marking determination, or re-appraisal is made under section 60 or 61 in respect of goods, the person who was given notice of the decision under that section shall, in accordance with the decision,

(a) pay any additional amount owing as duties in respect of the goods or, where a request is made under section 63, give security satisfactory to the Minister in respect of that amount and any interest owing or that may become owing on that amount; or

(b) be given a refund of any duties and interest paid (other than interest that was paid by reason of duties not being paid in accordance with subsection 32(5) or section 33) in excess of the duties and interest owing in respect of the goods.

(2) Any amount owing by or to a person under subsection (1) or 66(3) in respect of goods, other than an amount in respect of which security is given, is payable within thirty days after the day the person referred to in that subsection is given notice of the decision, whether or not a request is made under section 63.

(3) A re-determination or a re-appraisal under section 60 or 61 is not subject to review or to be restrained, prohibited, removed, set aside or otherwise dealt with except to the extent and in the manner provided by section 63 or 64.

#### Re-determination and Re-appraisal by Deputy Minister

**63.** (1) Any person may

(a) within ninety days after the time the person was given an advance ruling under section 43.1, notice of a marking determination under section 57.01 or notice of a decision under section 60 or 61, or

(b) where the Minister deems it advisable, within two years after the time an advance ruling was given under section 43.1, a marking determination was made under section 57.01 or a determination or appraisal was made under section 58,

request a review of the advance ruling, a re-determination of the marking determination, a further re-determination of the tariff classification or marking determination or a further re-appraisal of the value for duty re-determined or re-appraised under section 60 or 61.



(2) A request under this section shall be made to the Deputy Minister in the prescribed manner and in the prescribed form containing the prescribed information.

(3) On receipt of a request under this section, the Deputy Minister shall, with all due dispatch, affirm, revise or reverse the advance ruling, re-determine the marking determination or tariff classification or re-appraise the value for duty, as the case may be, and give notice of that decision to the person who made the request.

**64.** The Deputy Minister may re-determine the tariff classification or marking determination or re-appraise the value for duty of imported goods

(a) in the case of a determination of a tariff classification or an appraisal of value for duty, within two years after the time the determination or appraisal was made under section 58, where the Minister deems it advisable,

(a.1) in the case of a marking determination, within two years after the time the determination was made under section 57.01, where the Minister deems it advisable,

(b) at any time after a re-determination or re-appraisal was made under subsection 63(3), but before an appeal under section 67 is heard, on the recommendation of the Attorney General for Canada, where the re-determination or re-appraisal would reduce duties payable on the goods,

(c) at any time, where the person who accounted for the goods under subsection 32(1), (3) or (5) or a person who was given notice of a marking determination under section 57.01 has failed to comply with any of the provisions of this Act or the regulations or has committed an offence under this Act in respect of the goods,

(c.1) at any time, where the person who accounted for the goods under subsection 32(1), (3) or (5) has made an application for remission in accordance with section 76 of the *Customs Tariff*,

(d) at any time, where the re-determination or re-appraisal would give effect to a decision of the Canadian International Trade Tribunal, the Federal Court of Appeal or the Supreme Court of Canada made in respect of the goods, and

(e) at any time, where the re-determination or re-appraisal would give effect in respect of the goods, in this paragraph referred to as the "subsequent goods", to a decision of the Canadian International Trade Tribunal, the Federal Court of Appeal or the Supreme Court of Canada, or of the Deputy Minister under paragraph (b), made in respect of

(i) other like goods of the same importer or owner imported on or prior to the date of importation of the subsequent goods, where the decision relates to the tariff classification of those other goods, or

(ii) other goods of the same importer or owner imported on or prior to the date of importation of the subsequent goods, where the decision relates to the manner of determining the value for duty of those other goods,

and, where the Deputy Minister makes a re-determination or re-appraisal under this section, the Deputy Minister shall immediately give notice of that decision to the person who accounted for the goods under subsection 32(1), (3) or (5), the importer of the goods or the person who was the owner of the goods at the time of release, or, in the case of a redetermination of a marking determination under paragraph (a.1), to persons who are members of the prescribed class.

*Clause 162:* (1) The relevant portion of subsection 65(1) reads as follows:

**65.** (1) Where a re-determination, other than a re-determination of a marking determination, or re-appraisal is made under section 63 or 64 in respect of goods, the person who is given notice of the decision under that section shall, in accordance with the decision,

(2) Subsection 65(3) reads as follows:

(3) A re-determination or a re-appraisal under section 63 or 64 is not subject to review or to be restrained, prohibited, removed, set aside or otherwise dealt with except to the extent and in the manner provided by section 67.

*Clause 163:* Sections 65.1 and 66 read as follows:

**65.1** (1) Where a person (in this subsection referred to as the "applicant") to whom a notice of a decision under section 60, 61, 63 or 64 was given would be entitled under paragraph 62(1)(b) or 65(1)(b) to a refund of an amount if the applicant had been the person who paid the amount, the amount may be paid to the applicant and any amount so paid to the applicant shall be deemed to have been refunded to the applicant under that paragraph.

(2) Where an amount in respect of goods has been refunded to a person under paragraph 62(1)(b) or 65(1)(b), no other person shall be entitled to a refund of an amount in respect of the goods under paragraph 62(1)(b) or 65(1)(b).

**66.** (1) Where a person has paid an amount on account of duties expected to be owing under paragraph 58(2)(a), 62(1)(a) or 65(1)(a) and the amount so paid exceeds the amount of duties, if any, owing under that paragraph as a result of a determination, appraisal, re-determination or re-appraisal, the person shall be paid, in addition to the excess amount, interest at the prescribed rate for the period beginning on the first day after the day the amount was paid and ending on the day the determination, appraisal, re-determination or re-appraisal, as the case may be, was made, calculated on the excess amount.

(2) Where, as a result of a determination, appraisal, re-determination or re-appraisal made in respect of goods, a person is required under paragraph 58(2)(a), 62(1)(a) or 65(1)(a) to pay an amount owing as duties in respect of the goods and the person gives security under that paragraph pending a subsequent re-determination or re-appraisal in respect of the goods, the interest payable under subsection 33.4(1) on any amount owing as a result of the subsequent re-determination or re-appraisal shall be computed at the prescribed rate rather than at the specified rate for the period beginning on the first day after the day the security was given and ending on the day the subsequent re-determination or re-appraisal is made.

