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Committee on Anti-Dumping Practices
Committee on Subsidies and Countervailing Measures

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NOTIFICATION OF LAWS AND REGULATIONS UNDER ARTICLES 18.5 AND 32.6 OF THE AGREEMENTS

CANADA

Addendum

The following communication, dated 13 September 2000, has been received from the Permanent Mission of Canada.

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In accordance with its obligations under Articles 18.5 and 32.6 of the Agreement on Implementation of Article VI of the General Agreement on Tariffs and Trade 1994 and the Agreement on Subsidies and Countervailing Measures respectively, the Government of Canada is pleased to inform of changes to its laws and regulations that came into effect 15 April 2000.

The key elements of the changes include the following:

- (1) assignment of responsibility to the Canadian International Trade Tribunal (CITT) for preliminary determinations of injury, retardation or threat of injury to Canadian industry caused by the dumping or subsidizing of goods;
- (2) provisions governing the disclosure of confidential information by the Commissioner of the Canada Customs and Revenue Agency (CCRA) to counsel for parties in dumping and subsidy investigations, and new penalties for the unauthorized use of that information;
- (3) provisions governing the disclosure of confidential information by the CITT to expert witnesses in proceedings related to dumping and subsidy investigations, and new penalties for the unauthorized use of that information;

- (4) provisions governing the consideration, review and termination of undertakings by the Commissioner of CCRA;
- (5) provisions governing the initiation and conduct of public interest inquiries in respect of CITT findings, including provisions enabling the Tribunal to recommend a lesser anti-dumping or countervailing duty sufficient to eliminate injury, retardation or the threat of injury to Canadian industry; and
- (6) provisions governing the conduct of interim and expiry reviews of existing orders and findings, including the assignment of responsibility to the Commissioner of CCRA for expiry review determinations as to the likelihood of the continuation or resumption of dumping or subsidizing goods.

The changes are contained in the following legal instruments, copies of which are attached:

- (a) An Act to Amend the Special Import Measures Act and Canadian International Trade Tribunal Act, 1999, Statutes of Canada, chapter 12;
- (b) Regulations Amending the Special Import Measures regulations, SOR/2000-138; and
- (c) Rules Amending the Canadian International Trade Tribunal Rules, SOR/2000-139.

An Act to amend the Special Import Measures Act and the Canadian International Trade Tribunal Act

Her Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:

SPECIAL IMPORT MEASURES ACT

R.S., c. S-15; R.S.,
c. 23 (1st Supp.), c.
1 (2nd Supp.), c. 41
(3rd Supp.), c. 47
(4th Supp.); 1988, c.
65; 1990, c. 8; 1993,
c. 44; 1994, cc. 13,
47; 1997, c. 14

1994, c. 47, s.
144(2)

1. (1) The definition "order or finding" in subsection 2(1) of the *Special Import Measures Act* is replaced by the following:

"order or finding"
« *ordonnance ou*
conclusions »

"order or finding", in relation to the Tribunal,

(a) means an order or finding made by the Tribunal under section 43 or 44 that has not been rescinded under any of sections 76.01 to 76.1 and subsection 91(3) but, if the order or finding has been amended one or more times under any of sections 76.01 to 76.1, as last so amended, and

(b) includes, for the purposes of sections 3 to 6 and 76 to 76.1, an order or finding made by the Tribunal under subsection 91(3) that has not been rescinded under any of sections 76.01 to 76.1 but, if the order or finding has been amended one or more times under any of sections 76.01 to 76.1, as last so amended;

1994, c. 47, s.
144(3)

(2) The definition "branche de production nationale" in subsection 2(1) of the French version of the Act is replaced by the following:

« branche de
production
nationale »
"domestic
industry"

« branche de production nationale » Sauf pour l'application de l'article 31 et sous réserve du paragraphe (1.1), l'ensemble des producteurs nationaux de marchandises similaires ou les producteurs nationaux dont la production totale de marchandises similaires constitue une proportion majeure de la production collective nationale des marchandises similaires. Peut toutefois en être exclu le producteur national qui est lié à un exportateur ou à un importateur de marchandises sous-évaluées ou subventionnées, ou qui est lui-même un importateur de telles marchandises.

1994, c. 47, s.
144(2)

(3) Subparagraph (b)(i) of the definition "properly documented" in subsection 2(1) of the Act is replaced by the following:

(i) the information that is available to the complainant to support the facts referred to in subparagraph (a)(ii),

(4) Paragraph (b) of the definition "subsidized goods" in subsection 2(1) of the Act is replaced by the following:

(b) goods that are disposed of by the government of a country other than Canada for less than fair market value,

1994, c. 47, s.
144(2)

(5) Paragraph (a) of the definition "subsidy" in subsection 2(1) of the Act is replaced by the following:

(a) a financial contribution by a government of a country other than Canada in any of the circumstances outlined in subsection (1.6) that confers a benefit to persons engaged in the production, manufacture, growth, processing, purchase, distribution, transportation, sale, export or import of goods, but does not include the amount of any duty or internal tax imposed by the government of the country of origin or country of export on

(i) goods that, because of their exportation from the country of export or country of origin, have been exempted or have been or will be relieved by means of remission, refund or drawback,

(ii) energy, fuel, oil and catalysts that are used or consumed in the production of exported goods and that have been exempted or have been or will be relieved by means of remission, refund or drawback, or

(iii) goods incorporated into exported goods and that have been exempted or have been or will be relieved by means of remission, refund or drawback, or

(6) Subsection 2(1) of the Act is amended by adding the following in alphabetical order:

"country"
« pays »

"country", unless the context requires otherwise, includes

(a) an external or dependent territory of a country and any other territory prescribed by regulation made by the Governor in Council, and

(b) except for the purposes of proceedings respecting the dumping of goods, a customs union;

1994, c. 47, s.
145(1)

2. (1) The portion of subsection 3(1) of the Act before paragraph (a) is replaced by the following:

Anti-dumping and
countervailing
duty

3. (1) Subject to section 7.1, there shall be levied, collected and paid on all dumped and subsidized goods imported into Canada in respect of which the Tribunal has made an order or finding, before the release of the goods, that the dumping or subsidizing of goods of the same description has caused injury or retardation, is threatening to cause injury or would have caused injury or retardation except for the fact that provisional duty was applied in respect of the goods, a duty as follows:

<p>1994, c. 47, s. 145(2)</p> <p>Duty where undertaking violated</p>	<p>(2) Subsection 3(2) of the Act is replaced by the following:</p> <p>(2) If the Tribunal has made an order or finding referred to in subsection (1) in respect of goods that are subject to an undertaking referred to in section 7.1 and the undertaking is subsequently terminated under paragraph 52(1)(d), there shall be levied, collected and paid a duty as provided under paragraphs (1)(a) and (b) on all of those goods that were</p> <p>(a) if paragraph 52(1)(a) applies, released on or after the later of</p> <p>(i) the day on which the undertaking was violated, and</p> <p>(ii) the ninetieth day before the day on which notice of termination was given under paragraph 52(1)(e); and</p> <p>(b) if paragraph 52(1)(b) or (c) applies, released on or after the day on which notice of termination was given under paragraph 52(1)(e).</p>
<p>1993, c. 44, s. 202</p>	<p>3. (1) The portion of subsection 8(1.1) of the Act before paragraph (a) is replaced by the following:</p>
<p>Duty imposed on referral back</p>	<p>(1.1) If an order or finding of the Tribunal under subsection 43(1), 76.02(4) respecting a review under subsection 76.02(1), or 91(3), other than an order or finding described in any of sections 3 to 6, is referred back to the Tribunal under subsection 77.015(3) or (4) or 77.019(5), or under subsection 77.15(3) or (4) or 77.19(4), the importer of dumped or subsidized goods that are of the same description as any goods to which the order or finding applies and that are released during the period beginning on the day on which the preliminary determination is made under subsection 38(1) and ending on the day on which the Tribunal makes an order or finding, on the referral back, with respect to goods of that description, shall, on demand of the Deputy Minister for payment of provisional duty on the imported goods, at the option of the importer,</p> <p>(2) Section 8 of the Act is amended by adding the following after subsection (1.1):</p>
<p>Imposition of provisional duties on referral back from Federal Court of Appeal</p>	<p>(1.2) If an order or finding of the Tribunal under subsection 43(1), 76.02(4) respecting a review under subsection 76.02(1), or 91(3), other than an order or finding described in any of sections 3 to 6, is referred back to the Tribunal by the Federal Court of Appeal, the importer of dumped or subsidized goods that are of the same description as any goods to which the order or finding applies and that are released during the period beginning on the day on which the preliminary determination under subsection 38(1) is made and ending on the day on which the Tribunal makes an order or finding, on the referral back, with respect to goods of that description, shall, on demand of the Deputy Minister for payment of provisional duty on the imported goods, at the option of the importer,</p> <p>(a) pay or cause to be paid on the imported goods provisional duty in an amount not greater than the estimated margin of dumping of, or the estimated amount of subsidy on, the imported goods; or</p>

(b) post or cause to be posted security in the prescribed form and in an amount or to a value not greater than the estimated margin of dumping of, or the estimated amount of subsidy on, the imported goods.

1988, c. 65, s. 26(2) **(3) The portion of subsection 8(2) of the Act before paragraph (a) is replaced by the following:**

Return of provisional duty (2) Any provisional duty paid or security posted under subsection (1), (1.1) or (1.2) by or on behalf of an importer in respect of the importation of dumped or subsidized goods of any description shall

1994, c. 47, s. 149(4) **(4) The portion of subsection 8(6) of the Act before paragraph (a) is replaced by the following:**

Resumption of collection (6) If the Deputy Minister terminates an undertaking under subsection 51(1) or 52(1) with respect to dumped or subsidized goods, the collection of provisional duties on those goods is resumed and the importer of dumped or subsidized goods that are of the same description as any goods to which the preliminary determination under subsection 38(1) applied and that are released during the period beginning on the day on which the undertaking was terminated and ending on the earlier of

1993, c. 44, s. 206 **4. Subsection 9.4(1) of the Act is replaced by the following:**

Duty reimposed on referral back **9.4** (1) If an order of the Tribunal under subsection 76.01(5) or paragraph 76.03(12)(a) rescinding an order or finding described in any of sections 3 to 6 is referred back to the Tribunal under subsection 77.015(3) or (4) or 77.019(5), or under subsection 77.15(3) or (4) or 77.19(4), the importer of dumped or subsidized goods that are of the same description as any goods to which the rescinded order or finding applied and that are released on or after the day on which the order of the panel referring the rescinding order or finding back is made, shall pay or cause to be paid duty on the imported goods as if the rescinded order or finding had not been rescinded.

5. Subsection 12(2) of the Act is replaced by the following:

Return of duty (2) If the Deputy Minister is satisfied that, because of a clerical or arithmetical error, an amount has been paid as duty in respect of goods that was not properly payable, the Deputy Minister shall return that amount to the importer or owner of the goods by or on whose behalf it was paid.

1994, c. 47, s. 151 **6. (1) Subsection 13.2(1) of the Act is replaced by the following:**

Request for review **13.2** (1) An exporter to Canada or producer of any goods to which an order or finding referred to in section 3 applies may request that the Deputy Minister review the normal value, export price or amount of subsidy in relation to those goods if the exporter or producer

(a) establishes that they are not associated with any exporter who is in the same country as the goods that are subject to the order or finding and who had been given notice under subparagraph 34(1)(a)(i); and

(b) has not

(i) been given notice under subparagraph 34(1)(a)(i), paragraph 38(3)(a) or subsection 41(3) in respect of the goods, or

(ii) been requested to provide information in relation to those goods or in relation to any goods that are of the same description as those goods for the purposes of this Act.

1994, c. 47, s. 151

(2) Subsection 13.2(5) of the Act is replaced by the following:

Confirmation, etc.,
deemed to be a re-
determination

(5) A confirmation or amendment of a normal value, export price or amount of subsidy under subsection (3) is, for the purposes of paragraph 57(b), deemed to be a re-determination of a normal value, export price or amount of subsidy, as the case may be, by a designated officer referred to in that paragraph.

7. Section 20 of the Act is renumbered as subsection 20(1) and is amended by adding the following:

Limitation

(2) The Deputy Minister may not designate a country under paragraph (1)(d) if

(a) the like goods of that country are also the subject of investigation under this Act, unless the Deputy Minister is of the opinion that those goods are not dumped goods; or

(b) in the opinion of the Deputy Minister, the price of the like goods imported into Canada has been significantly influenced by a country described in paragraphs (1)(a) and (b).

8. (1) The portion of subsection 21(1) of the Act before paragraph (a) is replaced by the following:

Credit sales of like
goods

21. (1) Where any sale of like goods referred to in section 17, paragraph 19(a), subparagraph 20(1)(c)(i) or paragraph 20(1)(d) was made on credit terms other than cash discounts, the price for which the like goods were sold is deemed, for the purpose of that provision, to be an amount equal to the quotient obtained when

(2) Section 21 of the Act is amended by adding the following after subsection (1):

Adjustment of unit
price

(1.1) The unit price arrived at under subsection (1) shall be adjusted in the prescribed manner and circumstances to reflect the differences in terms and conditions of sale, taxation and other matters that relate to price comparability between the goods sold to the importer in Canada and the like goods sold.

9. Paragraph 26(a) of the Act is replaced by the following:

(a) the indemnity, payment or reimbursement is deemed not to be a compensatory arrangement referred to in subparagraph 25(1)(b)(ii); and

10. Section 27 of the Act is amended by adding the following after subsection (1):

Adjustment of unit price (1.1) The unit price arrived at under subsection (1) shall be adjusted in the prescribed manner and circumstances.

11. Paragraph 30(2)(b) of the Act is replaced by the following:

(b) would, but for this section, have a normal value as computed under sections 15 to 23 or section 29 that is less than the normal value would be if the country of export were the country of origin,

1994, c. 47, s. 159 **12. Section 30.1 of the Act is replaced by the following:**

Determination of margin of dumping in respect of a country **30.1** For the purposes of subparagraphs 35(1)(a)(ii), 38(1)(a)(i) and 41(1)(a)(ii) and paragraphs 41.1(1)(a) and (2)(a), the margin of dumping in relation to goods of a particular country is the weighted average of the margins of dumping determined in accordance with section 30.2.

1994, c. 47, s. 159 **13. Subsections 30.2(1) and (2) of the English version of the Act are replaced by the following:**

Margin of dumping re goods of an exporter **30.2** (1) Subject to subsection (2), the margin of dumping in relation to any goods of a particular exporter is zero or the amount determined by subtracting the weighted average export price of the goods from the weighted average normal value of the goods, whichever is greater.

If variation in price (2) The Deputy Minister may determine the margin of dumping in relation to any goods of a particular exporter to be the weighted average of the margins of dumping in relation to the goods of that exporter that are sold in any individual sales of goods of that exporter that the Deputy Minister considers relevant if, in the opinion of the Deputy Minister, there are significant variations in the prices of goods of that exporter among purchasers, regions in Canada or time periods.

1994, c. 47, s. 159 **14. Subsection 30.3(1) of the Act is replaced by the following:**

Margin of dumping based on sample **30.3** (1) The Deputy Minister may, if the Deputy Minister is of the opinion that it would be impracticable to determine a margin of dumping in relation to all goods under consideration because of the number of exporters, producers or importers, the variety or volume of goods or any other reason, determine margins of dumping in relation to

(a) the largest percentage of goods of each of the countries whose goods are under consideration that, in the opinion of the Deputy Minister, can reasonably be investigated; or

(b) samples of the goods of each of the countries whose goods are under consideration that, in the opinion of the Deputy Minister based on the information available at the time of selection, are statistically valid.

