

Ottawa, May 15, 2000

SUBJECT

ASSESSMENT OF ANTI-DUMPING AND COUNTERVAILING DUTIES UNDER THE *SPECIAL IMPORT MEASURES ACT*

This Memorandum outlines the assessment of the normal value, the export price, and the amount of subsidy or the amount of export subsidy on imported goods covered by an injury finding by the Canadian International Trade Tribunal (Tribunal). This information is provided to ensure that anti-dumping and countervailing duties are levied, where applicable, on the basis of current data, and in a timely and equitable manner in accordance with the provisions of the *Special Import Measures Act* (SIMA).

GUIDELINES AND GENERAL INFORMATION

1. The final determination of dumping or subsidizing will specify the margin of dumping or the amount of subsidy on the goods subject to the investigation. Where the Tribunal makes a finding of injury, the goods covered by the finding are subject to review for anti-dumping or countervailing duty purposes. Goods of the same description as those named in the Tribunal's finding of injury, which are imported after the Tribunal's finding, are reviewed to ensure that the correct amount of anti-dumping or countervailing duty has been assessed and paid.
2. Anti-dumping duty is the margin of dumping; that is, the amount that the normal value exceeds the export price. Countervailing duty is the amount of subsidy on the goods. Provisional duty is the amount equal to the estimated margin of dumping or the estimated amount of subsidy. Provisional duty is assessed on goods released during the period that the Tribunal is examining the question of injury.
3. For those goods that were released during the provisional period, a designated officer makes a final assessment of the anti-dumping or countervailing duty payable. In accordance with section 55 of the SIMA, the designated officer's determination must be made within six months of the date of the Tribunal's finding. For further details on the provisional period and provisional duty, please refer to Memorandum D14-1-5, *Procedures for Release From Customs of Goods Subject to Provisional Duty Under the Special Import Measures Act and for Control of Bonds Used to Secure Payment of Provisional Duty*.
4. When imported goods are the same as those named in an order or finding by the Tribunal, these goods are subject to an anti-dumping or countervailing duty. The assessment is based on the most recently calculated normal values, export prices, or amounts of subsidy. Pursuant to section 56 of the SIMA, a customs officer may, within 30 days after the goods have been accounted for, determine:
 - (a) whether the goods are the same as those described in the Tribunal's finding;
 - (b) the normal value or amount of subsidy; and
 - (c) the export price or amount of export subsidy.

5. A designated officer or the Commissioner of Customs and Revenue may re-determine the subjectivity of the goods, the normal value, the export price, or the amount of subsidy at any time within two years of the determination made under section 56 of SIMA.
 6. Where the normal value, the export price, or the amount of subsidy established at the final determination is not considered a reasonable basis for the assessment of duty for goods imported during the provisional period because of significant changes in the exporter's costs and/or market conditions, a re-investigation will be initiated. The purpose of the re-investigation is to establish new values, or amounts of subsidy based on the changed costs and/or conditions. These new values will be used to make the assessments of anti-dumping or countervailing duty for goods imported during the provisional period. While the section 55 designated officer decision will not result in an assessment of duty greater than the amount of provisional duty paid or payable, it may result in a reduced assessment. In this case, refunds will be issued promptly.
 7. Subject goods imported after the Tribunal's injury finding will normally be assessed anti-dumping or countervailing duty based on the values determined at the time of the final determination until these values are revised as a result of a re-investigation.
 8. When it is necessary to revise the normal values, the export prices, or the amounts of subsidy, all known importers, exporters, the complainant, and the governments of the countries of export are advised. As a result of the re-investigation, the revised normal values, export prices, or amounts of subsidy will apply to all importations of goods released on or after the date the new figures are announced, or 90 days from the date of the initiation of the re-investigation, whichever occurs first.
 9. Normally, such new values will not be applied retroactively. However, there are two important exceptions. First, the new values will be applied retroactively in cases where the parties have not advised the Anti-dumping and Countervailing Directorate of the Canada Customs and Revenue Agency (CCRA) in a timely manner of substantial changes which affect normal values, export prices, or amounts of subsidy. Second, where there is a request for a re-determination, the re-determination will be based on the amounts calculated using information from the same time period as the date of sale to Canada of the imported goods, or the most recent information prior to that period. This may result in an additional duty assessment or a refund depending on the specific situation.
 10. For additional information as to the effective dates of revised values, please refer to Memorandum D14-1-8, *Re-Investigation Policy Under the Special Import Measures Act*.
 11. For certain goods, for example capital goods, the amount of anti-dumping duty or countervailing duty payable cannot be conclusively established prior to the entry of the goods. In such instances, the CCRA may require access to information relating to actual production costs, as well as other information relevant to determine the normal value, the export price, or the amount of subsidy not normally available or verifiable in advance of importation. Under certain circumstances, the CCRA may provide the exporter and importer with an estimate of the assessment, based on information provided in advance of actual production and shipment. The provision of such an estimate is not to be construed as limiting the CCRA in determining the actual assessment on the goods as provided for in SIMA.
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REFERENCES

ISSUING OFFICE –

Anti-dumping and Countervailing Directorate

LEGISLATIVE REFERENCES –

Special Import Measures Act, sections 3 to 14 and sections 55 to 59

HEADQUARTERS FILE –

4205-13

SUPERSEDED MEMORANDA “D” –

D14-1-7, July 20, 1994

OTHER REFERENCES –

D14-1-5, D14-1-8

Services provided by the Canada Customs and Revenue Agency are available in both official languages.

This Memorandum is issued under the authority of the Commissioner of Customs and Revenue.