(3) Any person who is given a refund under paragraph 58(2)(b), 62(1)(b) or 65(1)(b) of an amount paid shall be given, in addition to the refund, interest at the prescribed rate for the period beginning on the first day after the day the amount was paid and ending on the day the refund is given, calculated on the amount of the refund.

*Clause 164:* Subsection 67(1) reads as follows:

**67.** (1) A person who deems himself aggrieved by a decision of the Deputy Minister made pursuant to section 63 or 64 may appeal from the decision to the Canadian International Trade Tribunal by filing a notice of appeal in writing with the Deputy Minister and the Secretary of the Canadian International Trade Tribunal within ninety days after the time notice of the decision was given.

*Clause 165:* Subsection 69(2) reads as follows:

(2) Where a refund is given under subsection (1), the person who is given the refund shall,

(a) if a re-determination or a re-appraisal is made by the Deputy Minister under paragraph 64(d) pursuant to which any portion of the amount refunded is owing as duties and interest, pay interest at the prescribed rate for the period beginning on the first day after the day the refund is given and ending on the day the amount of the refund found to be owing as duties and interest has been paid in full, calculated on the outstanding balance of that amount of the refund, except that where the amount of the refund found to be owing is paid within thirty days after the day the re-determination or re-appraisal is made, interest shall not be payable on that amount from that day to the day the amount is paid; or

(b) if a re-determination or re-appraisal is made by the Deputy Minister under paragraph 64(d) pursuant to which all or any portion of the amount refunded is not owing as duties and interest, be given interest at the prescribed rate for the period beginning on the day after the amount refunded was originally paid by that person and ending on the day it was refunded, calculated on the amount of the refund found not to be owing.

Clause 166: Subsection 70(1) reads as follows:

**70.** (1) The Deputy Minister may refer to the Canadian International Trade Tribunal for its opinion any questions relating to the tariff classification or value for duty of any goods or class of goods.

Clause 167: Subsection 71(1) reads as follows:

**71.** (1) Where the release of goods has been refused on the ground that the goods have been determined to be prohibited goods as described in code 9956 or 9957 of Schedule VII to the *Customs Tariff*, re-determination may be requested under sections 60 and 63 or made under section 64 and appeals may be taken under sections 67 and 68 in respect of the determination, subject to the following modifications:

(a) paragraphs 64(d) and (e) shall be deemed to include a reference to the court; and

(b) in sections 67 and 68, the expression "court" shall be deemed to be substituted for the expression "Canadian International Trade Tribunal" and the expression "clerk of the court" shall be deemed to be substituted for the expression "Secretary of the Canadian International Trade Tribunal".

Clause 168: Sections 72 to 72.2 read as follows:

**72.** No security may be given under paragraph 58(2)(a), 62(1)(a) or 65(1)(a) or subsection 69(1) in respect of any amount owing as surtaxes levied under section 59, 59.1, 59.11 or 60 of the *Customs Tariff*, temporary duties levied under section 60.1, 60.11, 60.12, 60.2, 60.3 or 60.4 of that Act or surcharges levied under section 61 of that Act.

**72.1** (1) Notwithstanding paragraphs 60(1)(a) and (b), a request for a re-determination of the tariff classification of imported goods affected by a retroactive order of the Governor in Council made pursuant to sections 68 and 136 or 129 and 136 of the *Customs Tariff*, may be made under section 60 at any time before July 1, 1992.

(2) A designated officer may re-determine under subsection 60(3), and thereafter the Deputy Minister may further re-determine under subsection 63(3), the tariff classification of imported goods in order to give effect to a

retroactive order of the Governor in Council referred to in subsection (1), notwithstanding any prior re-determination of the tariff classification of the goods.

**72.2** Notwithstanding sections 60, 61, 63 and 64, no re-determination of the tariff classification of imported goods classified under heading No. 98.26 of Schedule I to the *Customs Tariff* may be made unless the re-determination is to

(a) change the classification of the goods to another tariff item under that heading; or

(b) change the classification of all those goods accounted for under the same accounting document to tariff items in Chapters 1 to 97 of Schedule I to the *Customs Tariff*.

*Clause 169:* The headings before section 73 read as follows:

#### PART IV

##### ABATEMENTS, REFUNDS, DRAWBACKS AND REMISSIONS

###### *Abatements and Refunds*

*Clause 170:* (1) and (2) Paragraphs 74(1)(e) and (f) are new. The relevant portion of subsection 74(1) reads as follows:

**74.** (1) Subject to this section, section 75 and any regulations made under section 81, the Minister may grant to any person who paid duties on imported goods pursuant to this Act a refund of the whole or part of the duties paid thereon where

...

(c.2) duties have been overpaid or paid in error on the goods for any reason, other than

(i) an erroneous determination as to the origin of goods imported from a NAFTA country for which preferential tariff treatment under NAFTA is claimed,

(ii) an erroneous determination as to the origin of goods imported from Israel or another CIFTA beneficiary for which preferential tariff treatment under CIFTA is claimed,

(iii) an erroneous determination of tariff classification,

(iv) an erroneous appraisal of value for duty, or

(v) the existence of the circumstances described in paragraph (c.1) or (c.11); or

(d) duties have been overpaid or paid in error on the goods for any reason, other than an erroneous determination of tariff classification or erroneous appraisal of value for duty or an erroneous determination as to the origin of goods imported from the United States.

(3) Subsections 74(1.1) to (2) read as follows:

(1.1) For greater certainty, where the circumstances described in paragraph (1)(c.1) or (c.11) exist, a request for a re-determination of origin may not be made under subsection 60(1) as applied by subsection 57.2(3.1) or (5).

(1.2) The operation of paragraph (1)(d) is suspended during the period in which paragraphs (1)(c.1) and (c.2) are in force.

(2) No refund shall be granted under paragraphs (1)(a) to (c) in respect of a claim unless written notice of the claim and the reason therefor is given to an officer within the prescribed time.

(4) The relevant portion of subsection 74(3) reads as follows:

(3) No refund shall be granted under subsection (1) in respect of a claim unless

...

(b) an application for the refund, including such evidence in support of the application as may be prescribed, is made to an officer in the prescribed manner and in the prescribed form containing the prescribed information within

(i) in the case of an application for a refund under paragraph (1)(a), (b), (c), (c.11), (c.2) or (d), two years after the goods are accounted for under subsection 32(1), (3) or (5), and

(ii) in the case of an application for a refund under paragraph (1)(c.1), one year after the goods are accounted for under subsection 32(1), (3) or (5).