1994, c. 47, s. 160	15. (1) Subsections 31(2) and (3) of the Act are replaced by the following:
Standing	<p>(2) No investigation may be initiated under subsection (1) as a result of a complaint unless</p> <p>(a) the complaint is supported by domestic producers whose production represents more than fifty per cent of the total production of like goods by those domestic producers who express either support for or opposition to the complaint; and</p> <p>(b) the production of the domestic producers who support the complaint represents twenty-five per cent or more of the total production of like goods by the domestic industry.</p>
Meaning of "domestic producers"	(2.1) For the purpose of paragraph (2)(a), if a domestic producer is an importer of, or is related to an exporter or importer of, allegedly dumped or subsidized goods, "domestic producers" may, subject to subsection 2(1.1), be interpreted as meaning the rest of those domestic producers.
Meaning of "domestic industry"	(3) In paragraph (2)(b), domestic industry means, subject to subsection 2(1.1), the domestic producers as a whole of the like goods except that, if a domestic producer is related to an exporter or importer of allegedly dumped or subsidized goods, or is an importer of such goods, "domestic industry" may be interpreted as meaning the rest of those domestic producers.
1994, c. 47, s. 160	(2) The portion of subsection 31(4) of the Act before paragraph (a) is replaced by the following:
Producers related to exporters or importers	(4) For the purposes of subsections (2.1) and (3), a domestic producer is related to an exporter or importer if
R.S., c. 47 (4th Supp.), s. 52 (Sch., item 10(3))	16. Subsection 32(3) of the Act is replaced by the following:
Deemed complaint	(3) If a written complaint filed with the Tribunal under subsection 23(1) of the <i>Canadian International Trade Tribunal Act</i> is referred to the Deputy Minister under subsection 26(4) or 28(1) of that Act, the Deputy Minister is deemed to have received a written complaint described in subsection (1).
1994, c. 47, ss. 164, 165	17. Sections 34 and 35 of the Act are replaced by the following:
Notice of investigation	<p>34. (1) If the Deputy Minister causes an investigation to be initiated respecting the dumping or subsidizing of goods, the Deputy Minister shall</p> <p>(a) in the case of an investigation initiated under any provision of this Act other than section 7, cause notice of the investigation</p>

(i) to be given to the Secretary, the exporter, the importer, the government of the country of export, the complainant, if any, and any other prescribed persons, and

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

(b) without delay provide the Tribunal with the information and material with respect to the matter that is required under the Tribunal's rules.

Tribunal to make preliminary inquiry

(2) The Tribunal shall, without delay after receipt by the Secretary under subparagraph (1)(a)(i) of a notice of an initiation of an investigation, make a preliminary inquiry (which need not include an oral hearing) into whether the evidence discloses a reasonable indication that the dumping or subsidizing of the goods has caused injury or retardation or is threatening to cause injury.

Termination of investigation or inquiry

35. (1) The Deputy Minister shall act under subsection (2) and the Tribunal shall act under subsection (3) if, at any time before the Deputy Minister makes a preliminary determination under subsection 38(1) in respect of goods of a country or countries,

(a) the Deputy Minister is satisfied in respect of some or all of those goods that

(i) there is insufficient evidence of dumping or subsidizing to justify proceeding with the investigation,

(ii) the margin of dumping of, or the amount of subsidy on, the goods of that country or of any of those countries is insignificant, or

(iii) the actual and potential volume of dumped or subsidized goods is negligible; or

(b) the Tribunal comes to the conclusion in respect of some or all of those goods that the evidence does not disclose a reasonable indication that the dumping or subsidizing of the goods has caused injury or retardation or is threatening to cause injury.

Duty of Deputy Minister

(2) The Deputy Minister shall

(a) cause the investigation to be terminated with respect to the goods in respect of which the Deputy Minister is so satisfied or the Tribunal has come to that conclusion; and

(b) cause notice of the termination to be

(i) given to the Secretary, the exporter, the importer, the government of the country of export, the complainant, if any, and any prescribed persons, and

(ii) published in the *Canada Gazette*.

Duty of Tribunal

(3) The Tribunal shall

(a) cause the preliminary inquiry to be terminated with respect to the goods in respect of which the Deputy Minister is so satisfied or the Tribunal has come to that conclusion; and

(b) cause notice of the termination to be

(i) given to the Deputy Minister, the exporter, the importer, the government of the country of export, the complainant, if any, and any prescribed persons, and

(ii) published in the *Canada Gazette*.

1997, c. 14, s. 90

18. (1) Subsection 35.1(1) of the Act is amended by striking out the word "and" at the end of paragraph (a) and by replacing paragraph (b) with the following:

(b) the Tribunal shall cause any preliminary inquiry initiated under subsection 34(2) to be terminated to the extent that it relates to the dumping of those goods; and

(c) all related proceedings are terminated to the extent that they relate to the dumping of those goods.

1997, c. 14, s. 90

(2) The portion of subsection 35.1(2) of the Act before paragraph (a) is replaced by the following:

Notice of
termination

(2) The Deputy Minister or the Tribunal, as the case may be, shall cause notice of the termination

1994, c. 47, s. 165

19. Section 36 of the Act is repealed.

20. The portion of section 37 of the Act before paragraph (a) is replaced by the following:

Tribunal to give
advice

37. If a reference is made to the Tribunal under section 33 on any question in relation to any matter before the Deputy Minister,

21. The heading before section 38 of the Act is replaced by the following:

Preliminary Determination of Injury or of Dumping or Subsidizing

Preliminary
determination of
injury

37.1 (1) On or before the sixtieth day after the initiation of an investigation under section 31, the Tribunal shall make, with respect to the goods in respect of which the investigation has not been terminated under section 35, a preliminary determination that there is evidence that discloses a reasonable indication that the dumping or subsidizing has caused injury or retardation or is threatening to cause injury.

Notification

(2) The Tribunal shall cause notice of the preliminary determination to be

(a) given to the Deputy Minister, the exporter, the importer, the government of the country of export, the complainant, if any, and any prescribed persons; and

(b) published in the *Canada Gazette*.

1994, c. 47, s.
166(1)

22. (1) The portion of subsection 38(1) of the Act before paragraph (a) is replaced by the following:

Preliminary
determination of
dumping or
subsidizing

38. (1) Subject to section 39, after the sixtieth and on or before the ninetieth day after the initiation of an investigation under section 31, the Deputy Minister shall make a preliminary determination of dumping or subsidizing with respect to the goods in respect of which the investigation has not been terminated under section 35 after estimating and specifying, in relation to each exporter of goods in respect of which the investigation is made, as follows:

(2) Paragraph 38(1)(c) of the English version of the Act is replaced by the following:

(c) in the case of dumped or subsidized goods, specifying the name of the person the Deputy Minister believes, on the information available to the Deputy Minister at the time the Deputy Minister makes the estimate referred to in subparagraph (a)(i) or (b)(i), as the case may be, is the importer in Canada of the goods.

1994, c. 47, para.
186(a)

23. The portion of subsection 39(1) of the Act before paragraph (a) is replaced by the following:

Time extended

39. (1) If, in any investigation respecting the dumping or subsidizing of goods, the Deputy Minister, before the expiration of the ninety days referred to in subsection 38(1), causes written notice to be given to the persons and the government referred to in paragraph 34(1)(a) that by reason of

24. Section 40 of the Act is repealed.

1994, c. 47, s.
167(1)

25. (1) The portion of subsection 41(1) of the Act before paragraph (a) is replaced by the following:

Final determination
or termination

41. (1) Within ninety days after making a preliminary determination under subsection 38(1) in respect of goods of a country or countries, the Deputy Minister shall

1994, c. 47, s.
167(1)

(2) The portion of paragraph 41(1)(a) of the Act before subparagraph (iii) is replaced by the following:

(a) if, on the available evidence, the Deputy Minister is satisfied, in relation to the goods of that country or countries in respect of which the investigation is made, that

(i) the goods have been dumped or subsidized, and

(ii) the margin of dumping of, or the amount of subsidy on, the goods of that country or of any of those countries is not insignificant,

make a final determination of dumping or subsidizing with respect to the goods after specifying, in relation to each exporter of goods of that country or countries in respect of which the investigation is made as follows:

(3) Subsection 41(2) of the Act is replaced by the following:

Exception (2) The Deputy Minister shall not specify anything under clause (1)(a)(iv)(C) if the Deputy Minister is of the opinion that, having regard to the country that is providing the export subsidy, the nature of the goods and the circumstances under which the export subsidy is provided, provision of the export subsidy in relation to those goods is not inconsistent with that country's obligations under the international agreement known as the General Agreement on Tariffs and Trade, 1994.

1994, c. 47, s. 169 **26. (1) The portion of subsection 42(3) of the Act before paragraph (a) is replaced by the following:**

Assessment of cumulative effect (3) In making or resuming its inquiry under subsection (1), the Tribunal shall make an assessment of the cumulative effect of the dumping or subsidizing of goods to which the preliminary determination applies that are imported into Canada from more than one country if the Tribunal is satisfied that

1994, c. 47, s. 169 **(2) Paragraph 42(3)(b) of the French version of the Act is replaced by the following:**

b) l'évaluation des effets cumulatifs est indiquée compte tenu des conditions de concurrence entre les marchandises, visées par la décision provisoire, importées au Canada en provenance d'un ou de plusieurs de ces pays et :

(i) soit les marchandises, visées par la décision provisoire, importées au Canada en provenance d'un ou de plusieurs autres de ces pays,

(ii) soit les marchandises similaires des producteurs nationaux.

(3) Section 42 of the Act is amended by adding the following after subsection (4):

Termination of inquiry if volume is negligible (4.1) If the Tribunal determines that the volume of dumped or subsidized goods from a country is negligible, the Tribunal shall terminate its inquiry in respect of those goods.

(4) Section 42 of the Act is amended by adding the following after subsection (5):

Volume of dumped or subsidized goods (6) For the purposes of this section, the volume of dumped or subsidized goods from a country is deemed to include the volume of goods of the country that are of the same description and are the subject of a sale for export to Canada.

27. Section 45 of the Act is replaced by the following:

Initiation of inquiry if imposition of duty not in public interest	<p>45. (1) If, as a result of an inquiry referred to in section 42 arising out of the dumping or subsidizing of any goods, the Tribunal makes an order or finding described in any of sections 3 to 6 with respect to those goods, the Tribunal shall, on its own initiative or on the request of an interested person that is made within the prescribed period and in the prescribed manner, initiate a public interest inquiry if the Tribunal is of the opinion that there are reasonable grounds to consider that the imposition of an anti-dumping or countervailing duty, or the imposition of such a duty in the full amount provided for by any of those sections, in respect of the goods would not or might not be in the public interest.</p>
Publication of notice	<p>(2) The Secretary shall publish in the <i>Canada Gazette</i> notice of a decision to initiate a public interest inquiry.</p>
Consideration of prescribed factors	<p>(3) In a public interest inquiry, the Tribunal shall take into account any factors, including prescribed factors, that it considers relevant.</p>
Report	<p>(4) If, as a result of a public interest inquiry, the Tribunal is of the opinion that the imposition of an anti-dumping or countervailing duty, or the imposition of such a duty in the full amount provided for by any of sections 3 to 6, in respect of the goods would not or might not be in the public interest, the Tribunal shall without delay</p> <p>(a) report to the Minister of Finance that it is of that opinion and provide that Minister with a statement of the facts and reasons that caused it to be of that opinion; and</p> <p>(b) cause notice of the report to be published in the <i>Canada Gazette</i>.</p>
Details in report	<p>(5) If the Tribunal is of the opinion that the imposition of an anti-dumping or countervailing duty in the full amount would not or might not be in the public interest, the Tribunal shall, in the report referred to in paragraph (4)(a), specify either</p> <p>(a) a level of reduction in the anti-dumping or countervailing duty provided for in any of sections 3 to 6; or</p> <p>(b) a price or prices that are adequate to eliminate injury, retardation or the threat of injury to the domestic industry.</p>
Persons interested may make representations	<p>(6) If a person interested in a public interest inquiry makes a request to the Tribunal within the prescribed period and in the prescribed manner for an opportunity to make representations to the Tribunal on the question whether the Tribunal should make a report under paragraph (4)(a) with respect to any goods in respect of which the inquiry is being made, the Tribunal shall give that person an opportunity to make representations to the Tribunal on that question orally or in writing, or both, as the Tribunal directs in the case of that inquiry.</p>

1993, c. 44, s. 210; **28. Subsection 47(1) of the Act is replaced by the following:**
 1997, c. 14, s. 91

Termination of proceedings **47. (1)** An order or finding made by the Tribunal with respect to any dumped or subsidized goods, other than an order or finding described in any of sections 3 to 6, terminates all proceedings under this Act respecting the dumping or subsidizing of the goods, other than proceedings under Part I.1 or II or subsection 76.02(1) or (3).

29. Section 49 of the Act is amended by adding the following after subsection (4):

Consideration of representations (5) In considering whether to accept an undertaking, the Deputy Minister shall consider any representations received from the importer, exporter, government of the country of export or any other interested person.

30. The Act is amended by adding the following after section 51:

Acceptance of further undertakings **51.1** If an investigation has been suspended under subparagraph 50(a)(iii), the Deputy Minister may accept an undertaking in respect of dumped or subsidized goods from an exporter or government that had not previously offered an undertaking in respect of the goods that was accepted by the Deputy Minister under subsection 49(1) if the Deputy Minister is of the opinion that observance of the undertaking will not cause

(a) if the undertaking is given by an exporter, the price at which the goods are sold to importers in Canada by the exporter to increase by more than the estimated margin of dumping of the goods or the estimated amount of subsidy on the goods; or

(b) if the undertaking is given by the government of a country, the price at which the goods, when exported to Canada from that country, will be sold to importers in Canada to increase by more than the estimated amount of subsidy on the goods.

1994, c. 47, s. 174 **31. (1) Paragraphs 52(1)(b) and (c) of the Act are replaced by the following:**

(b) is satisfied that the undertaking or undertakings would not have been accepted if the information available at that time had been available when the undertaking was accepted, or

(c) is satisfied that the undertaking or undertakings would not have been accepted if the circumstances prevailing at that time had prevailed when the undertaking was accepted,

1994, c. 47, s. 174 **(2) Paragraph 52(1.1)(a) of the Act is amended by adding the word "or" at the end of subparagraph (i), by striking out the word "or" at the end of subparagraph (ii) and by repealing subparagraph (iii).**

1994, c. 47, s. 174 **(3) Paragraph 52(1.1)(c) of the Act is replaced by the following:**

(c) the Tribunal has, under paragraph 76.01(5)(a), subsection 76.02(4), paragraph 76.03(12)(a) or subsection 76.04(1) or 76.1(2), rescinded an order or finding with respect to the goods or the order or finding has been deemed to be rescinded under subsection 76.03(1),

1994, c. 47, s. 174 **(4) Subsection 52(1.2) of the Act is replaced by the following:**

Termination if conditions no longer exist (1.2) Unless the Tribunal has made an order or finding under subsection 43(1) that the dumping or subsidizing of the goods to which the preliminary determination applies has caused injury or retardation or is threatening to cause injury, and that order or finding has not been rescinded under paragraph 76.01(5)(a), subsection 76.02(4), paragraph 76.03(12)(a) or subsection 76.04(1) or 76.1(2) or has not been deemed to be rescinded under subsection 76.03(1), the Deputy Minister shall terminate the undertaking or undertakings if, at any time after accepting the undertaking or undertakings, the Deputy Minister is satisfied that, notwithstanding the termination of the undertaking or undertakings, the condition in paragraph 49(1)(a) or (b), as the case may be, would no longer exist.

1994, c. 47, s. 175 **32. (1) The portion of subsection 53(1) of the Act before paragraph (a) is replaced by the following:**

Review and renewal of undertaking by Deputy Minister **53.** (1) Unless the Tribunal has made an order or finding under subsection 43(1) that the dumping or subsidizing of the goods to which the preliminary determination applies has caused injury or retardation or is threatening to cause injury and that order or finding has not been rescinded under paragraph 76.01(5)(a), subsection 76.02(4), paragraph 76.03(12)(a) or subsection 76.04(1) or 76.1(2) or has not been deemed to be rescinded under subsection 76.03(1), the Deputy Minister shall review the undertaking before the expiry of five years after the date on which it was accepted and before the expiry of each subsequent period, if any, for which it is renewed under this section and if, on the review, the Deputy Minister is satisfied

(2) Subsection 53(2) of the Act is replaced by the following:

Expiry of undertaking (2) An undertaking expires immediately after the Deputy Minister decides under subsection (1) not to renew it.