(5) Subsections 74(4) to (6) read as follows:

(4) A denial of an application for a refund under paragraph (1)(c.1) on the ground that the goods on which the claimant has paid duties are not eligible for preferential tariff treatment under NAFTA because the goods are not eligible for such tariff treatment under the regulations made pursuant to section 13 of the *Customs Tariff* at the time they are accounted for under subsection 32(1), (3) or (5) of this Act shall, for the purposes of this Act, be treated as if it were a re-determination of origin under subsection 60(3) as applied by subsection 57.2(3.1).

(4.1) A denial of an application for a refund under paragraph (1)(c.11) on the ground that the goods on which the claimant has paid duties are not eligible for preferential tariff treatment under CIFTA because the goods are not eligible for such tariff treatment under the regulations made pursuant to section 13 of the *Customs Tariff* at the time they are accounted for under subsection 32(1), (3) or (5) of this Act shall, for the purposes of this Act, be treated as if it were a re-determination of origin under subsection 60(3) as applied by subsection 57.2(5).

(5) For greater certainty, a denial of an application for a refund under paragraph (1)(c.1) or (c.11) on the basis that complete or accurate documentation has not been provided or on any ground other than the ground specified in subsection (4) or (4.1), as the case may be, shall not, for the purposes of this Act, be treated as if it were a re-determination of origin under this Act.

(6) The granting of a refund under paragraph (1)(c.1) or (c.11) shall, for the purposes of this Act, other than section 66, be treated in the same manner as if it were a re-determination of origin under subsection 60(3) as applied by subsection 57.2(3.1) or (5), as the case may be.

Clause 171: Section 74.1 reads as follows:

**74.1** The Minister may grant a refund of duties under paragraph 74(1)(d) in respect of imported goods on which the customs duties are reduced or removed by a retroactive order of the Governor in Council made pursuant to sections 68 and 136 or 129 and 136 of the *Customs Tariff* if, notwithstanding the limitation period described in paragraph 74(3)(b), an application for the refund is made before July 1, 1992.

Clause 172: Section 77 reads as follows:

**77.** (1) Subject to this section, where duties have been paid on imported goods and before any use is made of the goods in Canada other than by their incorporation into other goods the goods or the other goods into which they have been incorporated are

(a) sold or otherwise disposed of to a person who would have been entitled to obtain release of the goods free of duty or at a reduced rate of duty, or

(b) diverted to a use that would have entitled a person to obtain release of the goods free of duty or at a reduced rate of duty,

the Minister may make a refund to the person by whom the duties were paid, in an amount equal to the difference between the duties paid thereon and the duties, if any, that would have been payable on the goods if at the time the goods were released they had been released to the person to whom they were sold or otherwise disposed of or released for the use to which they were diverted.

(2) For the purposes of subsection (1), "duties" does not include duties or taxes levied under the *Excise Tax Act*, the *Excise Act* or the *Special Import Measures Act*.

(3) No refund shall be granted under this section unless an application for the refund, supported by such evidence as the Minister may require, is made to an officer in the prescribed manner and in the prescribed form containing the prescribed information within two years after the goods are accounted for pursuant to subsection 32(1), (3) or (5).

Clause 173: Subsection 80(1) reads as follows:

**80.** (1) Any person who is granted a refund of duties (other than amounts in respect of duty levied under the *Special Import Measures Act*) under section 74, 76, 77 or 79 shall be granted, in addition to the refund, interest on the refund at the prescribed rate for the period beginning on the ninety-first day after the day an application for the refund is received in accordance with paragraph 74(3)(b) or subsection 77(3), as the case may be, and ending on the day the refund is granted.

Clause 174: Section 80.1 reads as follows:

**80.1** (1) Notwithstanding subsection 80(1), any person who, under paragraph 74(1)(d), is granted a refund of duties on imported goods on which the customs duties are reduced or removed by a retroactive order of the Governor in Council made pursuant to sections 68 and 136 or 129 and 136 of the *Customs Tariff* shall be granted, in addition to the refund, interest at the prescribed rate for the period beginning on the day after the day the duties were paid and ending on the day the refund is granted, calculated on the amount of the refund.

(2) Any person who, before the coming into force of this section, was granted a refund under paragraph 74(1)(d) of duties on imported goods on which the customs duties are reduced or removed by a retroactive order of the Governor in

Council referred to in subsection (1) shall be granted interest on the refund in an amount calculated in the manner set out in that subsection, less any interest already granted on the refund.

*Clause 175:* New.

*Clause 176:* The headings before section 88 and sections 88 to 94 read as follows:

*Drawbacks*

*Diversions*

**88.** (1) Subject to any regulations made under section 94, where imported goods have been released free of duty or at a reduced rate of duty and are sold or otherwise disposed of to a person who was not entitled to any or as great an exemption, the person who purchased or otherwise acquired the goods and the person who sold or otherwise disposed of the goods

(a) shall, within ninety days after the time of the sale or other disposition, report the sale or other disposition to an officer at a customs office and account for the goods in the prescribed manner and in the prescribed form containing the prescribed information; and

(b) are, from the time of the sale or other disposition, jointly and severally liable to pay as duties or additional duties on the goods an amount equal to the amount of duties that would be payable on like goods imported in like condition at the time of the sale or other disposition at a rate of duty equal to

(i) the rate of duty applicable to like goods at the time of the sale or other disposition,

minus

(ii) the rate of duty applied in calculating the duties, if any, already paid in respect of the goods.

(2) Where duties or additional duties are owing under subsection (1) in respect of imported goods that at the time the goods were released were the property of a country other than Canada and were subsequently sold or otherwise disposed of on behalf of the government of that country in accordance with an agreement between the government of that country and the Government of Canada, the Minister may determine a rate of duty, which rate shall, for the purpose of calculating the amount of duties or additional duties owing under that subsection in respect of the goods, be deemed to be the rate of duty applicable to like goods at the time of the sale or other disposition.

**89.** (1) Subject to any regulation made under section 94, where imported goods have been released free of duty or at a reduced rate of duty and are diverted to a use other than that for which they were released, the person who diverted the goods

(a) shall, within ninety days after the time of the diversion, report the diversion to an officer at a customs office and account for the goods in the prescribed manner and in the prescribed form containing the prescribed information; and

(b) is, from the time of the diversion, liable to pay as duties or additional duties on the goods an amount equal to the amount of duties that would be

payable on like goods imported in like condition at the time of the diversion at a rate of duty equal to

(i) the rate of duty applicable to like goods at the time of the diversion, minus

(ii) the rate of duty applied in calculating the duties, if any, already paid in respect of the goods.

(2) Subject to subsection (3), subsection (1) applies in respect of goods removed as ships' stores from a customs office, sufferance warehouse or bonded warehouse under paragraph 19(1)(c) or (2)(c) as if the goods were released free of duty at the time they were so removed.

(3) Subsection (1) does not apply in respect of tobacco products or designated goods removed as ships' stores from a customs office, sufferance warehouse or bonded warehouse under paragraph 19(1)(c) or (2)(c).

(4) Where tobacco products or designated goods have been removed as ships' stores from a customs office, sufferance warehouse or bonded warehouse under paragraph 19(1)(c) or (2)(c) and the tobacco products or designated goods are diverted to another use, the person who diverted the tobacco products or designated goods

(a) shall, at the time of the diversion, report the diversion to an officer at a customs office and account for the tobacco products or designated goods in the prescribed manner and in the prescribed form; and

(b) is, from the time of the diversion, liable to pay as duties on the tobacco products or designated goods an amount equal to the amount of duties that would be payable on like tobacco products or designated goods imported in like condition at the time of the diversion at a rate of duty applicable to like tobacco products or designated goods at the time of the diversion.

(5) In this section, "designated goods" does not include diamonds, pearls or precious and semi-precious stones.

**90.** For the purposes of section 88 and subsection 89(1), "duties" does not include duties or taxes levied under the *Excise Tax Act*, the *Excise Act* or the *Special Import Measures Act*.

**91.** Sections 88 and 89 apply with respect to goods in respect of which a refund has been granted under section 77 as if

(a) the goods were released free of duty or at a reduced rate of duty at the time the refund was paid; and

(b) the rate of duty, if any, applicable to like goods at the time of the sale or other disposition or of the diversion, as the case may be, that resulted in the refund made in respect of the goods under section 77 were the rate of duty referred to in subparagraph 88(1)(b)(ii) or 89(1)(b)(ii).

**93.** (1) Any person who is liable under section 88, 89 or 91 to pay an amount of duties or additional duties shall pay, in addition to the amount, interest at the specified rate for the period beginning on the first day after the day the person became liable to pay the amount and ending on the day the amount has been paid in full, calculated on the outstanding balance of the amount.

(2) Where a person pays the total amount of duties, or additional duties, owing under section 88, subsection 89(1) or section 91 within ninety days after



the day the person became liable to pay the amount, interest on the amount shall not be payable by the person under subsection (1).

(3) Any person who fails to make a report in respect of goods as required by paragraph 88(1)(a) or 89(1)(a) within the time set out in that paragraph is liable to pay a penalty of 6% per year of an amount equal to the duties or additional duties payable on the goods under paragraph 88(1)(b) or 89(1)(b), as the case may be, for the period beginning on the first day after the time within which the report was so required to be made and ending on the day the report is made.

(4) For the purposes of subsections (1) and (3), an amount of duties or additional duties does not include any amount in respect of duty levied under the *Special Import Measures Act*.

(5) A person who is liable under section 88, 89 or 91 to pay an amount in respect of duty levied under the *Special Import Measures Act* shall pay, in addition to that amount, interest at the prescribed rate in respect of each month or fraction of a month in the period beginning on the ninety-first day after the day the duties or additional duties became payable and ending on the day the amount has been paid in full, calculated on the outstanding balance of the amount.

**94.** The Governor in Council may make regulations prescribing

(a) time limits for the application of sections 88 to 91 and the classes of goods in respect of which, or the circumstances in which, such limits shall apply; and

(b) the circumstances in which certain goods would be exempted from the operation of those sections, and the classes of goods in respect of which, the length of time for which and the conditions under which such exemptions shall apply.

*Clause 177:* The relevant portion of section 109.1 reads as follows:

**109.1** Every person who fails to comply

(a) with the terms and conditions on which a licence was issued under section 24 of this Act or section 81 of the *Customs Tariff*, or

(b) with a regulation made under section 30 or 40 of this Act or paragraphs 95(1)(f) to (i) or subsection 95(3) of the *Customs Tariff*,

*Clause 178:* Section 109.11 reads as follows:

**109.11** (1) In this section, "duties payable" means duties that have not been paid but does not include, for the purposes of calculating a penalty under subsection (2) or (3) in respect of a failure to comply with subsection 103(1), (2) or (2.1), 105(1) or 105.1(1) of the *Customs Tariff*, an amount in respect of duty levied under the *Special Import Measures Act*.

(2) Every person who fails to comply with section 31 or subsection 88(1) or 89(1) or (4) of this Act or subsection 83.02(1), 103(1), (2) or (2.1), 105(1) or 105.1(1) of the *Customs Tariff* is liable to a penalty equal to the total of

(a) an amount equal to 5% of the duties payable, and

(b) an amount equal to the product obtained when 1% of the duties payable that were unpaid when the amount was required to be paid, is multiplied by the

number of complete months, not exceeding 12, from the day on which the amount was required to be paid to the day on which the amount was paid.

(3) Every person who fails to comply with section 31 or subsection 88(1) or 89(1) or (4) of this Act or subsection 83.02(1), 103(1), (2) or (2.1), 105(1) or 105.1(1) of the *Customs Tariff* and by whom, at the time of failure, a penalty was payable under this subsection or subsection (2) in respect of a failure to comply in any of the three preceding years is liable to a penalty equal to the total of

(a) an amount equal to 10% of the duties payable, and

(b) an amount equal to the product obtained when 2% of the duties payable that were unpaid when the amount was required to be paid, is multiplied by the number of complete months, not exceeding 20, from the day on which the amount was required to be paid to the day on which the amount was paid.

*Clause 179:* Subsection 109.2(1) reads as follows:

**109.2** (1) In this section, "designated goods" includes firearms, weapons, ammunition and any other goods classified under Chapter 93 of Schedule I to the *Customs Tariff* or code 9965 of Schedule VII to that Act.