R.S., c. 1 (2nd Supp.), s. 204; 1993, c. 44, s. 213 **33. Section 57 of the Act is replaced by the following:**

Review by designated officer **57.** Unless the Deputy Minister has previously re-determined under section 59 a determination referred to in subsection 56(1) or (2) or the determination was made in respect of goods released after the initiation of an expedited review under subsection 13.2(3) and before a decision was issued under that subsection, a designated officer may re-determine the determination

(a) in accordance with a request made under subsection 56(1.01) or (1.1); or

(b) if the designated officer deems it advisable, within two years after the determination.

1993, c. 44, s.
215(1)

34. (1) The portion of subsection 59(1) of the Act before paragraph (a) is replaced by the following:

Permissive re-
determination

59. (1) Subject to subsection (3), the Deputy Minister may re-determine any determination or re-determination referred to in section 55, 56 or 57 or made under this section in respect of any imported goods

(2) Paragraph 59(1)(c) of the Act is replaced by the following:

(c) at any time, if subsection 2(6) or section 26 or 28 applies or at any time becomes applicable in respect of the goods;

(3) Section 59 of the Act is amended by adding the following after subsection (1):

Re-determination
of re-determination

(1.1) The Deputy Minister may re-determine any re-determination

(a) at any time after a re-determination was made under any of paragraphs (1)(a) to (c) and (e) but before an appeal under section 61 is heard, on the recommendation of the Attorney General of Canada, if the re-determination would reduce duties payable on the goods; and

(b) at any time if the re-determination would be consistent with a decision of the Tribunal, the Federal Court of Appeal or the Supreme Court of Canada, or with a re-determination under paragraph (a), made in respect of other like goods of the same importer or owner imported on or before the date of importation of the goods in respect of which the re-determination is being made.

1993, c. 44, s.
215(2)

(4) Subsection 59(2) of the English version of the Act is replaced by the following:

Permissive re-
determination

(2) The Deputy Minister may re-determine any determination or re-determination referred to in section 55, 56 or 57 or made under this section in respect of any imported goods at any time for the purpose of giving effect to a decision of a panel under Part I.1 or II with respect to the goods.

1993, c. 44, s.
215(2)

(5) Subsection 59(3.1) of the French version of the Act is replaced by the following:

Avis de la nouvelle
décision

(3.1) Le sous-ministre fait donner, par courrier recommandé, avis de la décision issue d'un réexamen à l'importateur et, dans le cas de marchandises d'un pays ALÉNA, au gouvernement du pays ALÉNA en question et à toute autre personne désignée par règlement, ainsi qu'au secrétaire canadien lorsque la nouvelle décision donne effet à celle rendue par un groupe spécial sous le régime de la partie I.1.

1988, c. 65,
s. 40(3) **(6) Subsection 59(4) of the French version of the Act is replaced by the following:**

Avis de la nouvelle
décision (4) Le sous-ministre fait donner, par courrier recommandé, avis de la décision issue d'un réexamen à l'importateur et, dans le cas de marchandises des États-Unis, au gouvernement des États-Unis et à toute autre personne désignée par règlement, ainsi qu'au secrétaire canadien lorsque la nouvelle décision donne effet à celle rendue par un groupe spécial sous le régime de la partie II.

R.S., c. 47 (4th
Supp.), s. 52 (Sch.,
item 10(6)) **35. Subsection 61(2) of the Act is replaced by the following:**

Publication of
notice of appeal (2) Notice of the hearing of an appeal under subsection (1) must be published in the *Canada Gazette* at least twenty-one days before the day of the hearing, and any person who enters an appearance with the Secretary at least seven days before the day of the hearing may be heard on the appeal.

R.S., c. 47 (4th
Supp.), s. 52 (Sch.,
item 10(9)); 1988,
c. 65, s. 41(2); 1993,
c. 44, s. 217 **36. Section 76 of the Act and the heading before it are replaced by the following:**

Review of Orders and Findings

Judicial Review

Application for
judicial review **76.** Subject to subsection 61(3) and Part I.1 or II, an application for judicial review of an order or finding of the Tribunal under this Act may be made to the Federal Court of Appeal on any of the grounds set out in subsection 18.1(4) of the *Federal Court Act*.

Review of Orders and Findings by Tribunal

Interim review of
orders by Tribunal **76.01** (1) At any time after the making of an order or finding described in any of sections 3 to 6, the Tribunal may, on its own initiative or at the request of the Minister of Finance, the Deputy Minister or any other person or of any government, conduct an interim review of

(a) the order or finding; or

(b) any aspect of the order or finding.

Tribunal may re-
hear any matter (2) In conducting an interim review, the Tribunal may re-hear any matter before deciding it.

Limitation (3) The Tribunal shall not conduct an interim review at the request of any person or government unless the person or government satisfies the Tribunal that the review is warranted.

Order if interim review not initiated	(4) If the Tribunal decides not to conduct an interim review at the request of a person or government, the Tribunal shall make an order to that effect and give reasons for it, and the Secretary shall forward a copy of the order and the reasons to that person or government and cause notice of the order to be published in the <i>Canada Gazette</i> .
Orders on completion of interim review	<p>(5) The Tribunal, on completion of an interim review</p> <p>(a) under paragraph (1)(a), shall make an order rescinding the order or finding or continuing it with or without amendment, as the circumstances require, and shall give reasons for making the order; and</p> <p>(b) under paragraph (1)(b), shall make any order in respect of the order or finding as the circumstances require, and shall give reasons for making the order.</p>
Completion of review	<p>(6) On completion of an interim review, the Secretary shall</p> <p>(a) forward to the Deputy Minister and any other persons and governments that are specified by the rules of the Tribunal,</p> <p>(i) without delay after the review is completed, a copy of the order, and</p> <p>(ii) not later than fifteen days after the date of the order, a copy of the reasons for the order; and</p> <p>(b) cause notice of the order to be published in the <i>Canada Gazette</i>.</p>
Expiry of order	<p>(7) An order made on the completion of an interim review, other than an order rescinding an order or finding, expires</p> <p>(a) if an expiry review is not initiated under subsection 76.03(3), five years after the day on which the order or finding that was the subject of the interim review was made; and</p> <p>(b) if an expiry review is initiated under subsection 76.03(3), the day on which the Tribunal makes an order under subsection 76.03(12).</p>
Review on Referral Back	
Review of orders by Tribunal on referral back and re-hearing	76.02 (1) If the Tribunal receives notice of action taken under paragraph 41.1(1)(a) or (2)(a) in respect of goods to which an order or finding of the Tribunal, other than an order or finding described in any of sections 3 to 6, applies, the Tribunal may, on its own initiative or at the request of the Minister of Finance, the Deputy Minister or any other person or of any government, review the order or finding and, in conducting the review, may re-hear any matter before deciding it.
Limitation	(2) The Tribunal shall not conduct a review at the request of any person or government unless the person or government satisfies the Tribunal that a review is warranted.

Review of orders by Tribunal on referral back and re-hearing	(3) If an order or finding of the Tribunal is referred back to the Tribunal under subsection 77.015(3) or (4), 77.019(5), 77.15(3) or (4) or 77.19(4), the Tribunal shall review the order or finding and, in conducting the review, may re-hear any matter before deciding it.
Completion of review	(4) On completion of a review, the Tribunal shall confirm the order or finding or rescind it and make any other order or finding with respect to the goods to which the order or finding under review applies as the nature of the matter may require, shall give reasons for the decision and, if it makes another order or finding, shall declare to what goods, including, if applicable, from what supplier and from what country of export, the order or finding applies.
Notice	<p>(5) On completion of a review, the Secretary shall</p> <p>(a) forward to the Deputy Minister and the other persons and governments that are specified by the rules of the Tribunal and, in the case of a review under subsection (3), the Canadian Secretary,</p> <p>(i) without delay after the review is completed, a copy of the order or finding made under subsection (4), and</p> <p>(ii) not later than fifteen days after the completion of the review, a copy of the reasons for the decision; and</p> <p>(b) cause notice of the order or finding to be published in the <i>Canada Gazette</i>.</p>
Expiry Review	
Order or finding deemed to be rescinded	<p>76.03 (1) If the Tribunal has not initiated an expiry review under subsection (3) with respect to an order or finding described in any of sections 3 to 6 before the expiry of five years after whichever of the following days is applicable, the order or finding is deemed to have been rescinded as of the expiry of the five years:</p> <p>(a) if no order continuing the order or finding has been made under paragraph (12)(b), the day on which the order or finding was made; and</p> <p>(b) if one or more orders continuing the order or finding have been made under paragraph (12)(b), the day on which the last order was made.</p>
Publication of notice	(2) If an order or finding is to be deemed rescinded under subsection (1), the Secretary shall, not later than ten months before the expiry date of the order or finding under that subsection, cause to be published in the <i>Canada Gazette</i> a notice of expiry setting out the information specified in the rules of the Tribunal.
Review of orders by Tribunal	<p>(3) The Tribunal may initiate an expiry review of an order or finding described in any of sections 3 to 6</p> <p>(a) on its own initiative; or</p>

	(b) at the request of the Minister of Finance, the Deputy Minister or any other person or of any government, if the request is made within the period specified in the notice of expiry.
Limitation	(4) The Tribunal shall not initiate an expiry review at the request of any person or government unless the person or government satisfies the Tribunal that a review is warranted.
Order of refusal	(5) If the Tribunal decides not to initiate an expiry review at the request of a person or government, the Tribunal shall make an order to that effect and give reasons for it, and the Secretary shall forward a copy of the order and the reasons to that person or government and cause notice of the order to be published in the <i>Canada Gazette</i> .
Notice	<p>(6) If the Tribunal decides to initiate an expiry review, the Secretary shall without delay</p> <p>(a) cause notice of the Tribunal's decision to be given to</p> <p>(i) the Deputy Minister, and</p> <p>(ii) all other persons and governments specified in the rules of the Tribunal;</p> <p>(b) provide the Deputy Minister with a copy of the administrative record on which it based its decision to initiate a review under subsection (3); and</p> <p>(c) cause to be published in the <i>Canada Gazette</i> notice of initiation of the review that includes the information set out in the rules of the Tribunal.</p>
If review initiated	<p>(7) If the Tribunal decides to initiate an expiry review, the Deputy Minister shall</p> <p>(a) within one hundred and twenty days after receiving notice under subparagraph (6)(a)(i), determine whether the expiry of the order or finding in respect of goods of a country or countries is likely to result in the continuation or resumption of dumping or subsidizing of the goods; and</p> <p>(b) provide the Secretary with notice of the determination without delay after making it.</p>
Consequences of Deputy Minister's determination	(8) If the Deputy Minister determines that the expiry of the order or finding in respect of any goods is unlikely to result in a continuation or resumption of dumping or subsidizing, the Tribunal shall not take those goods into account in assessing the cumulative effect of dumping or subsidizing under subsection (11).
Consequences of Deputy Minister's determination	(9) If the Deputy Minister determines that the expiry of the order or finding in respect of any goods is likely to result in a continuation or resumption of dumping or subsidizing, the Deputy Minister shall without delay provide the Tribunal with any information and material with respect to the matter that is required under the rules of the Tribunal.

Tribunal's determination	(10) If the Deputy Minister makes a determination described in subsection (9), the Tribunal shall determine whether the expiry of the order or finding in respect of the goods referred to in that subsection is likely to result in injury or retardation.
Assessment of cumulative effect	<p>(11) For the purpose of subsection (10), the Tribunal shall make an assessment of the cumulative effect of the dumping or subsidizing of goods to which the determination of the Deputy Minister described in subsection (9) applies that are imported into Canada from more than one country if the Tribunal is satisfied that an assessment of the cumulative effect would be appropriate taking into account the conditions of competition between goods to which the order or finding applies that are imported into Canada from any of those countries and</p> <p>(a) goods to which the order or finding applies that are imported into Canada from any other of those countries; or</p> <p>(b) like goods of domestic producers.</p>
Order of Tribunal	<p>(12) The Tribunal shall make an order</p> <p>(a) rescinding the order or finding in respect of goods</p> <p>(i) referred to in subsection (8), or</p> <p>(ii) in respect of which it determines that the expiry of the order or finding is unlikely to result in injury or retardation; or</p> <p>(b) continuing the order or finding, with or without amendment, in respect of goods which it determines that the expiry of the order or finding is likely to result in injury or retardation.</p>
Separate order or finding	76.04 (1) If a review under section 76.01, 76.02 or 76.03 involves goods of more than one NAFTA country, or of one or more NAFTA countries and goods of one or more other countries, and the Tribunal makes another order or finding under any of those sections, the Tribunal shall make a separate order or finding under that section with respect to the goods of each NAFTA country.
Suspension of subsection (3)	(2) The operation of subsection (3) is suspended during the period in which subsection (1) is in force.
Separate order or finding	(3) If a review under section 76.01, 76.02 or 76.03 involves goods of the United States as well as goods of other countries and the Tribunal makes another order or finding under any of those sections, the Tribunal shall make a separate order or finding under that section with respect to the goods of the United States.
1994, c. 47, s. 179	<p>37. (1) Paragraph 76.1(1)(a) of the Act is replaced by the following:</p> <p>(a) the Deputy Minister review any decision, determination or re-determination or any portion of a decision, determination or re-determination made under this Act; or</p>

- 1994, c. 47, s. 179 **(2) Paragraphs 76.1(2)(a) to (c) of the Act are replaced by the following:**
- (a) continue the decision, determination, re-determination, order or finding without amendment;
 - (b) continue the decision, determination, re-determination, order or finding with any amendments that the Deputy Minister or the Tribunal, as the case may be, considers necessary; or
 - (c) rescind the decision, determination, re-determination, order or finding and make any other decision, determination, re-determination, order or finding that the Deputy Minister or the Tribunal, as the case may be, considers necessary.
- 1994, c. 47, s. 179 **(3) Subsections 76.1(3) and (4) of the English version of the Act are replaced by the following:**
- Reasons (3) If a decision, determination, re-determination, order or finding is continued under paragraph (2)(a) or (b) or made under paragraph (2)(c), the Deputy Minister or the Tribunal, as the case may be, shall give reasons for doing so and shall set out to what goods, including, if practicable, the name of the supplier and the country of export, the decision, determination, re-determination, order or finding applies.
- Notification of Minister of Finance (4) The Deputy Minister or the Tribunal, as the case may be, shall notify the Minister of Finance of any decision, determination, re-determination, order or finding continued under paragraph (2)(a) or (b) or made under paragraph (2)(c).
- 1994, c. 47, s. 179 **(4) Subsection 76.1(5) of the Act is replaced by the following:**
- Deeming (5) Any decision, determination or re-determination continued by the Deputy Minister under paragraph (2)(b) or made by the Deputy Minister under paragraph (2)(c) is deemed to have been made under
- (a) paragraph 41(1)(a), if the decision or determination was continued or made as a result of a review under this section of a final determination of the Deputy Minister under that paragraph;
 - (b) paragraph 41(1)(b), if the decision or determination was continued or made as a result of a review under this section of a decision of the Deputy Minister under that paragraph to cause an investigation to be terminated;
 - (c) subsection 53(1), if the decision or determination was continued or made as a result of a review under this section of a decision of the Deputy Minister under that subsection to renew or not to renew an undertaking; or
 - (d) subsection 59(1), (1.1) or (2), if the re-determination was continued or made as a result of a review under this section of a re-determination by the Deputy Minister under either of those subsections.

1993, c. 44, s. 218 **38. (1) The definition "ministre" in subsection 77.01(1) of the French version of the Act is replaced by the following:**

« ministre »
"Minister" « ministre » Le ministre du Commerce international.

1993, c. 44, s. 218 **(2) The definition "definitive decision" in subsection 77.01(1) of the Act is amended by replacing paragraphs (g) to (i) with the following and by adding the word "or" at the end of paragraph (i.1):**

- (f.1) a re-determination of the Deputy Minister under subsection 59(1.1),
- (g) an order of the Tribunal under subsection 76.01(4) or 76.03(5),
- (h) an order of the Tribunal under subsection 76.01(5) or 76.03(12),
- (i) an order or finding of the Tribunal under subsection 76.02(4) respecting a review under subsection 76.02(1),

1993, c. 44, s. 218 **39. Subsection 77.012(1) of the Act is replaced by the following:**

Applications and
appeals **77.012 (1)** No person or government may apply under the *Federal Court Act* or section 96.1 of this Act or appeal under section 61 of this Act in respect of a definitive decision

- (a) before the expiry of the period of thirty days after
- (i) the day on which the definitive decision is published in the *Canada Gazette*, or
- (ii) in the case of a re-determination of the Deputy Minister under subsection 59(1), (1.1) or (3), the day on which notice of the re-determination is received by the government of a NAFTA country; and
- (b) unless the person or government has, within twenty days after the day on which that period commences, given notice of the intention to make such an application or appeal in writing to the Canadian Secretary and the appropriate NAFTA country Secretary and in the prescribed manner to any other person who, but for this section, would be entitled to so apply or appeal.

1988, c. 65, s. 42 **40. (1) The definition "ministre" in subsection 77.1(1) of the French version of the Act is replaced by the following:**

« ministre »
"Minister" « ministre » Le ministre du Commerce international.

1988, c. 65, s. 42 **(2) The definition "definitive decision" in subsection 77.1(1) of the Act is amended by replacing paragraphs (g) to (i) with the following and by adding the word "or" at the end of paragraph (i.1):**

- (f.1) a re-determination of the Deputy Minister under subsection 59(1.1),

- (g) an order of the Tribunal under subsection 76.01(4) or 76.03(5),
- (h) an order of the Tribunal under subsection 76.01(5) or 76.03(12),
- (i) an order or finding of the Tribunal under subsection 76.02(4) respecting a review under subsection 76.02(1),

1988, c. 65, s. 42

41. Subsection 77.12(1) of the Act is replaced by the following:

Applications and
appeals

77.12 (1) No person or government may apply under section 18 or 28 of the *Federal Court Act* or section 96.1 of this Act or appeal under section 61 of this Act in respect of a definitive decision

- (a) before the expiry of the period of thirty days after
- (i) the day on which the definitive decision is published in the *Canada Gazette*, or
- (ii) in the case of a re-determination of the Deputy Minister under subsection 59(1), (1.1) or (3), the day on which notice of the re-determination is received by the United States; and
- (b) unless the person or government has, within twenty days after the day on which that period commences, given notice of the intention to make such an application or appeal in writing to the Canadian Secretary and the American Secretary and in the prescribed manner to any other person who, but for this section, would be entitled to so apply or appeal.

42. (1) Paragraph 78(1)(a) of the Act is replaced by the following:

(a) in any proceeding undertaken by the Deputy Minister after notice has been given that the complaint is properly documented but before the initiation of an investigation or in any investigation under this Act respecting the dumping or subsidizing of goods, or

(2) The portion of subsection 78(1) of the Act after paragraph (b) is replaced by the following:

the Deputy Minister believes on reasonable grounds that any person in Canada is able to provide evidence relevant to any proceedings undertaken by the Deputy Minister before the initiation of an investigation, to the investigation or to the making, for the purpose of facilitating the administration or enforcement of this Act, of an estimate of the duty that will or may be payable on the goods when imported into Canada, the Deputy Minister may, by notice in writing, require the person to provide the Deputy Minister, under oath or otherwise, with the evidence referred to in the notice.

43. Subsection 81(1) of the Act is replaced by the following:

Recovery of duties
from person other
than importer

81. (1) Notwithstanding anything in this Act, if any duty payable under this Act in respect of goods has not been paid within thirty days after a demand for payment of the duty has been made under this Act, the Deputy Minister may, by notice in writing, require any person in Canada to whom the goods are sold to pay a sum in respect of the duty not exceeding the amount of the duty payable in respect of the goods sold to that person, which sum is, after the notice has been given, a debt due and payable to Her Majesty by that person and may be recovered at any time by action in any court of competent jurisdiction, together with costs of the action.

44. Subsections 84(2) and (3) of the Act are replaced by the following:

Disclosure

(2) Subsection (1) does not apply in respect of

(a) any summary of information or statement referred to in paragraph 85(1)(b) or any summary referred to in subsection 79(2); or

(b) the disclosure by the Deputy Minister of information for the purposes of proceedings before a panel or the Appellate Body established under the Understanding on Rules and Procedures Governing the Settlement of Disputes set out in Annex 2 to the WTO Agreement.

Disclosure to
counsel

(3) Notwithstanding subsection (1), information to which that subsection applies that has been provided to the Deputy Minister in any proceedings under this Act shall, on written request and on payment of the prescribed fee, be disclosed by the Deputy Minister, in the manner and at the time specified by the Deputy Minister, to counsel for any party to those proceedings or to other proceedings under this Act arising out of those proceedings for use, notwithstanding any other Act or law, by that counsel only in those proceedings, subject to any conditions that the Deputy Minister considers reasonably necessary or desirable to ensure that the information will not, without the written consent of the person who submitted it to the Deputy Minister, be disclosed to any person by counsel in any manner that is calculated or likely to make it available to

(a) any party to the proceedings or other proceedings, including a party who is represented by that counsel; or

(b) any business competitor or rival of any person to whose business or affairs the information relates.

Limitation

(3.1) The Deputy Minister may not disclose information under subsection (3) if the Deputy Minister is satisfied that the disclosure might result in material harm to the business or affairs of the person who designated the information as confidential under paragraph 85(1)(a).

45. The Act is amended by adding the following after section 88:

Prohibition on
disclosure of
information

88.1 If the Tribunal indicates to the Deputy Minister in writing that subsection 46(1) of the *Canadian International Trade Tribunal Act* applies to information provided to the Deputy Minister under paragraph 76.03(6)(b), no person employed in the public service of Canada who comes into possession of that information while they are so employed shall, either before or after they cease to be so employed, knowingly disclose it, or knowingly allow it to be disclosed, to any other person in any manner that is calculated or likely to make it available for the use of any business competitor or rival of any person to whose business or affairs the information relates.

46. Paragraph 89(1)(a) of the Act is replaced by the following:

(a) a determination has been made under section 55 or 56 with respect to the goods; and

1988, c. 65, s. 44

47. Paragraphs 96.1(1)(d) to (f) of the Act are replaced by the following:

(c.1) an order or finding of the Tribunal under subsection 43(1);

(d) an order of the Tribunal under subsection 76.01(4) or 76.03(5);

(d.1) a determination of the Deputy Minister under paragraph 76.03(7)(a);

(e) an order or finding of the Tribunal under subsection 76.02(4) respecting a review under subsection 76.02(1);

(f) an order of the Tribunal under subsection 76.01(5) or 76.03(12); or

1993, c. 44, s. 222

48. Subsection 96.21(1) of the French version of the Act is replaced by the following:

Demande de
révision

96.21 (1) Le ministre du Commerce international peut demander, en conformité avec la législation d'un pays ALÉNA sur la mise en œuvre de l'Accord de libre-échange nord-américain, la révision d'une décision finale par un groupe spécial formé en application de cette législation.

1988, c. 65, s. 44

49. Subsection 96.3(1) of the French version of the Act is replaced by the following:

Demande de
révision

96.3 (1) Le ministre du Commerce international peut demander, en conformité avec la législation américaine de mise en œuvre de l'Accord de libre-échange, la révision d'une décision finale par un groupe formé en application de cette législation.

50. The Act is amended by adding the following after section 96.3:

Offences

Offence

96.4 (1) Every person commits an offence who

(a) uses information disclosed to the person by the Deputy Minister under subsection 84(3) for any purpose other than the purpose for which the information was disclosed under that subsection; or

(b) contravenes a condition imposed by the Deputy Minister under subsection 84(3).

Punishment

(2) Every person who commits an offence under subsection (1) is guilty of

(a) an indictable offence and liable to a fine of not more than \$1,000,000; or

(b) an offence punishable on summary conviction and liable to a fine of not more than \$100,000.

Consent

(3) No proceedings for an offence under this section shall be instituted without the consent in writing of the Attorney General of Canada.

1994, c. 47,
s. 184(1)

51. (1) Paragraphs 97(1)(a.1) and (b) of the Act are replaced by the following:

(a.1) respecting the factors that may be considered in determining

(i) the existence of injury, retardation or threat of injury, and

(ii) whether the injury, retardation or threat of injury has been caused by the dumping or subsidizing of any goods or by any other reason;

(b) specifying the circumstances and manner in which two or more properly documented complaints, investigations or inquiries may be joined and carried on as one and the persons to whom and the manner in which notice of the joining shall be given;

1994, c. 47,
s. 184(3)

(2) Paragraph 97(1)(e) of the Act is replaced by the following:

(e) defining the expressions "cost of production", "a reasonable amount for administrative, selling and all other costs" and "a reasonable amount for profits" for the purpose of paragraph 19(b) or subparagraph 20(1)(c)(ii);

(3) Paragraph 97(1)(f) of the Act is replaced by the following:

(f) defining the expression "an amount for profit" for the purpose of subparagraph 25(1)(c)(ii) or (d)(i);

(4) Paragraph 97(1)(g) of the Act is replaced by the following:

(g) defining the expression "person interested" for the purpose of subsection 45(6) or section 89 or 95;

1994, c. 47, s.
184(5)

(5) Paragraph 97(1)(k.2) of the Act is replaced by the following:

(k.2) providing for the manner of making adjustments to export prices and normal values in situations of fluctuation or sustained movement in the rate of exchange;

(k.3) prescribing the period after which the Deputy Minister may refuse to consider representations referred to in subsection 49(5);

(k.4) prescribing the factors that the Deputy Minister may consider in making a determination under paragraph 76.03(7)(a);

(k.5) prescribing the factors that the Tribunal may consider in making a determination under subsection 76.03(10);

(k.6) providing for the manner of attributing principal and interest to imported goods when those amounts include a portion related to charges not directly associated with the value of the goods; and

Replacement of
"amount of the
subsidy" with
"amount of
subsidy"

52. The English version of the Act is amended by replacing the expression "amount of the subsidy" with the expression "amount of subsidy" in the following provisions:

(a) section 6;

(b) paragraphs 8(6)(c) and (d);

(c) paragraph 42(3)(a); and

(d) subparagraph 52(1.1)(a)(ii).

R.S., c. 47 (4th
Supp.); 1988, c. 65;
1993, c. 44; 1994,
cc. 13, 47; 1996, c.
33; 1997, c. 14

canadian international trade tribunal act

53. (1) The definition "Chairman" in subsection 2(1) of the English version of the *Canadian International Trade Tribunal Act* is repealed.

(2) Subsection 2(1) of the English version of the Act is amended by adding the following in alphabetical order:

"Chairperson"
*Version anglaise
seulement*

"Chairperson" means the Chairperson of the Tribunal;

54. Subsection 3(1) of the English version of the Act is replaced by the following:

Tribunal
established

3. (1) There is hereby established a tribunal, to be known as the Canadian International Trade Tribunal, consisting, subject to subsection (2), of a Chairperson, two Vice-Chairpersons and not more than six other permanent members to be appointed by the Governor in Council.

55. Subsection 8(1) of the English version of the Act is replaced by the following:

Absence, etc., of
Chairperson

8. (1) In the event of the absence or incapacity of the Chairperson or if the office of Chairperson is vacant, the Tribunal may authorize one of the Vice-Chairpersons to act as Chairperson for the time being, and a Vice-Chairperson so authorized has and may exercise and perform all the powers, duties and functions of the Chairperson.

56. Subsection 9(1) of the Act is replaced by the following:

Acting after
termination of
appointment

9. (1) Subject to subsection (2), a person who has ceased to be a member, for any reason other than removal, may, with the authorization of the Chairperson, perform and complete any duties or responsibilities that the person would otherwise have had if the person had not ceased to be a member and that are in connection with any matter in which that person became engaged while holding office as a member, and a person so authorized is, for that purpose, deemed to be a member of the Tribunal.

57. (1) Paragraph 26(5)(a) of the Act is replaced by the following:

(a) the Deputy Minister does not initiate an investigation under that Act respecting the dumping or subsidizing of the goods that are the subject of the complaint or initiates such an investigation but terminates the investigation under section 35 or 41 of that Act; and

(2) Subparagraph 26(5)(b)(ii) of the Act is replaced by the following:

(ii) in the case where the Deputy Minister initiates such an investigation but terminates the investigation under section 35 or 41 of that Act, within thirty days after the date of the notice sent to the complainant under section 35 or 41 of that Act advising the complainant of the termination of the investigation.

58. (1) Paragraph 28(2)(a) of the Act is replaced by the following:

(a) the Deputy Minister does not initiate an investigation under that Act respecting the dumping or subsidizing of the goods that are the subject of the complaint or initiates such an investigation but terminates the investigation under section 35 or 41 of that Act; and

(2) Subparagraph 28(2)(b)(ii) of the Act is replaced by the following:

(ii) in the case where the Deputy Minister initiates such an investigation but terminates the investigation under section 35 or 41 of that Act, within thirty days after the date of the notice sent to the complainant under section 35 or 41 of that Act advising the complainant of the termination of the investigation.

59. (1) Subsection 45(3) of the Act is replaced by the following:

Disclosure to
counsel and
experts

(3) Notwithstanding subsection (1), information to which that subsection applies that has been provided to the Tribunal in any proceedings before the Tribunal may be disclosed by the Tribunal to counsel for any party to those proceedings or to other proceedings arising out of those proceedings or to an expert, acting under the control or direction of that counsel, for use, notwithstanding any other Act or law, by that counsel or expert only in those proceedings, subject to any conditions that the Tribunal considers reasonably necessary or desirable to ensure that the information will not, without the written consent of the person who provided the information to the Tribunal, be disclosed by counsel or the expert to any person in any manner that is calculated or likely to make it available to

(a) any party to the proceedings or other proceedings, including a party who is represented by that counsel or on whose behalf the expert is acting; or

(b) any business competitor or rival of any person to whose business or affairs the information relates.

Disclosure to
Tribunal's experts

(3.1) Notwithstanding subsection (1), the Tribunal may disclose information to which that subsection applies to an expert retained by the Tribunal for use, notwithstanding any other Act or law, by the expert only in proceedings before the Tribunal under the *Special Import Measures Act* or this Act, subject to any conditions that the Tribunal considers reasonably necessary or desirable to ensure that the information will not, without the written consent of the person who provided the information to the Tribunal, be disclosed by the expert to any person in any manner that is calculated or likely to make it available to

(a) any party to the proceedings; or

(b) any business competitor or rival of any person to whose business or affairs the information relates.

Disclosure to
persons described
in subsection (5)

(3.2) For greater certainty, disclosure of information under subsection (3) or (3.1) to a person described in subsection (5) who is an employee of an institution of the Government of Canada that is a party to the proceedings or, in the case of subsection (3), other proceedings is not disclosure to a party to those proceedings for the purposes of subsection (3) or (3.1).