*Clause 180:* The relevant portion of section 117 reads as follows:

**117.** An officer may, subject to this or any other Act of Parliament, return any goods that have been seized under this Act to the person from whom they were seized or to any person authorized by the person from whom they were seized on receipt of

(a) an amount of money of a value equal to

(i) the aggregate of the value for duty of the goods and the amount of duties levied thereon, if any, calculated at the rates applicable thereto

(A) at the time of seizure, where the goods have not been accounted for under subsection 32(1), (2) or (5) or where duties or additional duties have become due on the goods under sections 88 to 91, or

*Clause 181:* The relevant portion of subsection 119(1) reads as follows:

**119.** (1) An officer shall, subject to this or any other Act of Parliament, return any animals or perishable goods that have been seized under this Act and have not been sold under subsection (2) to the person from whom they were seized or to any person authorized by the person from whom they were seized at the request of such person and on receipt of

(a) an amount of money of a value equal to

(i) the aggregate of the value for duty of the animals or perishable goods and the amount of duties levied thereon, if any, calculated at the rates applicable thereto,

(A) at the time of seizure, where the animals or perishable goods have not been accounted for under subsection 32(1), (2) or (5) or where duties or additional duties have become due on the goods under sections 88 to 91, or

*Clause 182:* The relevant portion of subsection 124(2) reads as follows:

(2) For the purpose of paragraph (1)(a), an officer may demand payment in respect of goods of an amount of money of a value equal to the aggregate of the

value for duty of the goods and the amount of duties levied thereon, if any, calculated at the rates applicable thereto

(a) at the time the notice is served, where the goods have not been accounted for under subsection 32(1), (2) or (5) or where duties or additional duties have become due on the goods under sections 88 to 91; or

*Clause 183:* Section 126.1 reads as follows:

**126.1** Sections 127 to 133 do not apply to a contravention of subsection 40(3) of this Act by a person referred to in paragraph (c) of that subsection, or to a contravention of subsection 88(1) or 89(1) of this Act, or to a contravention of subsection 83.02(1), 103(1), (2) or (2.1), 105(1) or 105.1(1) of the *Customs Tariff*.

*Clause 184:* (1) The relevant portion of subsection 133(2) reads as follows:

(2) Goods may be returned under paragraph (1)(a) on receipt of an amount of money of a value equal to

(a) the aggregate of the value for duty of the goods and the amount of duties levied thereon, if any, calculated at the rates applicable thereto

(i) at the time of seizure, where the goods have not been accounted for under subsection 32(1), (2) or (5) or where duties or additional duties have become due on the goods under sections 88 to 91, or

(2) The relevant portion of subsection 133(4) reads as follows:

(4) The amount of money that the Minister may demand under paragraph (1)(c) in respect of goods shall not exceed an amount equal to the aggregate of the value for duty of the goods and the amount of duties levied thereon, if any, calculated at the rates applicable thereto,

(a) at the time of seizure or of service of the notice under section 124, where the goods have not been accounted for under subsection 32(1), (2) or (5) or where duties or additional duties have become due on the goods under sections 88 to 91; or

*Clause 185:* The relevant portion of subsection 147.1(6) reads as follows:

(6) Where the Corporation has entered into an agreement under subsection (3), the Corporation shall pay to the Receiver General, within the prescribed time and in the prescribed manner, as an amount due to Her Majesty in right of Canada in respect of mail to which the agreement applies, the greater of the duties collected by the Corporation in respect of the mail and the duties required to be collected in respect of the mail by the Corporation under the agreement, unless

...

(b) duties have not been collected by the Corporation in respect of the mail, the mail has not been delivered and a request for a re-determination or re-appraisal has been made under section 60 in respect of the mail; or

(c) in any other case, duties have not been collected by the Corporation in respect of the mail, the mail has not been delivered and the period in which a request for a re-determination or re-appraisal may be made under section 60 in respect of the mail has not expired.

*Clause 186:* The relevant portion of section 159.1 reads as follows:

159.1 Every person commits an offence who

...

(c) with intent to conceal the information given by or contained in the mark, alters, defaces, removes or destroys a mark on imported goods made pursuant to the regulations made under subsection 63.1(2) of the *Customs Tariff*.

*Canadian International Trade Tribunal Act*

Clause 187: (1) The relevant portion of subsection 2(2.1) reads as follows:

(2.1) In this Act,

...

(b) "Canada-Israel Free Trade Agreement Tariff", "imported from Israel or another CIFTA beneficiary" and "Israel or another CIFTA beneficiary" have the same meaning as in subsection 2(1) of the *Customs Tariff*.

(2) Subsection 2(3) reads as follows:

(3) For the purposes of this Act, goods are imported from a NAFTA country if they are shipped directly to Canada from the NAFTA country within the meaning of sections 17 and 18 of the *Customs Tariff*.

Clause 188: Subsections 19.01(2) and (3) read as follows:

(2) The Tribunal shall inquire into and report to the Governor in Council on the question whether goods that are entitled to the benefit of the United States Tariff of Schedule I or II to the *Customs Tariff*, other than textile and apparel goods, are, as a result of the reduction of that tariff, being imported in such increased quantities and under such conditions that they alone constitute a principal cause of serious injury to domestic producers of like or directly competitive goods, where the Governor in Council, on the recommendation of the Minister, refers the question to it for inquiry and report.

(3) The Tribunal shall inquire into and report to the Governor in Council on the question whether goods that are entitled to the benefit of the Mexico Tariff, or the Mexico-United States Tariff, of Schedule I to the *Customs Tariff*, other than textile and apparel goods, are, as a result of the reduction of that tariff, being imported in such increased quantities and under such conditions that they alone constitute a principal cause of serious injury, or threat thereof, to domestic producers of like or directly competitive goods, where the Governor in Council, on the recommendation of the Minister, refers the question to it for inquiry and report.

Clause 189: Subsection 19.02(1) reads as follows:

19.02 (1) Where an order made under subsection 59.1(1), (8) or (11) or 59.11(2), (13) or (20) of the *Customs Tariff* or subsection 5(3), (3.2), (4.01) or (4.8) of the *Export and Import Permits Act* specifies that it remains in effect for a period of more than three years, the Tribunal shall, before the mid-point of the period,

(a) review developments since the order was made respecting the goods that are subject to the order and like or directly competitive goods produced by domestic producers;

(b) in light of the review, prepare a report on the developments and provide advice on whether the order should remain in effect, be revoked or be amended; and

(c) submit a copy of the report to the Governor in Council and the Minister.

Clause 190: Subsection 19.1(2) reads as follows:

(2) The Tribunal shall inquire into and report to the Governor in Council on the question whether goods that are entitled to the benefit of the United States Tariff of Schedule I to the *Customs Tariff* are, as a result of the reduction or elimination of that tariff, being imported in such increased quantities and under such conditions that they alone constitute a principal cause of serious injury to domestic producers of like or directly competitive goods, where the Governor in Council, on the recommendation of the Minister of Finance, refers the question to it for inquiry and report.

Clause 191: (1) Subsections 23(1.01) to (1.03) read as follows:

(1.01) Any domestic producer of goods that are like or directly competitive with any goods, other than textile and apparel goods, being imported into Canada and that are entitled to the benefit of the United States Tariff of Schedule I or II to the *Customs Tariff*, or any person or association acting on behalf of any such domestic producer, may file a written complaint with the Tribunal alleging that, as a result of the reduction of that tariff, the imported goods are being imported in such increased quantities and under such conditions as to alone constitute a cause of serious injury to domestic producers of like or directly competitive goods.

(1.02) Any domestic producer of goods that are like or directly competitive with any goods, other than textile and apparel goods, being imported into Canada and that are entitled to the benefit of the Mexico Tariff, or the Mexico-United States Tariff, of Schedule I to the *Customs Tariff*, or any person or association acting on behalf of any such domestic producer, may file a written complaint with the Tribunal alleging that, as a result of the reduction of that tariff, the imported goods are being imported in such increased quantities and under such conditions as to alone constitute a cause of serious injury, or threat thereof, to domestic producers of like or directly competitive goods.

(1.03) Any domestic producer of any textile and apparel goods that are like or directly competitive with any textile and apparel goods being imported into Canada and that are entitled, either under subsection 25.2(5.1) of the *Customs Tariff* or, in respect of goods that have been integrated into the *General Agreement on Tariffs and Trade* pursuant to a commitment made by Canada under any successor agreement to the Multifibre Arrangement, under subsection 25.2(7) of the *Customs Tariff*, to the benefit of the United States Tariff, or the Mexico Tariff, of Schedule I to that Act, or any person or association acting on behalf of any such domestic producer, may file a written complaint with the Tribunal alleging that, as a result of the reduction of that tariff, the imported goods are being imported in such increased quantities, in absolute terms or relative to the domestic market in Canada for the goods, and under such conditions as to cause serious damage, or actual threat thereof, to domestic producers of like or directly competitive textile and apparel goods.

(2) Subsection 23(1.1) reads as follows:

(1.1) Any domestic producer of goods that are like or directly competitive with any goods being imported into Canada and that are entitled to the benefit of the United States Tariff of Schedule I to the *Customs Tariff*, or any person or association acting on behalf of any such domestic producer, may file a written complaint with the Tribunal alleging that as a result of the reduction or

elimination of that tariff, the imported goods are being imported in such increased quantities and under such conditions as to alone constitute a cause of serious injury to domestic producers of like or directly competitive goods.

*Clause 192:* (1) and (2) The relevant portion of subsection 26(1) reads as follows:

**26.** (1) Subject to subsections (4) to (7), the Tribunal shall, within thirty days after the day on which notice is given to a complainant that the complaint is properly documented, commence an inquiry into the complaint if it is satisfied

(a) that the information provided by the complainant and any other information examined by the Tribunal disclose a reasonable indication that

...

(i.1) in the case of a complaint filed under subsection 23(1.01), the goods that are entitled to the benefit of the United States Tariff of Schedule I or II to the *Customs Tariff* are, as a result of the reduction of that tariff, being imported in such increased quantities and under such conditions that they alone constitute a cause of serious injury to domestic producers of like or directly competitive goods,

(i.2) in the case of a complaint filed under subsection 23(1.02), the goods that are entitled to the benefit of the Mexico Tariff, or the Mexico-United States Tariff, of Schedule I to the *Customs Tariff* are, as a result of the reduction of that tariff, being imported in such increased quantities and under such conditions that they alone constitute a cause of serious injury, or threat thereof, to domestic producers of like or directly competitive goods,

(i.3) in the case of a complaint filed under subsection 23(1.03), the textile and apparel goods that are entitled to the benefit of the United States Tariff, or the Mexico Tariff, of Schedule I to the *Customs Tariff* are, as a result of the reduction of that tariff, being imported in such increased quantities, in absolute terms or relative to the market in Canada for the goods, and under such conditions as to cause serious damage, or actual threat thereof, to domestic producers of like or directly competitive textile and apparel goods,

...

(ii) in the case of a complaint filed under subsection 23(1.1), the goods that are entitled to the benefit of the United States Tariff of Schedule I to the *Customs Tariff* are, as a result of the reduction or elimination of that tariff, being imported in such increased quantities and under such conditions that they alone constitute a cause of serious injury to domestic producers of like or directly competitive goods;

(3) Subsection 26(7) reads as follows:

(7) Where subsection 59.1(3.1) or 59.11(6) of the *Customs Tariff* or subsection 5(3.1) of the *Export and Import Permits Act* prohibits the making of an order pursuant to subsection 59.1(1) or 59.11(2) of the *Customs Tariff* or subsection 5(3) of the *Export and Import Permits Act* in respect of any goods during any period, the Tribunal may commence an inquiry into a complaint under subsection (1) in respect of the goods no earlier than one hundred and eighty days before the end of the period.

*Clause 193:* (1) and (2) The relevant portion of subsection 27(1) reads as follows:

27. (1) The Tribunal shall, in an inquiry into a complaint, determine whether, having regard to any regulations made pursuant to paragraph 40(a),

...

(a.1) in the case of a complaint filed under subsection 23(1.01), the goods that are entitled to the benefit of the United States Tariff of Schedule I or II to the *Customs Tariff* are, as a result of the reduction of that tariff, being imported in such increased quantities and under such conditions that they alone constitute a principal cause of serious injury to domestic producers of like or directly competitive goods;

(a.2) in the case of a complaint filed under subsection 23(1.02), the goods that are entitled to the benefit of the Mexico Tariff, or the Mexico-United States Tariff, of Schedule I to the *Customs Tariff* are, as a result of the reduction of that tariff, being imported in such increased quantities and under such conditions that they alone constitute a principal cause of serious injury, or threat thereof, to domestic producers of like or directly competitive goods;

(a.3) in the case of a complaint filed under subsection 23(1.03), the textile and apparel goods that are entitled to the benefit of the United States Tariff, or the Mexico Tariff, of Schedule I to the *Customs Tariff* are, as a result of the reduction of that tariff, being imported in such increased quantities, in absolute terms or relative to the market in Canada for the goods, and under such conditions as to cause serious damage, or actual threat thereof, to domestic producers of like or directly competitive textile and apparel goods;

...

(b) in the case of a complaint filed under subsection 23(1.1), the goods that are entitled to the benefit of the United States Tariff of Schedule I to the *Customs Tariff* are, as a result of the reduction or elimination of that tariff, being imported in such increased quantities and under such conditions that they alone constitute a principal cause of serious injury to domestic producers of like or directly competitive goods.