(2) Section 45 of the Act is amended by adding the following after subsection (4):

Persons who may
be recognized as
experts

(5) In subsections (3) and (3.1), "expert" includes any of the following persons whom the Tribunal recognizes as an expert:

(a) persons whose duties involve the carrying out of the *Competition Act* and who are referred to in section 25 of that Act, other than persons authorized by the Governor in Council to exercise the powers and perform the duties of the Director of Investigation and Research;

	<p>(b) in respect of the determination of damages and costs in procurement review proceedings, persons employed in the government institution involved in the procurement under review; and</p> <p>(c) any prescribed person.</p>
Offence	<p>(6) Every person commits an offence who</p> <p>(a) uses information disclosed to the person by the Tribunal under subsection (3) or (3.1) for any purpose other than the purpose for which the information was disclosed under that subsection; or</p> <p>(b) contravenes any condition imposed by the Tribunal under subsection (3) or (3.1).</p>
Punishment	<p>(7) Every person who commits an offence under subsection (6) is guilty of</p> <p>(a) an indictable offence and liable to a fine of not more than \$1,000,000; or</p> <p>(b) an offence punishable on summary conviction and liable to a fine of not more than \$100,000.</p>
Consent	<p>(8) No proceedings for an offence under subsection (6) shall be instituted without the consent in writing of the Attorney General of Canada.</p>
Bar from appearing before Tribunal	<p>(9) In addition to any punishment imposed under subsection (7), counsel or an expert who commits an offence under subsection (6) may be barred by the Tribunal from any further appearance before it in respect of any proceedings before the Tribunal for the period that the Tribunal considers appropriate.</p>
1994, c. 13, para. 7(1)(a)	<p>60. Section 49 of the Act is replaced by the following:</p>
Other information	<p>49. If</p> <p>(a) information or material given or elicited in the course of any proceedings before the Tribunal is, in the opinion of the Tribunal, in its nature confidential, or</p> <p>(b) the Deputy Minister of National Revenue indicates to the Tribunal in writing that subsection 84(1) of the <i>Special Import Measures Act</i> applies to information or material filed with the Secretary under paragraph 37(a) or 38(3)(b) or subsection 76.03(9) of that Act,</p> <p>the information or material shall not knowingly be disclosed by any member or person employed in the public service of Canada who comes into possession of the information in any manner that is calculated or likely to make it available for the use of any business competitor or rival of any person to whose business or affairs the information relates.</p>

Replacement of
"Chairman" with
"Chairperson"

61. The English version of the Act is amended by replacing the word "Chairman" with the word "Chairperson" in the following provisions:

- (a) section 7;
- (b) subsection 8(2);
- (c) subsections 9(2) and (3);
- (d) subsection 14(2);
- (e) subsection 30.11(3);
- (f) subsection 33(1); and
- (g) subsections 59(1) and (2).

TRANSITIONAL PROVISIONS

Definitions

62. The definitions in this section apply in this section and sections 63 and 64.

"commencement
day"
«date de
référence»

"commencement day" means the day on which this section comes into force.

"new Canadian
International
Trade Tribunal
Act"
« nouvelle Loi sur le
Tribunal canadien
du commerce
extérieur »

"new Canadian International Trade Tribunal Act" means the Canadian International Trade Tribunal Act as it read on the commencement day.

"new rules and
regulations"
« nouveaux textes
d'application »

"new rules and regulations" means the rules and regulations made under the new Canadian International Trade Tribunal Act and the regulations made under the new Special Import Measures Act.

"new Special
Import Measures
Act"
« nouvelle Loi sur
les mesures
spéciales
d'importation »

"new Special Import Measures Act" means the Special Import Measures Act as it read on the commencement day.

"old Canadian
International Trade
Tribunal Act"
« ancienne Loi sur
le Tribunal
canadien du
commerce extérieur
»

"old Canadian International Trade Tribunal Act" means the Canadian International Trade Tribunal Act as it read on the day before the commencement day.

"old rules and
regulations"
« anciens textes
d'application »

"old rules and regulations" means the rules and regulations made under the old Canadian International Trade Tribunal Act and the regulations made under the old Special Import Measures Act.

<p>"old <i>Special Import Measures Act</i>" « <i>ancienne Loi sur les mesures spéciales d'importation</i> »</p>	<p>"old <i>Special Import Measures Act</i>" means the <i>Special Import Measures Act</i> as it read on the day before the commencement day.</p>
<p>"order or finding" « <i>ordonnance ou conclusions</i> »</p>	<p>"order or finding"</p> <p>(a) in the case of an order or finding made before the commencement day, has the same meaning as in subsection 2(1) of the old <i>Special Import Measures Act</i>; and</p> <p>(b) in the case of an order or finding made on or after the commencement day, has the same meaning as in subsection 2(1) of the new <i>Special Import Measures Act</i>.</p>
<p>Disposition of notified complaints</p>	<p>63. (1) Subject to this section, if, before the commencement day, notice of a complaint respecting the dumping or subsidizing of goods that is properly documented, within the meaning assigned to that expression by subsection 2(1) of the old <i>Special Import Measures Act</i>, has been given under paragraph 32(1)(a) of that Act, any proceeding, process or action in respect of the goods shall be continued and disposed of in accordance with that Act, the old <i>Canadian International Trade Tribunal Act</i> and the old rules and regulations.</p>
<p>Proceedings re goods subject to order made after commencement day</p>	<p>(2) If the Canadian International Trade Tribunal makes an order or finding under subsection 43(1) of the <i>Special Import Measures Act</i> on or after the commencement day with respect to goods that are the subject of a complaint referred to in subsection (1), any subsequent proceeding, process or action in relation to any of those goods other than the following shall be disposed of in accordance with the new <i>Special Import Measures Act</i>, the new <i>Canadian International Trade Tribunal Act</i> and the new rules and regulations:</p> <p>(a) a judicial review or dispute settlement under Part I.1 or II of the <i>Special Import Measures Act</i> in relation to that order or finding and any proceeding, process or action in relation to the judicial review or dispute settlement;</p> <p>(b) a proceeding, process or action in relation to any of those goods that were released before the commencement day;</p> <p>(c) a proceeding, process or action in relation to any of those goods that were released on or after the commencement day but on or before the day on which the Tribunal made the order or finding; or</p> <p>(d) a proceeding, process or action under section 45 of the <i>Special Import Measures Act</i> in relation to that order or finding.</p>
<p>Effect of order or finding</p>	<p>(3) For greater certainty, any order or finding that was made before the commencement day and is in effect on that day shall, for the purposes of sections 3 to 6 of the new <i>Special Import Measures Act</i>, have the same force and effect as if it were made under that Act.</p>

Review in accordance with old Acts, rules and regulations	(4) If notice of a review under subsection 76(2) of the old <i>Special Import Measures Act</i> has been given by the Canadian International Trade Tribunal before the commencement day, the review shall be disposed of in accordance with that Act, the old <i>Canadian International Trade Tribunal Act</i> and the old rules and regulations.
Review in accordance with new Acts, rules and regulations	(5) If notice of an interim review under section 76.01 of the new <i>Special Import Measures Act</i> , or an expiry review under section 76.03 of that Act, of an order or finding that was made before the commencement day and is in effect on that day has been given by the Canadian International Trade Tribunal on or after the commencement day, the review shall be disposed of in accordance with that Act, the new <i>Canadian International Trade Tribunal Act</i> and the new rules and regulations.
New Act does not justify review	(6) For the purpose of subsection 76.01(3) of the new <i>Special Import Measures Act</i> , the Canadian International Trade Tribunal may not be satisfied that an interim review of an order or finding that was made before the commencement day is warranted by reason only of the coming into force of that Act, the new <i>Canadian International Trade Tribunal Act</i> or the new rules and regulations.
Determination of normal value, etc., when undertaking	(7) Any determination, on or after the commencement day, of a normal value, export price, amount of subsidy or margin of dumping in relation to any goods that are subject to an undertaking accepted before the commencement day shall be made in accordance with the new <i>Special Import Measures Act</i> .
Determination of normal value, etc.	(8) A normal value, export price, amount of subsidy or margin of dumping determined in relation to goods under the old <i>Special Import Measures Act</i> is, for the purposes of goods released on or after the commencement day, other than goods to which paragraph (2)(c) applies, deemed to have been made under the new <i>Special Import Measures Act</i> .
Re-determination of normal value, etc.	(9) A re-determination of a normal value, export price, amount of subsidy or margin of dumping referred to in subsection (8) shall be made in accordance with the new <i>Special Import Measures Act</i> .
Application to goods from a NAFTA country	64. The new <i>Special Import Measures Act</i>, the new <i>Canadian International Trade Tribunal Act</i> and the new rules and regulations apply to goods of a NAFTA country, within the meaning assigned to that expression by subsection 2(1) of the <i>Special Import Measures Act</i>.
Coming into force	COMING INTO FORCE 65. 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.

REGULATIONS AMENDING THE SPECIAL IMPORT MEASURES REGULATIONS

AMENDMENTS

1. In the portion of subsection 11(1) of the *Special Import Measures Regulations*¹ before paragraph (a), “subparagraph 20(c)(ii)” is replaced by “subparagraph 20(1)(c)(ii)” .
2. (1) In the portion of section 13 of the Regulations before paragraph (a), “paragraph 11(b)” is replaced by “paragraph 11(1)(b)”.
- (2) In paragraph 13(c) of the Regulations, “subparagraph 11(b)(iv)” is replaced by “subparagraph 11(1)(b)(iv)”.
3. In section 14 of the Regulations, “paragraph 20(c)” is replaced by “paragraph 20(1)(c)”.
4. The heading² before section 35 and sections 35² and 35.01² of the Regulations are replaced by the following:

Excessive Relief of Duties and Taxes on Exported Goods

35. Where the subsidy in relation to any subsidized goods is contingent on the export of the goods and is in the form of an exemption from or remission, refund or drawback equal to an amount greater than the duties or taxes levied on the production, purchase, distribution, transportation, sale, export or import of the goods, the amount of subsidy shall be determined by deducting the amount of duties or taxes levied on or in respect of the exported goods, or the amount of duties or taxes that would have been levied on or in respect of the goods if they had not been exported, from the amount of the exemption, remission, refund or drawback that was granted in connection with the goods, and dividing the result by the quantity of goods, in relation to which the exemption, remission, refund or drawback was granted, that were exported during the period for which the duties or taxes were exempted, remitted, refunded or drawn back.

Excessive Relief of Duties and Taxes on Inputs

35.01 (1) Where the subsidy in relation to any subsidized goods is contingent on the export of the goods and is in the form of an exemption from or remission, refund or drawback equal to an amount greater than the duties or taxes levied on goods consumed in the production of the exported goods, the amount of subsidy shall be determined by deducting the amount of duties or taxes levied on or in respect of the consumed goods from the amount of the exemption, remission, refund or drawback that was granted in connection with the consumed goods, and dividing the result by the quantity of goods, in relation to which the exemption, remission, refund or drawback was granted, that were exported during the period for which the duties or taxes were exempted, remitted, refunded or drawn back.

(2) For the purpose of subsection (1), the only goods considered to be consumed in the production of the exported goods are

¹ SOR/84-927

² SOR/96-255

- (a) energy, fuel, oil and catalysts that are used or consumed in the production of the exported goods; and
- (b) goods incorporated into the exported goods.

5. (1) Subsection 37.1(2) of the Regulations is amended by striking out the word “and” at the end of paragraph (g.1) and by adding the following after that paragraph:

(g.2) evidence of the imposition of anti-dumping or countervailing measures by the authorities of a country other than Canada in respect of goods of the same description or in respect of similar goods; and

(2) Subsection 37.1(3)³ of the Regulations is replaced by the following:

(3) For the purpose of determining whether the dumping or subsidizing of any goods has caused injury or retardation, or is threatening to cause injury, the following additional factors are prescribed:

- (a) whether a causal relationship exists between the dumping or subsidizing of the goods and the injury, retardation or threat of injury, on the basis of the factors listed in subsections (1) and (2); and
- (b) whether any factors other than the dumping or subsidizing of the goods have caused injury or retardation or are threatening to cause injury, on the basis of
 - (i) the volumes and prices of imports of like goods that are not dumped or subsidized,
 - (ii) a contraction in demand for the goods or like goods,
 - (iii) any change in the pattern of consumption of the goods or like goods,
 - (iv) trade-restrictive practices of, and competition between, foreign and domestic producers,
 - (v) developments in technology,
 - (vi) the export performance and productivity of the domestic industry in respect of like goods, and
 - (vii) any other factors that are relevant in the circumstances.

6. The Regulations are amended by adding the following after section 37.1:

Expiry Review Factors

37.2 (1) In making a determination under paragraph 76.03(7)(a) of the Act, the Commissioner may consider

³ SOR/95-26

- (a) whether there has been dumping of goods while a finding or order in respect of the goods is in effect and, if applicable,
 - (i) the period during which the dumping occurred,
 - (ii) the volume and prices of the dumped and non-dumped goods,
 - (iii) the margin of dumping, and
 - (iv) for non-dumped goods, the amount by which the export prices exceed the normal values of the goods;
- (b) whether there has been subsidizing of goods while a finding or order in respect of the goods is in effect and, if applicable,
 - (i) the nature and duration of the foreign subsidy program in respect of the goods,
 - (ii) the period during which the subsidizing occurred,
 - (iii) the volume of the subsidized goods, and
 - (iv) the amount of subsidy;
- (c) the performance of the exporters, foreign producers, brokers and traders including, where applicable, in respect of production, capacity utilization, costs, sales volumes, prices, inventories, market share, exports and profits;
- (d) the likely future performance of the exporters, foreign producers, brokers and traders on the basis of factors, where applicable, such as production, capacity utilization, sales volumes, prices, inventories, market share, exports and profits;
- (e) the potential for the foreign producers to produce the goods in facilities that are currently used to produce other goods;
- (f) evidence of the imposition of anti-dumping or countervailing measures by the authorities of a country other than Canada in respect of goods of the same description or in respect of similar goods;
- (g) whether measures taken by the authorities of a country other than Canada are likely to cause a diversion of dumped or subsidized goods into Canada;
- (h) any changes in market conditions domestically or internationally, including changes in the supply of and demand for the goods, in sources of imports into Canada, and in prices, market share and inventories;
- (i) the imposition of anti-dumping or countervailing measures by authorities of Canada in respect of similar goods while an order or finding in respect of the goods was in effect; and
- (j) any other factors that are relevant in the circumstances.

(2) In making a determination under subsection 76.03(10) of the Act, the Tribunal may consider

- (a) the likely volume of the dumped or subsidized goods if the order or finding is allowed to expire, and, in particular, whether there is likely to be a significant increase in the volume of imports of the dumped or subsidized goods, either in absolute terms or relative to the production or consumption of like goods;
- (b) the likely prices of the dumped or subsidized goods if the order or finding is allowed to expire and their effect on the prices of like goods, and, in particular, whether the dumping or subsidizing of goods is likely to significantly undercut the prices of like goods, depress those prices, or suppress them by preventing increases in those prices that would likely have otherwise occurred;
- (c) the likely performance of the domestic industry, taking into account that industry's recent performance, including trends in production, capacity utilization, employment levels, prices, sales, inventories, market share, exports and profits;
- (d) the likely performance of the foreign industry, taking into account that industry's recent performance, including trends in production, capacity utilization, employment levels, prices, sales, inventories, market share, exports and profits;
- (e) the likely impact of the dumped or subsidized goods on domestic industry if the order or finding is allowed to expire, having regard to all relevant economic factors and indices, including any potential decline in output, sales, market share, profits, productivity, return on investments or utilization of production capacity, and any potential negative effects on cash flow, inventories, employment, wages, growth or the ability to raise capital;
- (f) the potential for the foreign producers to produce the goods in facilities that are currently used to produce other goods;
- (g) the potential negative effects of the dumped or subsidized goods on existing development and production efforts, including efforts to produce a derivative or more advanced version of like goods;
- (h) evidence of the imposition of anti-dumping or countervailing measures by the authorities in a country other than Canada in respect of goods of the same description or in respect of similar goods;
- (i) whether measures taken by the authorities in a country other than Canada are likely to cause a diversion of the dumped or subsidized goods into Canada;
- (j) any changes in market conditions domestically or internationally, including changes in the supply of and demand for the goods, as well as any changes in trends and in sources of imports into Canada; and
- (k) any other factors relevant in the circumstances.

7. Sections 38 to 402 of the Regulations are replaced by the following:

38. Subject to section 39, where the same goods, like good, or similar goods are

- (a) subject to more than one properly documented complaint, the properly documented complaints may be joined by the Commissioner for the purpose of initiating a single investigation;
- (b) subject to more than one preliminary inquiry, the preliminary inquiries may be joined by the Tribunal and carried out as one preliminary inquiry; or
- (c) subject to more than one dumping investigation or subsidy investigation, or one or more dumping investigations and one or more subsidy investigations, the investigations may be joined by the Commissioner and carried out as one investigation.

39. Investigations may not be joined under paragraph 38(c) if a preliminary determination of dumping or subsidizing has been made in respect of any of those investigations.

40. (1) Where properly documented complaints are joined under paragraph 38(a), the Commissioner shall cause a notice of the joining to be given in writing to the complainants and the governments of the countries of export involved in the complaints.

(2) Where preliminary inquiries are joined under paragraph 38(b), the Tribunal shall cause a notice of the joining to be given in writing to the Commissioner and the importers, exporters, governments of the countries of export and complainants involved in the inquiries.

(3) Where investigations are joined under paragraph 38(c), the Commissioner shall cause a notice of the joining to be given in writing to the Secretary and the importers, exporters, governments of the countries of export and complainants involved in the investigations.

Public Interest Inquiry

40.1 (1) A request referred to in subsection 45(1) of the Act shall be made in writing to the Secretary within 45 days after the issuance of an order or finding by the Tribunal under section 43 of the Act.

(2) A request referred to in subsection 45(1) of the Act shall

- (a) include the name, address for service, telephone number and, if any, the facsimile number and electronic mail address of the requester and of the requester's counsel, if any, and be signed by the requester or by the requester's counsel, if any;
- (b) include a statement of the public interest affected by the imposition of an anti-dumping or countervailing duty indicating the degree to which it is affected;
- (c) include sufficient information as to whether the imposition of an anti-dumping or countervailing duty would not or might not be in the public interest;
- (d) address all relevant factors, including, where applicable,
 - (i) the availability of goods of the same description from countries or exporters to which the order or finding does not apply,
 - (ii) the effect that the imposition of an anti-dumping or countervailing duty has had or is likely to have on competition in the domestic market,

- (iii) the effect that the imposition of an anti-dumping or countervailing duty has had or is likely to have on producers in Canada that use the goods as inputs in the production of other goods and in the provision of services,
 - (iv) the effect that the imposition of an anti-dumping or countervailing duty has had or is likely to have on competition by limiting access to goods that are used as inputs in the production of other goods and in the provision of services, or by limiting access to technology,
 - (v) the effect that the imposition of an anti-dumping or countervailing duty has had or is likely to have on the choice or availability of goods at competitive prices for consumers, and
 - (vi) the effect that the non-imposition of an anti-dumping or countervailing duty, or the non-imposition of such a duty in the full amount provided for in sections 3 to 6 of the Act is likely to have on domestic producers of inputs, including primary commodities, used in the production of like goods; and
- (e) include any other information that is relevant in the circumstances.
- (3) For the purposes of subsection 45(3) of the Act, the following factors are prescribed:
- (a) whether goods of the same description are readily available from countries or exporters to which the order or finding does not apply;
 - (b) whether imposition of an anti-dumping or countervailing duty in the full amount
 - (i) has eliminated or substantially lessened or is likely to eliminate or substantially lessen competition in the domestic market in respect of goods,
 - (ii) has caused or is likely to cause significant damage to producers in Canada that use the goods as inputs in the production of other goods and in the provision of services,
 - (iii) has significantly impaired or is likely to significantly impair competitiveness by
 - (A) limiting access to goods that are used as inputs in the production of other goods and in the provision of services, or
 - (B) limiting access to technology, or
 - (iv) has significantly restricted or is likely to significantly restrict the choice or availability of goods at competitive prices for consumers or has otherwise caused or is otherwise likely to cause them significant harm;
 - (c) whether non-imposition of an anti-dumping or countervailing duty or the non-imposition of such a duty in the full amount provided for in sections 3 to 6 of the Act is likely to cause significant damage to domestic producers of inputs, including primary commodities, used in the domestic manufacture or production of like goods; and

- (d) any other factors that are relevant in the circumstances.

(4) Where, in relation to an inquiry, a person referred to in subsection 45(6) of the Act wishes to make representations to the Tribunal on the question referred to in that subsection, the request to make representations shall be made in writing and shall be filed with the Secretary within 21 days after the date of publication of the notice referred to in subsection 45(2) of the Act.

(5) A request made by a person under subsection (4) shall out-line the person's interest in the inquiry and shall give the name, address for service, telephone number, and, if any, the facsimile number and electronic-mail address of the person and of the person's counsel, if any.

8. Section 41 of the Regulations is replaced by the following:

41. For the purpose of subsection 45(6) of the Act, the expression "person interested" means any person who is

- (a) engaged in the production, purchase, sale, export or import of any goods that are the subject of an investigation;
- (b) engaged in the production, purchase or sale of any goods produced in Canada that are like goods in relation to any goods that are the subject of an investigation;
- (c) acting on behalf of any person referred to in paragraph (a) or (b);
- (d) engaged in the production or sale of any goods produced in Canada that are used in the production of like goods in relation to any goods that are the subject of an investigation;
- (e) acting on behalf of any person referred to in paragraph (d);
- (f) required or authorized by any Act of Parliament or of the legislature of a province to make representations to the Tribunal on the question referred to in subsection 45(6) of the Act;
- (g) a user of any goods that are like goods in relation to any goods that are the subject of an investigation; or
- (h) an association whose purpose is to advocate the interests of consumers in Canada.

9. (1) The portion of section 43⁴ of the Regulations before paragraph (a) is replaced by the following:

43. The fees that are payable under section 83 of the Act for the copying of information, and the fees that are payable for the copying of information that is disclosed under subsection 84(3) of the Act, shall be as follows:

(2) Paragraphs 43(f)⁴ and (g)⁴ of the Regulations are re-placed by the following:

- (f) for magnetic tape-to-tape duplication, \$25 per 731.5 mm reel;

⁴ SOR/89-578

- (g) for personal computer magnetic diskette duplication, \$2 per diskette (all sizes); and
- (h) for compact disk duplication, \$20 per disk.

10. The Regulations are amended by adding the following after section 57:

57.1 The Commissioner may refuse to consider representations referred to in subsection 49(5) of the Act after the period beginning on the day on which an undertaking is offered and ending nine days after that day.

11. The Regulations are amended by replacing “subparagraph 20(c)(i)” with “subparagraph 20(1)(c)(i)” in the following provisions:

- (a) sections 7 and 8; and
- (b) the portion of section 9 before paragraph (a).

12. The Regulations are amended by replacing “paragraph 20(d)” with “paragraph 20(1)(d)” in the following provisions:

- (a) section 15 and 16; and
- (b) section 19.

13. The Regulations are amended by replacing “Deputy Minister” with “Commissioner” in the following provisions with the necessary changes:

- (a) paragraph 25.2(2)(c); and
- (b) subsection 36.4(1).

14. The Regulations are amended by replacing “Trade Administration Branch” with “Customs and Trade Administration Branch” in the following provisions:

- (a) section 47;
- (b) section 51; and
- (c) subsection 55(2).

15. The Regulations are amended by replacing “Revenue Canada” with “Canada Customs and Revenue Agency” in the following provisions:

- (a) section 47;
- (b) section 51;
- (c) subsection 55(2); and
- (d) paragraph 56(b).

COMING INTO FORCE

16. These Regulations come into force on the date of the coming into force of an *Act to Amend the Special Import Measures Act and the Canadian International Trade Tribunal Act*.

RULES AMENDING THE CANADIAN INTERNATIONAL TRADE TRIBUNAL RULES

AMENDMENTS

1. (1) The definitions “Deputy Minister”, “fax” and “Form” in rule 2 of the *Canadian International Trade Tribunal Rules*¹ are repealed.

(2) The definitions “interested party”, “intervener”², “party”² and “respondent” in rule 2 of the Rules are replaced by the following:

“interested party”, in relation to an inquiry under section 42 or 45 of the *Special Import Measures Act* or a review under section 76.01, 76.02, 76.03 or 76.1 of that Act, means

- (a) the complainant, if any, under section 31 of that Act in the investigation in which the preliminary determination referred to in section 42 of that Act was made,
- (b) any domestic producer, exporter to Canada or importer into Canada of goods in respect of which the preliminary determination was made,
- (c) an association of, or that includes, domestic producers, exporters to Canada or importers into Canada of goods in respect of which the preliminary determination was made,
- (d) the government of any country mentioned in the preliminary determination, and
- (e) any other person who, because their rights or pecuniary interests may be affected or for any other reason, is entitled to be heard by the Tribunal before the Tribunal disposes of the inquiry or the review, as the case may be, in accordance with that Act; (*partie intéressée*)

“intervener” means a person who

- (a) files a notice of intervention referred to in rule 39 or 40 and has been added as an intervener,
- (b) is permitted to intervene under an order of the Tribunal referred to in rule 42, or
- (c) is an interested party that has been granted leave of the Tribunal to intervene in any proceedings in relation to a complaint under section 30.17 of the Act; (*intervenant*)

“party” means

- (a) in the case of an inquiry under section 42 or 45 of the *Special Import Measures Act* or a review under section 76.01, 76.02, 76.03 or 76.1 of that Act, an interested party who has filed a notice of participation in the inquiry or review, as the case may be, in accordance with these Rules,

¹ SOR/91-499

² SOR/93-601

- (b) in the case of a proceeding under section 89 or paragraph 91(1)(g) of the *Special Import Measures Act*, a person to whom notice has been sent under subrule 76(2) or rule 79, if the person has
 - (i) filed a notice of participation in accordance with these Rules, or
 - (ii) if no hearing is to be held in the proceeding, made a written submission to the Tribunal,
- (c) in the case of an appeal, the appellant, the respondent or an intervener,
- (d) in the case of a complaint under subsection 30.11(1) of the Act, the complainant, the government institution or an intervener, and
- (e) in the case of any other proceeding, a person who has an interest in the subject-matter of the proceeding and who has
 - (i) filed a notice of participation in that proceeding in accordance with these Rules, or
 - (ii) been given status by the Tribunal to be a party in that proceeding; (*partie*)

“respondent” means the Minister of National Revenue or the Commissioner, as the case may be; (*intimé*)

(3) Rule 2 of the Rules is amended by adding the following in alphabetical order:

“address” includes an address for electronic transmission; (*adresse*)

“Agency” means the Canada Customs and Revenue Agency established by the *Canada Customs and Revenue Agency Act*; (*Agence*)

“Commissioner” means the Commissioner of Customs and Revenue appointed under section 25 of the *Canada Customs and Revenue Agency Act*; (*commissaire*)

“document” includes any written documentation, film, photograph and audio tape and any information stored by electronic means ; (*document*)

“electronic hearing” means a hearing held by telephone or video conference, or by any other electronic means by which parties can communicate with each other and the Tribunal orally; (*audience électronique*)

“electronic transmission” includes communication by fax or electronic mail or by any other electronic means by which parties can communicate; (*transmission électronique*)

“hearing by way of written submissions” means a hearing held by the exchange of documents; (*audience sur pièces*)

“other interested party” has the same meaning as in section 3 of the *Canadian International Trade Tribunal Regulations*; (*autres intéressés*)

2. Rule 6 of the Rules is replaced by the following:

6. The Tribunal may dispense with, vary or supplement any of these Rules if it is fair and equitable to do so or to provide for a more expeditious or informal process, as the circumstances and considerations of fairness permit.

Combining of Proceedings

6.1 The Tribunal may, on its own initiative or on the written request of a party, combine two or more proceedings to provide for a more expeditious or informal process, as the circumstances and considerations of fairness permit.

3. Rule 8 of the Rules is replaced by the following:

8. If it is fair and equitable to do so, the Tribunal may extend or abridge the time limits fixed by these Rules or otherwise fixed by the Tribunal, either before or after their expiry.

4. Rule 10 of the Rules and the heading before it are re-placed by the following:

Participation

10. (1) A person who proposes to participate in a proceeding, other than a proceeding under Part II or Part X, shall file with the Tribunal a notice of participation on the relevant Tribunal form on or before the date that is specified in the notice published in the *Canada Gazette* under rule 54, 65, 71, 73.1, 73.5, 76, 78 or 85, as the case may be.

(2) If a person referred to in subrule (1) sets out, in the notice of participation, the name of the counsel by whom they will be represented, the counsel shall file with the Tribunal a notice of representation on the relevant Tribunal form on or before the date that is specified in the notice published in the *Canada Gazette* under rule 54, 65, 71, 73.1, 73.5, 76, 78 or 85, as the case may be.

5. Rule 122 of the Rules is replaced by the following:

12. (1) Subject to subrule (2) and rule 17 and in addition to the provisions of the *Excise Tax Act* in respect of appeals under Part VII of that Act, each document required or permitted by these Rules to be filed shall be filed by sending to the Secretary, by hand, mail or electronic transmission,

- (a) in the case of an appeal, the original and five copies of the document and the number of additional copies of it that the Secretary indicates are necessary for the Tribunal and all of the parties; and
- (b) in all other proceedings, the original document and the number of copies of it that the Secretary indicates are necessary for the Tribunal and all of the parties.

(2) A party may make a written request to the Tribunal to file a document as a single copy exhibit.

(3) A document that is filed by electronic transmission shall include the following information on the first page:

- (a) the name, address and telephone and fax numbers of the sender;

- (b) the date and time of the transmission;
- (c) the total number of pages transmitted; and
- (d) the name, address and telephone number of a person to contact if transmission problems occur.

(4) When a document is filed by electronic transmission, the sender must immediately send to the Secretary the original document and the number of copies required under subrule (1).

(5) Subject to subrule 31(3) and rule 96, the date of filing of a document is

- (a) where the document is filed by electronic transmission, the date of transmission; and
- (b) in any other case, the date on which the document is received by the Tribunal, as evidenced by the date stamped on the document by the Secretary.

Official and Other Languages

12.1 (1) Subject to subrule (2), all documents filed with the Tribunal must be in English or French.

(2) A person may file an original document in a language other than English or French if, at the same time, the person also files a translation of it in English or French and an affidavit attesting to the accuracy of the translation. If the document is required to be served, the translation and affidavit must be served at the same time.

6. (1) Subrules 13(1) and (2) of the Rules are replaced by the following:

13. (1) Subject to rule 17 and in addition to the provisions of the *Excise Tax Act* in respect of appeals under Part VII of that Act, the following rules apply to the service of documents:

- (a) if a document is required to be served personally, the service shall be made
 - (i) on an individual, by leaving a copy of it with the individual,
 - (ii) on a corporation, by leaving a copy of it with an officer, director or agent of the corporation, or with a person at any place of business of the corporation who appears to manage or be in control of the place of business, and
 - (iii) in any other case, in any manner that the Tribunal determines is just and equitable in the circumstances; and
- (b) if a document is not required to be served personally, the service shall be made at the address for service of the party.

(2) Subparagraph 13(3)(b)(i) of the Rules is replaced by the following:

- (i) in the case of the Minister of National Revenue or the Commissioner, the Office of the Deputy Attorney General of Canada in Ottawa, or

(3) Subrules 13(4) to (8) of the Rules are replaced by the following:

(4) The service of a document at an address for service shall be made

- (a) by sending it to the address for service by mail, by registered mail or by electronic transmission; or
- (b) by leaving it at the address for service.

(5) A document that is served by electronic transmission shall include the following information:

- (a) the name, address and telephone and fax numbers of the sender;
- (b) the name of the person to be served;
- (c) the date and time of the transmission;
- (d) the total number of pages transmitted; and
- (e) the name, address and telephone number of a person to contact if transmission problems occur.