Clause 194: The relevant portion of subsection 30.01(2) reads as follows:

(2) A written complaint may be filed with the Tribunal where

(a) any goods are subject to a surtax under subsection 59.1(1) or (8) of the *Customs Tariff* or are included on the Import Control List pursuant to subsection 5(3) or (3.2) of the *Export and Import Permits Act*; and

Clause 195: The relevant portion of subsection 30.011(1) reads as follows:

**30.011** (1) A written complaint may be filed with the Tribunal where

(a) any goods are subject to a surtax under subsection 59.1(1) or (8) of the *Customs Tariff* or are included on the Import Control List pursuant to subsection 5(3) or (3.2) of the *Export and Import Permits Act*; and

Clause 196: Subsection 30.03(1) reads as follows:

**30.03** (1) The Tribunal shall cause to be published in the *Canada Gazette* a notice of the expiration date of any order that imposes a surtax on any goods pursuant to subsection 59.1(1), (8) or (11) or 59.11(2), (13) or (20) of the *Customs Tariff* or includes any goods on the Import Control List pursuant to

subsection 5(3), (3.2), (4.01) or (4.8) of the *Export and Import Permits Act*, but no notice shall be published if

(a) the order is revoked or ceases to have effect pursuant to subsection 59.1(4), (5), (6), (8.4) or (9) or 59.11(8), (11), (17) or (18) of the *Customs Tariff* or subsection 5(4.04) of the *Export and Import Permits Act* before the expiration of the effective period specified in the order; or

(b) the total of the effective period specified in the order and any periods during which the goods were subject to any related orders made pursuant to subsection 59.1(1), (8) or (11) or 59.11(2), (13) or (20) of the *Customs Tariff* or subsection 5(3), (3.2), (4.01) or (4.8) of the *Export and Import Permits Act* is eight years.

Clause 197: Subsection 30.04(1) reads as follows:

**30.04** (1) Any domestic producer of goods that are like or directly competitive with any goods that are subject to an order referred to in subsection 30.03(1), or any person or association acting on behalf of such a domestic producer, may file with the Tribunal a written request that an extension order be made pursuant to subsection 59.1(8) or 59.11(13) of the *Customs Tariff* or subsection 5(3.2) of the *Export and Import Permits Act* because an order continues to be necessary to prevent or remedy serious injury to domestic producers of like or directly competitive goods.

#### *Canadian Wheat Board Act*

Clause 198: The relevant portion of section 46 reads as follows:

**46.** The Governor in Council may make regulations

...

(b.1) to permit the importation into Canada of wheat or wheat products that are entitled to the benefit of the United States Tariff of Schedule I to the *Customs Tariff* and that are owned by a person other than the Board subject, where the Governor in Council considers it appropriate, to any of the following requirements, namely,

(i) that the wheat be accompanied by an end-use certificate referred to in subsection 87.1(1) of the *Canada Grain Act*, completed by the person importing the wheat, declaring that the wheat is imported for consumption in Canada and is consigned directly to a milling, manufacturing, brewing, distilling or other processing facility for consumption at that facility,

(ii) that the wheat be denatured in a prescribed manner, if the wheat is imported for feed use, or

(iii) that the wheat be accompanied by a certificate issued pursuant to section 4.1 of the *Seeds Act*, if the wheat is imported for seed use;

(b.2) to permit the importation into Canada of wheat or wheat products that are entitled to the benefit of the Mexico Tariff of Schedule I to the *Customs Tariff* and that are owned by a person other than the Board;

#### *Copyright Act*

Clause 199: Section 44 reads as follows:

**44.** Copies made out of Canada of any work in which copyright subsists that if made in Canada would infringe copyright and as to which the owner of the



copyright gives notice in writing to the Department of National Revenue that the owner desires that the copies not be so imported into Canada, shall not be so imported, and shall be deemed to be included in Schedule VII to the *Customs Tariff*, and that Schedule applies accordingly.

*Clause 200:* Subsections 45(1) and (2) read as follows:

**45.** (1) Where the owner of the copyright has by licence or otherwise granted the right to reproduce any book in Canada, it shall not be lawful except as provided in subsections (3) and (4) to import into Canada copies of the book, and the copies shall be deemed to be included in Schedule VII to the *Customs Tariff*, and that Schedule applies accordingly.

(2) Except as provided in subsections (3) and (4), it shall be unlawful to import into Canada copies of any book in which copyright subsists until fourteen days after publication thereof and during that period or any extension thereof the copies shall be deemed to be included in Schedule VII to the *Customs Tariff*, and that Schedule applies accordingly, but if within that period of fourteen days an application for a licence has been made in accordance with the provisions of this Act relating thereto, the Minister may in the Minister's discretion extend the period, and shall forthwith notify the Department of National Revenue of the extension, and the prohibition against importation shall be continued accordingly.

#### *Excise Act*

*Clause 201:* Subsection 138(1.1) reads as follows:

(1.1) A refund or drawback of the customs duty imposed pursuant to section 36 of the *Customs Tariff*, in respect of spirits, wine or flavouring materials having a spirit content, on which the customs duty has been paid and not refunded and that are brought into a distillery for the purpose of blending with spirits in bond, may be granted under such terms and conditions as the Governor in Council may, by regulation, prescribe.

#### *Export and Import Permits Act*

*Clause 202:* (1) The definitions "goods imported from a NAFTA country" and "goods imported from Israel or another CIFTA beneficiary" in section 2 read as follows:

"goods imported from a NAFTA country" means goods that are shipped directly to Canada from a NAFTA country within the meaning of sections 17 and 18 of the *Customs Tariff*;

"goods imported from Israel or another CIFTA beneficiary" means goods that are, within the meaning of regulations made under section 58.4 of the *Customs Tariff*, imported from Israel or another CIFTA beneficiary;

(2) New.

*Clause 203:* (1) Subsections 5(3.1) to (3.3) read as follows:

(3.1) No order may be made pursuant to subsection (3) with respect to goods that have already been the subject of an order made pursuant to that subsection or subsection 59.1(1) or 59.11(2) of the *Customs Tariff* unless, following the expiration of the order and any related orders made pursuant to subsection (3.2), (4.01) or (4.8) of this section or subsection 59.1(8) or (11) or 59.11(13) or (20) of the *Customs Tariff*, there has elapsed a period equal to the greater of two years and the total period during which the order or orders were in effect.