(6) In the absence of proof to the contrary, the date of service of a document is

- (a) if the document is served personally or by leaving it at the address for service, the date of delivery;
- (b) if the document is served by mail or registered mail, the date that is five days after the earliest postal date appearing on the envelope containing the document; and
- (c) if the document is served by electronic transmission, the date of the transmission.

(7) If a document is required under these Rules to be served by a party or by direction of the Tribunal, the Tribunal may direct that a proof of service be filed with the Tribunal.

(8) A proof of service of a document shall be made by showing

- (a) an acknowledgement of service signed by or on behalf of the person served; or
- (b) an affidavit of service stating the name of the person who served the document and the date, place and manner of service.

7. The Rules are amended by adding the following after rule 13:

Means of Transmission

13.1 Unless otherwise provided by these Rules or any other law, any sending, transmitting, notifying, servicing or filing may be done by hand, mail, registered mail or electronic transmission.

8. Rules 15 to 17 of the Rules are replaced by the following:

15.(1) If a person provides confidential information to the Tribunal under paragraph 46(1)(a) of the Act, the person shall file with the Tribunal a document marked “confidential” that contains all of the information and that identifies the portions that have been deleted from the non-confidential edited version or the non-confidential summary under paragraph 46(1)(b) of the Act, which edited version or summary shall also be filed with the Tribunal.

(2) Except for the purposes of Part II and Part X, the filing of the documents referred to in sub rule (1) is completed when all of them have been filed, and, if they are filed on different dates, the date of filing is the date on which the most recent document is filed.

Disclosure of Information to Counsel or to Expert

16. (1) For the purpose of section 45 of the Act, a counsel for a party, other than a counsel who is not a resident of Canada or who is a director, servant or employee of the party, who wishes access to confidential information provided to the Tribunal shall provide the Tribunal with a declaration and undertaking on the relevant Tribunal form in respect of the use, disclosure, reproduction, protection and storage of the confidential information in the record of a proceeding, as well as that counsel’s disposal of the confidential information at the close of the proceeding or in the event of a change of counsel.

(2) For the purpose of section 45 of the Act, a counsel for a party who is not a resident of Canada who wishes access to confidential information provided to the Tribunal shall provide the Tribunal with a declaration and undertaking on the relevant Tribunal form in respect of the use, disclosure, reproduction, protection and storage of the confidential information in the record of a proceeding, as well as that counsel’s disposal of the confidential information at the close of the proceeding or in the event of a change of counsel.

(3) A person who is recognized by the Tribunal as an expert, who is acting under the control and direction of a counsel to whom confidential information has been disclosed and who wishes access to some or all of the confidential information shall provide the Tribunal with a declaration and undertaking on the relevant Tribunal form in respect of the use, disclosure, reproduction, protection and storage of the confidential information in the record of a proceeding, as well as that expert’s disposal of the confidential information at the close of the proceeding or in the event of a change of expert.

(4) Any party or interested person may request, by way of notice of motion in accordance with rule 24, that the Tribunal not disclose some or all of the confidential information to a counsel or expert.

(5) The Tribunal shall notify counsel, including counsel referred to in subrule (2), and the expert, if any, of its decision whether or not to disclose the confidential information and on what terms and conditions such disclosure would be made, and, in the case of a decision not to disclose the information, the Tribunal shall serve its decision in writing, with reasons, on the counsel and the expert.

Filing and Communication of Confidential Information

17. Subject to any other provisions of these Rules, confidential information shall be filed with the Tribunal and may be served only by the Tribunal.

9. (1) Paragraph 18(1)(f) of the Rules is replaced by the following:

(f) any other matter that is relevant to the hearing.

(2) Subrules 18(3) to (5) of the Rules are replaced by the following:

(3) On receipt of a request referred to in subrule (2), the Tribunal may direct that a pre-hearing conference be held if it determines that a pre-hearing conference would assist in the orderly conduct of the hearing.

(4) The Tribunal may conduct the pre-hearing conference in any manner that gives the parties or their counsel a fair opportunity to participate.

10. (1) Subrule 20(2) of the Rules is replaced by the following:

(2) A party may obtain a subpoena by making a request on the relevant Tribunal form that sets out the name, address and telephone and fax numbers of the party and of the person to be subpoenaed.

(2) Subrule 20(4) of the Rules is replaced by the following:

(4) When a subpoena is served on a person, the original copy of the subpoena shall be filed with the Tribunal forthwith, together with proof of service on the person.

11. Subrules 21(2) and (3) of the Rules are repealed.

12. The heading before Rule 22 and Rules 22 and 23 of the Rules are replaced by the following:

Experts

22. (1) A party who intends to call an expert as a witness at a hearing shall, not less than 20 days before the hearing, file with the Secretary and serve on the other parties a report, signed by the expert, setting out the expert's name, address, qualifications and area of expertise and a detailed outline of the expert's testimony.

(2) A party on whom a copy of a report has been served and who wishes to rebut with expert evidence any matter set out in the report shall, not less than 10 days before the hearing, file with the Secretary a statement setting out the evidence to be introduced in rebuttal and serve a copy of the statement on the other parties.

(3) The report referred to in subrule (2) shall be signed by the expert and set out the expert's name, address, qualifications and area of expertise and a detailed outline of the expert's testimony.

Hearings

23. (1) Subject to subrule (2), all of the hearings at which the parties or their counsel may appear before the Tribunal are public.

(2) The Tribunal may hold a hearing or any part of one *in camera*,

- (a) on its own initiative or on the request of a party, for the purpose of receiving confidential information; or
- (b) on the request of a party in which the party establishes that the circumstances justify an *in camera* hearing.

(3) When the Tribunal holds a hearing or part of one *in camera*, the hearing or part may be attended only by

- (a) a person who is to present confidential information and anyone whom the person requests be permitted to attend;
- (b) counsel for a party who has been granted access to confidential information under rule 16;
- (c) officers or employees of the Tribunal who have been directed to attend; and
- (d) any other person whom the Tribunal authorizes to attend.

(4) A party who requires oral translation in any given language in order to participate in or have a witness testify at a hearing, other than at a hearing by way of written submissions, shall notify the Tribunal in writing of the requirement and of the language of translation, at least 30 days before the hearing.

(5) The Tribunal may permit a party to provide their own oral translation in order to participate in or have a witness testify at a hearing, other than a hearing by way of written submissions, if the party makes a request in writing at least 30 days before the hearing and the Tribunal determines that the use of translation is fair and equitable in the circumstances.

Requests for Decision or Order

23.1 (1) A party may make a request to the Tribunal for a decision or order on any matter that arises in the course of a proceeding, other than in respect of a matter referred to in rule 33, 42 or 43.

(2) The party who makes the request shall serve a copy of it on the other parties at the same time as it is filed with the Tribunal.

13. Subrules 24(1) and (2) of the Rules are replaced by the following:

24. (1) The Tribunal shall proceed by way of notice of motion if

- (a) it decides not to proceed by way of written request under rule 23.1; or
- (b) these Rules so specify.

(2) A notice of motion shall be in writing and set out

- (a) a clear and concise statement of the facts, which must be accompanied by an affidavit if the Tribunal so directs; and
- (b) the decision or order sought and the grounds for seeking it.

14. The heading before rule 25 and rules 25 and 26 of the Rules are replaced by the following:

Late Filing

24.1 (1) Except in the case of rule 33, if a party is unable or fails to file a notice, statement, report, subpoena, brief, response to a questionnaire or other document within the applicable time limit, the party may make a written request to the Tribunal for permission to file that document.

(2) A request under subrule (1) shall be made by filing the request and eight copies of it.

(3) The request must set out

(a) the relevance of the document; and

(b) the reasons why the document was not filed on time and why it should be accepted.

(4) The Tribunal may allow the document to be filed, in whole or in part, if it determines that to do so is fair and equitable in the circumstances.

(5) The Tribunal shall notify the parties of its decision under subrule (4).

Type of Hearing

25. Unless otherwise required by these Rules, the Tribunal may decide to proceed by

(a) way of a hearing at which the parties or their counsel appear before the Tribunal;

(b) way of electronic hearing;

(c) way of a hearing by way of written submissions; or

(d) any combination of the ways referred to in paragraphs (a) to (c).

Hearing by Way of Written Submissions

25.1 When the Tribunal decides to hold a hearing by way of written submissions, the Tribunal shall publish a notice to that effect and may

(a) dispose of the matter on the basis of the written documentation before it;

(b) require further information to be furnished by any party; and

(c) invite submissions from any party or any person who may have an interest in the matter.

Electronic Hearing

25.2 When the Tribunal decides to proceed by way of an electronic hearing, the Tribunal shall publish in the *Canada Gazette* a notice of hearing and send a copy to the known parties before the hearing.

Postponements and Adjournments of Hearings

26. (1) The Tribunal may, on its own initiative or on the request of a party, postpone or adjourn a hearing, and, in determining whether to grant the request, the Tribunal shall consider, in addition to any other relevant factors, whether a similar issue is being considered before another court whose determination could impact on the matter being heard, whether any prejudice would result if the postponement or adjournment were granted or not granted and whether a postponement or adjournment would unreasonably delay or impede the proceedings.

(2) A request for a postponement shall be made at least 10 days before the hearing and shall set out the reasons for the postponement.

(3) The Tribunal shall notify the parties of its decision under subrule (1).

15. The heading before rule 27 of the French version of the Rules is replaced by the following:

Communication of Information

16. (1) Subrule 28(1) of the Rules is replaced by the following:

28. (1) If the Tribunal makes a decision, declaration, determination, recommendation, order, finding or other ruling in a proceeding, the Secretary shall, forthwith after it is made, send, subject to paragraph 43(2)(a), subparagraphs 76.01(6)(a)(i) and 76.02(5)(a)(i) and subsections 76.03(5) and (6) of the *Special Import Measures Act*, a copy of it, to each party and to each person who was provided with a notice of commencement of the proceeding.

(2) Subrule 28(3) of the Rules is replaced by the following:

(3) If the Secretary is required by paragraph 43(2)(b), subparagraph 76.01(6)(a)(ii) or 76.02(5)(a)(ii) or subsection 76.03(5) of the *Special Import Measures Act* to send a copy of the reasons for making an order or finding in a proceeding to the persons specified in subsection 43(2), paragraph 76.01(6)(a) or 76.02(5)(a) or subsection 76.03(5) or (6) of that Act, as the case may be, the Secretary shall also send a copy of the reasons to every other person who was provided with a notice of commencement of the proceeding.

17. Rule 29 of the Rules is amended by striking out the word “or” at the end of paragraph (a) and by replacing paragraph (b) with the following:

- (b) decide the matter in issue on the basis of the information on the record; or
- (c) make any order that it considers just and equitable in the circumstances, including a dismissal order.

18. The portion of paragraph 30(a) of the Rules before subparagraph (i) is replaced by the following:

- (a) an appeal from an assessment, reassessment, rejection, decision or determination of the Minister of National Revenue or from a decision or re-determination of the Commissioner, as the case may be, pursuant to

19. (1) The portion of subrule 31(1) of the Rules before paragraph (b) is replaced by the following:

31. (1) An appeal to the Tribunal shall be commenced by filing a notice of appeal

(a) with the Commissioner and the Secretary, in the case of an appeal under the *Customs Act* or the *Special Import Measures Act*; or

(2) Subrule 31(2) of the Rules is replaced by the following:

(2) The notice of appeal shall be accompanied by a copy of the assessment, reassessment, rejection, decision, determination or re-determination, as the case may be, from which the appeal is launched.

(3) If the notice of appeal is filed by mail, the date of filing is the earliest postal date appearing on the envelope containing the document, and, in the absence of a proof of mailing, the date of filing is the date on which the document is received by the Tribunal, as evidenced by the date stamped on the document by the Secretary.

20. Rule 33 of the Rules is replaced by the following:

33. An application referred to in section 81.32 of the *Excise Tax Act* for an extension of time for the serving of a notice of objection or for the institution of an appeal may be made on the relevant Tribunal form.

21. (1) Subrule 34(1) of the Rules is replaced by the following:

34. (1) The appellant shall, within 60 days after filing a notice of appeal under rule 31, file with the Secretary a brief prepared in accordance with subrules (2) and (3) and, subject to rule 17, forthwith serve a copy of the brief on the respondent.

(2) Paragraph 34(2)(d) of the Rules is replaced by the following:

(d) include a copy of any document that may be useful in explaining or supporting the appeal and any other information relating to the appeal that the Tribunal requires; and

(3) Rule 34 of the Rules is amended by adding the following after subrule (2):

(3) An appellant who intends to rely at the hearing

(a) on any documents or authorities that were not previously filed with the Tribunal as part of a brief shall, not less than 10 days before the hearing, file them with the Secretary, and subject to rule 17, serve them on the other parties; and

(b) on any physical exhibit shall, not less than 10 days before the hearing, file it with the Secretary and notify the other parties of the filing.

22. (1) Subrule 35(1) of the Rules is replaced by the following:

35. (1) The respondent shall, within 60 days after the service of the appellant's brief under rule 34, file with the Secretary a response prepared in accordance with subrules (2) and (3) and, subject to rule 17, forthwith serve a copy of the brief on the appellant.

(2) Paragraph 35(2)(d) of the Rules is replaced by the following:

- (d) include a copy of any document that may be useful in explaining or supporting the appeal and any other information relating to the appeal that the Tribunal requires; and

(3) Rule 35 of the Rules is amended by adding the following after subrule (2):

- (3) A respondent who intends to rely at the hearing

- (a) on any documents or authorities that were not previously filed with the Tribunal as part of a response shall, not less than 10 days before the hearing, file them with the Secretary and, subject to rule 17, serve them on the other parties; and
- (b) on any physical exhibit shall, not less than 10 days before the hearing, file it with the Secretary and notify the other parties of the filing.

23. Rule 36 of the Rules is replaced by the following:

36. The Tribunal may, at any time, direct a party to file with the Tribunal any written submissions, documents or evidence relating to an appeal.

Hearing by Way of Written Submissions

36.1 If, on the Tribunal's own initiative or on the written request of a party, the Tribunal decides to hold a hearing by way of written submissions, the Tribunal shall publish a notice of hearing in the *Canada Gazette* that

- (a) includes the manner and time for the filing of briefs by the parties; and
- (b) if appropriate, requires the appellant and respondent to file an agreed statement of any relevant facts.

24. Rules 38 to 40 of the Rules are replaced by the following:

38. When the Tribunal has fixed the date for a hearing, the Secretary shall notify, in writing, all of the parties to the appeal and their counsel.

Notice of Intervention in an Appeal under the Customs Act or the Special Import Measures Act

39. An appearance referred to in subsection 67(2) of the *Customs Act* or subsection 61(2) of the *Special Import Measures Act* may be made by filing with the Secretary a notice of intervention on the relevant Tribunal form.

Intervention by Vendor of Goods under Subsection 81.33(9) of the Excise Tax Act

40. An intervention referred to in subsection 81.33(9) of the *Excise Tax Act* may be made by filing with the Secretary a notice of intervention on the relevant Tribunal form.

Notice of Intervention

40.1 A person who files a notice of intervention referred to in rule 39 or 40 shall specify

- (a) the nature of their interest in the appeal;
- (b) the reason why their intervention is necessary;
- (c) how the person may assist the Tribunal in the resolution of the appeal; and
- (d) any other relevant matters.

25. Subrules 41(1) and (2) of the Rules are replaced by the following:

41. (1) If a person has filed a notice of intervention under rule 39 or 40 and the Tribunal determines that, in the interests of fairness and equity, the parties to the appeal should be given an opportunity to make representations in respect of the intervention, the Secretary shall serve a copy of the notice on every person who is a party when the notice is filed.

(2) If the Tribunal determines that the person referred to in subrule (1) shall be added as an intervener, the Secretary shall send a written notice to that effect to the other parties to the appeal.