(3.2) Where at any time before the expiration of an order made with respect to any goods pursuant to this subsection or subsection (3), (4.01) or (4.8) of this section or subsection 59.1(1), (8) or (11) or 59.11(2), (13) or (20) of the *Customs Tariff* it appears to the satisfaction of the Governor in Council, as a result of an inquiry made by the Canadian International Trade Tribunal under section 30.07 of the *Canadian International Trade Tribunal Act*, that

(a) an order continues to be necessary to prevent or remedy serious injury to domestic producers of like or directly competitive goods, and

(b) there is evidence that the domestic producers are adjusting, as determined in accordance with any regulations made pursuant to paragraph 40(b) of the *Canadian International Trade Tribunal Act*,

the Governor in Council may, on the recommendation of the Minister, make an extension order including any of the goods on the Import Control List.

(3.3) Every extension order made pursuant to subsection (3.2) shall, subject to this section, remain in effect for such period as is specified in the order, but the total of the specified period and the periods during which the goods were previously subject to any related orders made pursuant to subsection (3), (3.2), (4.01) or (4.8) of this section or subsection 59.1(1), (8) or (11) or 59.11(2), (13) or (20) of the *Customs Tariff* shall not exceed eight years.

(2) The relevant portion of subsection 5(4.03) reads as follows:

(4.03) Where at any time it appears to the satisfaction of the Governor in Council that it is advisable to collect information with respect to the importation into Canada of any goods from a NAFTA country

...

(b) to which goods an order made under subsection 59.1(1) or (8) of the *Customs Tariff* does not apply by virtue of subsection 59.1(3) or (8.3) of that Act,

(3) Subsection 5(4.4) reads as follows:

(4.4) Where at any time it appears to the satisfaction of the Governor in Council that it is advisable to collect information with respect to the importation of any goods originating in the United States

(a) to which an order under subsection (3) does not apply by virtue of subsection (4.1), or

(b) to which an order under subsection 60(1) of the *Customs Tariff* does not apply because the quantity of those goods is not substantial in comparison with the quantity of goods of the same kind originating in other countries or because those goods do not contribute importantly to the serious injury or threat thereof to Canadian producers of like or directly competitive products,

the Governor in Council may, by order, include those goods on the Import Control List in order to facilitate the collection of that information.

(4) The relevant portion of subsection 5(4.91) reads as follows:

(4.91) Where at any time it appears to the satisfaction of the Governor in Council that it is advisable to collect information with respect to the importation into Canada of any goods from Israel or another CIFTA beneficiary

...

(b) for which goods no order was made under subsection 59.11(2) or (13) of the *Customs Tariff* by virtue of subsection 59.11(5) or (16) of that Act,

(5) Subsection 5(6) reads as follows:

(6) Where, for the purpose of facilitating the implementation of action taken under sections 42 to 44, paragraph 59(2)(d), section 59.1 or 59.11, paragraph 60(1)(e) or subsection 62(1) or 68(1) of the *Customs Tariff*, the Governor in Council considers it necessary to control the importation of any goods or collect information with respect to their importation, the Governor in Council may, by order, include those goods on the Import Control List for that purpose.

(6) The relevant portion of subsection 5(7.1) reads as follows:

(7.1) Where goods imported from a NAFTA country are included on the Import Control List by order of the Governor in Council under subsection (4.01) or (4.03), the goods shall be deemed to be removed from that List on the earlier of

...

(b) the day on which

...

(ii) in the case of an order under subsection (4.03) in respect of goods referred to in paragraph (4.03)(b), the order under subsection 59.1(1) or (8) of the *Customs Tariff* that applies to goods of the same kind imported from any other country ceases to have effect.

(7) The relevant portion of subsection 5(8) reads as follows:

(8) Where goods originating in the United States are included on the Import Control List by order of the Governor in Council under subsection (4.2) or (4.4), the goods shall be deemed to be removed from that List on the earlier of

...

(b) the day on which

(i) in the case of an order under subsection (4.2) or paragraph (4.4)(a), goods of the same kind originating in other countries that were included on that List by an order made under subsection (3) are removed from that List, or

(ii) in the case of an order under paragraph (4.4)(b), the order under subsection 60(1) of the *Customs Tariff* that applies to goods of the same kind originating in other countries ceases to have effect.

Clause 204: Subsection 5.11(3) reads as follows:

(3) Where at any time it appears to the satisfaction of the Governor in Council that it is advisable to collect information with respect to the importation of any goods in respect of which a specified quantity is eligible for a benefit of any reduction of customs duty pursuant to subsection 60.3(3) of the *Customs Tariff*, the Governor in Council may, by order and without reference to that quantity, include those goods on the Import Control List in order to facilitate the collection of that information.

Clause 205: Subsection 6.1(1) reads as follows:

6.1 (1) In this section, "originating goods" means goods that are entitled under subsection 25.2(5.1) of the *Customs Tariff* to the benefit of the United States Tariff or the Mexico Tariff.

*Importation of Intoxicating Liquors Act*

Clause 206: The relevant portion of subsection 3(2) reads as follows:

(2) The provisions of subsection (1) do not apply to

...

(b.01) the importation of distilled spirits in bulk into a province from a NAFTA country for the purpose of bottling by any person duly licensed by the Government of Canada to carry on the business or trade of a distiller, where the distilled spirits

(i) are entitled to the benefit of the United States Tariff, the Mexico Tariff or the Mexico-United States Tariff of Schedules I and II to the *Customs Tariff*, and

(ii) while kept by the distiller, are kept by the distiller in a place or warehouse that conforms in all respects to the requirements of the law governing such places or warehouses;

(b.1) the importation of distilled spirits in bulk into a province from the United States for the purpose of bottling by any person duly licensed by the Government of Canada to carry on the business or trade of a distiller, where the distilled spirits

(i) are entitled to the benefit of the United States Tariff of Schedule I to the *Customs Tariff*, and

(ii) while kept by the distiller, are kept by the distiller in a place or warehouse that conforms in all respects to the requirements of the law governing such places or warehouses; or

*World Trade Organization Agreement Implementation Act*

Clause 207: Section 189 reads as follows:

189. Sections 144 to 188, any provision of the *Special Import Measures Act* as enacted by any of those sections, or any rule or regulation made under the *Special Import Measures Act* as amended as a result of the Agreement and any regulations under subsection 13(2) of the *Customs Tariff*, to the extent that they apply for the purposes of the *Special Import Measures Act*, apply to goods from a NAFTA country, within the meaning assigned to that expression by subsection 2(1) of the *Special Import Measures Act*.

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