26. Subrule 42(1) of the Rules is replaced by the following:

42. (1) An application referred to in subsection 81.34(1) of the *Excise Tax Act* for an order permitting a person to intervene in an appeal may be made on the relevant Tribunal form.

27. Rules 43 and 44 of the Rules are replaced by the following:

43. An application referred to in subsection 81.34(2) of the *Excise Tax Act* for an order permitting a person to render assistance to the Tribunal by way of argument in an appeal may be made on the relevant Tribunal form.

Discontinuance

44. A party who instituted an appeal may, on or before the day fixed for the commencement of the hearing of the appeal, discontinue the appeal by filing with the Secretary a notice of discontinuance on the relevant Tribunal form and by serving forthwith a copy of it on the other parties to the appeal.

28. Rules 47 and 48 of the Rules are replaced by the following:

47. (1) When a matter is referred back to the Tribunal by the Federal Court for re-hearing under subsection 68(2) of the *Customs Act* or for re-hearing under paragraph 62(2)(b) of the *Special Import Measures Act*, the Secretary shall forthwith cause to be published in the *Canada Gazette* a notice of re-hearing that sets out the following information:

- (a) the subject-matter of the re-hearing;
- (b) the statutory authority for and the circumstances leading to the re-hearing; and
- (c) any other information that is relevant to the re-hearing that the Tribunal specifies.

(2) The Secretary shall send a copy of the notice referred to in subrule (1) to each party to the appeal.

(3) After the publication of the notice referred to in subrule (1), the Tribunal may fix a time and place for a pre-hearing conference for the purpose of deciding the following matters:

- (a) the issues to be addressed in the re-hearing;
- (b) the record of the re-hearing;
- (c) the introduction of new evidence, the calling of witnesses and the filing of any written submissions;
- (d) the date of the re-hearing; and
- (e) any other matter respecting the procedure to be followed in the re-hearing that would aid in its orderly conduct.

PART III

REFERENCES UNDER SUBSECTION 33(2) OF THE SPECIAL IMPORT MEASURES ACT

Application

48. This Part applies to a reference made to the Tribunal under subsection 33(2) of the *Special Import Measures Act*.

29. The heading before rule 50 and rules 50 and 51 of the Rules are replaced by the following:

Sending of Notice to the Commissioner

50. Where a reference is made by a government or by a person other than the Commissioner, the Secretary shall forthwith give to the Commissioner written notice of the reference of the question to the Tribunal.

Information to be Filed by the Commissioner

51. Where a reference is made in relation to any matter before the Commissioner, the Commissioner shall file with the Tribunal

- (a) any written complaint made to the Commissioner pursuant to subsection 31(1) of the *Special Import Measures Act* in relation to that matter;
- (b) all information and material relating to that matter that was in the possession of the Commissioner when the Commissioner made the decision or reached the conclusion as a result of which the question was referred to the Tribunal; and
- (c) a list of the names and addresses of all persons and governments that, pursuant to that Act, were given notice of the decision or conclusion of the Commissioner as a result of which the question was referred to the Tribunal.

30. Subrules 52(2) and (3)³ of the Rules are replaced by the following:

(2) Where the Tribunal has rendered its advice, the Secretary shall forthwith send a copy of the advice to the Commissioner and to every person and government named in the list referred to in paragraph 51(c).

(3) If the Tribunal terminates a proceeding under paragraph 35.1(1)(b) or, if applicable, 35.1(1)(c) of the *Special Import Measures Act*, the Secretary shall give notice of the termination to the Commissioner and to every person and government named in the list referred to in paragraph 51(c).

31. The Rules are amended by adding the following after section 52:

PART III.1

**PRELIMINARY INQUIRIES UNDER SUBSECTION 34(2) OF
THE SPECIAL IMPORT MEASURES ACT**

Application

52.1 This Part applies to a preliminary injury inquiry conducted by the Tribunal under subsection 34(2) of the *Special Import Measures Act* as a consequence of the receipt by the Secretary of a notice of an initiation of an investigation of dumping or subsidizing in respect of goods.

Notice of Commencement of Preliminary Inquiry

52.2 When a notice of initiation of an investigation of dumping or subsidizing is filed with the Secretary, the Secretary shall forthwith cause to be published in the *Canada Gazette* a notice of commencement of a preliminary inquiry that sets out the following information:

- (a) the statutory authority for the inquiry;
- (b) the subject-matter of the inquiry;
- (c) the date on or before which an interested party must file a notice of participation;
- (d) the date on or before which counsel for an interested party must file a notice of representation and, if appropriate, a declaration and undertaking referred to in subrule 16(1) or (2);
- (e) the date on or before which any written submissions must be filed;
- (f) the number of copies of each written submission that must be filed;
- (g) instructions with respect to the filing of confidential information;
- (h) the address to which written submissions or correspondence may be sent or delivered and at which information in respect of the preliminary inquiry may be obtained; and

³ SOR/97-325

- (i) any other information that is relevant to the preliminary injury inquiry that the Tribunal specifies.

Sending of a Notice of Commencement of Preliminary Inquiry

52.3 The Secretary shall send a copy of a notice of commencement of preliminary inquiry referred to in rule 52.2 to

- (a) the Commissioner;
- (b) all of the persons known to the Tribunal to be interested parties; and
- (c) the government of any country from which goods in respect of which the initiation of a dumping or subsidizing investigation was made were exported to Canada.

Information to be Filed by the Commissioner

52.4 When the Commissioner causes an investigation to be initiated respecting the dumping or subsidizing of goods under section 31 of the *Special Import Measures Act*, the Commissioner shall cause to be filed with the Secretary, in addition to the notice required to be given under paragraph 34(1)(a) of that Act,

- (a) a copy of the Commissioner's statement of reasons for initiating the investigation;
- (b) a copy of both the public and, if applicable, confidential version of the written complaint made to the Commissioner under subsection 31(1) of the *Special Import Measures Act*; and
- (c) any other information that has been taken into consideration by the Commissioner.

52.5 When the Tribunal terminates a proceeding under paragraph 35.1(1)(b) of the *Special Import Measures Act*, the Secretary shall give notice of the termination to the Commissioner and to every person and government referred to in rule 52.3.

32. Rules 53 to 57 of the Rules are replaced by the following:

53. This Part applies to an inquiry in respect of injury or retardation or threat of injury, made by the Tribunal under section 42 of the *Special Import Measures Act* as a consequence of the receipt by the Secretary of a notice of a preliminary determination of dumping or subsidizing in respect of goods.

Notice of Commencement of Inquiry

54. If a notice of a preliminary determination of dumping or subsidizing is filed with the Secretary under the *Special Import Measures Act*, the Secretary shall forthwith cause to be published in the *Canada Gazette* a notice of commencement of inquiry that sets out the following information:

- (a) the statutory authority for the inquiry;
- (b) the subject-matter of the inquiry, together with any other details of the inquiry that the Tribunal directs;

- (c) the date on or before which an interested party must file a notice of participation;
- (d) the date on or before which counsel for an interested party must file a notice of representation and, if appropriate, a declaration and undertaking referred to in subrule 16(1) or (2);
- (e) the date on or before which an interested person may file written representations under subsection 45(6) of that Act;
- (f) the date on or before which any written submissions must be filed;
- (g) the number of copies of each written submission that must be filed;
- (h) instructions with respect to the filing of confidential information;
- (i) the address to which written submissions or correspondence may be sent or delivered and at which information in respect of the inquiry may be obtained;
- (j) the place and time fixed for the commencement of a hearing in the inquiry; and
- (k) any other information that is relevant to the inquiry that the Tribunal specifies.

Sending of a Notice of Commencement of Inquiry

55. The Secretary shall send a copy of a notice of commencement of inquiry referred to in rule 54 to

- (a) the Commissioner;
- (b) all of the persons known by the Tribunal to be interested parties; and
- (c) the government of any country from which goods in respect of which the preliminary determination was made were exported to Canada.

Information to be Filed by the Commissioner — Preliminary Determination

56. Where the Commissioner makes a preliminary determination of dumping or subsidizing with respect to goods pursuant to section 38 of the *Special Import Measures Act*, the Commissioner shall cause to be filed with the Secretary, in addition to the written notice referred to in paragraph 38(3)(b) of that Act, the following materials:

- (a) a copy of the preliminary determination;
- (b) a detailed statement of all estimates and of all things specified by the Commissioner pursuant to paragraph 38(1)(a) or (b) of that Act;
- (c) a document that contains information with respect to
 - (i) domestic producers, importers into Canada and exporters to Canada of such goods who are known to the Commissioner, and

- (ii) the volume of the goods imported into Canada and the proportion of those goods found by the Commissioner to be dumped or subsidized; and
- (d) such other materials that contain information with respect to any matter referred to in any of paragraphs (a) to (c) as is in the Commissioner's possession and as the Tribunal may from time to time request.

Information to be Filed by the Commissioner — Final Determination

57. Where the Commissioner makes final determination of dumping or subsidizing with respect to goods pursuant to section 41 of the *Special Import Measures Act*, the Commissioner shall cause to be filed with the Secretary, in addition to the written notice referred to in subsection 41(3) of that Act, the following materials:

- (a) a copy of the preliminary determination;
- (b) a detailed statement of all estimates and of all things specified by the Commissioner pursuant to subsection 41(1) of that Act;
- (c) a document that contains information with respect to
 - (i) domestic producers, importers into Canada and exporters to Canada of such goods who are known to the Commissioner, and
 - (ii) the volume of the goods imported into Canada and the proportion of those goods found by the Commissioner to be dumped or subsidized; and
- (d) such other materials that contain information with respect to any matter referred to in any of paragraphs (a) to (c) as is in the Commissioner's possession and as the Tribunal may from time to time request.

33. Rules 59 to 63 of the Rules are replaced by the following:

59. In an inquiry, the Secretary shall, after the expiry of the date on or before which interested parties are required to file a notice of participation, make available, in the manner that the Tribunal directs,

- (a) to each counsel who has filed a declaration and undertaking referred to in subrule 16(1) or (2) and who has been granted access to the confidential information, all of the confidential information provided to the Tribunal for the purposes of the inquiry; and
- (b) to all counsel and to any party who is not represented by counsel, all of the information provided to the Tribunal for the purposes of the inquiry that has not been designated as confidential.

Written Submissions and Documentary Evidence

60. (1) The Tribunal may at any time direct any party to an inquiry to file with the Tribunal, on or before a date fixed by the Tribunal, the following material:

- (a) written submissions, documents or evidence relating to the inquiry;

- (b) a statement of the evidence adduced or to be adduced by the party; and
- (c) a description of any exhibit in other than documentary form that the party intends to adduce at the inquiry.

(2) In the case of an inquiry under section 31 of the *Special Import Measures Act*, the date fixed for the filing of the material referred to in subrule (1) by any party other than the complainant or other person referred to in that section shall be later than the date fixed under that subrule for the filing of the material by the complainant or other person.

Information to be Provided by Parties

61. In considering an issue of injury or retardation or threat of injury, the Tribunal may at any time direct a party to an inquiry to produce information that relates to the factors prescribed by section 37.1 of the *Special Import Measures Regulations*.

Request for Information

61.1 (1) In this rule, a request for information includes a request for the production of a document.

(2) A party may direct a request for information to any other party.

(3) A party that makes a request for information shall file the request with the Tribunal and serve it on the other parties within any time that the considerations of fairness and efficiency permit and that the Tribunal may direct.

(4) A request for information shall

- (a) be in writing;
- (b) set out the name of the party to whom it is addressed;
- (c) number each request for information consecutively;
- (d) explain how the request is relevant or necessary to the proceeding; and
- (e) be dated.

(5) If the party to whom the request is addressed refuses to give some or all of the information requested, that party must, within any time that the considerations of fairness and efficiency permit and that the Tribunal may direct,

- (a) if the party contends that some or all of the information requested is not relevant or necessary, give reasons in support of that contention;
- (b) if the party contends that some or all of the information requested is not available, give reasons for its unavailability and provide any other available information or documents that are of the same nature and to the same effect as the requested information; and

- (c) if the party makes any other contention, including a contention based on criteria referred to in paragraphs (7)(c) to (f), give reasons in support of that contention.

(6) The Tribunal may, on its own initiative or on the request of a party, refuse the request or grant all or part of it on the basis of criteria set out in subrule (7).

(7) For the purpose of subrule (6), the Tribunal shall take the following criteria into account:

- (a) the relevance and necessity of the information requested;
- (b) any contentions referred to in subrule (5);
- (c) the sufficiency of the information already on the record;
- (d) the availability of the information from other sources;
- (e) the ability or inability of the party to respond; and
- (f) any other matter relevant to the request.

(8) If the Tribunal orders the party to whom the request is addressed to provide some or all of the information requested, the party shall, within any time that the considerations of fairness and efficiency permit and that the Tribunal may direct,

- (a) serve on the other party
 - (i) a full and adequate response, in writing, for each question in the request,
 - (ii) a signed declaration that the responses are complete and correct to the best of the information and belief of the party providing the response, and
 - (iii) the information requested, or copies of it; and
- (b) file with the Tribunal copies of the responses and information in the number that the Secretary indicates are necessary for the Tribunal and the interested parties.

(9) A party to whom a request for information is directed complies with the order of the Tribunal if the party indicates to the other party which of its records contain the relevant information and

- (a) the party specifies in sufficient detail where the information may be found;
- (b) the burden of obtaining the information is substantially the same for either party; and
- (c) the party directing the request is given a reasonable opportunity to examine the records and make copies or summaries of them.

(10) If a party files a response or documents that contain confidential information, the party who provides the confidential information shall, within any time that the considerations of fairness and efficiency permit and that the Tribunal may direct, file a non-confidential edited version or a non-confidential summary of the response in accordance with paragraph 46(1)(b) of the Act.

(11) If a party to whom a request for information is directed does not comply with this rule, the party who directed the request for information may request the Tribunal to order compliance.

Notice of Matters Arising

61.2 (1) A party who wishes to have supplementary information relating to submissions, evidence and responses to requests for information that are filed with the Tribunal by another party shall serve a notice on all of the parties before the start of a hearing, within the period that the Tribunal may direct, to have the other party answer questions or provide documents or other information at the hearing concerning the matters arising from the material filed.

(2) A party who makes a request shall file the notice with the Tribunal.

(3) The notice shall

- (a) be in writing;
- (b) identify the party who will be required to answer questions or bring specified documents or information;
- (c) number each matter consecutively;
- (d) specify the information or documents requested, with an explanation of how they are relevant or necessary to the proceeding; and
- (e) be dated.

(4) The Tribunal shall notify the parties in writing on which matters they must be prepared to answer questions at the hearing and specify which documents, if any, that they must be prepared to bring with them to the hearing.

Information to be Filed by the Secretary — Advice under Section 46 of Special Import Measures Act

62. When the Tribunal advises the Commissioner under section 46 of the *Special Import Measures Act*, the Secretary shall cause to be filed with the Commissioner, in addition to the written notice referred to in that section, a copy of the information relied on by the Tribunal in giving its advice.

34. Rule 66 of the Rules is replaced by the following:

66. The Secretary shall forthwith send a copy of the notice of recommencement of inquiry referred to in rule 65 to the persons referred to in paragraph 44(2)(a) of the *Special Import Measures Act*.

35. The Rules are amended by adding the following after section 68:

PART V.1**PUBLIC INTEREST INQUIRY UNDER SECTION 45 OF THE SPECIAL IMPORT MEASURES ACT***Notice of Commencement of Inquiry*

68.1 (1) If a public interest inquiry is initiated arising out of a finding of injury as a result of an inquiry referred to in section 42 of the *Special Import Measures Act*, the Secretary shall forthwith cause to be published in the *Canada Gazette* a notice of commencement of inquiry that sets out the following information:

- (a) the statutory authority for the inquiry;
- (b) the subject-matter of the inquiry, together with any other details of the inquiry that the Tribunal directs;
- (c) the date on or before which an interested party or interested person must file a notice of participation;
- (d) the date on or before which counsel for an interested party or interested person, if any, must file a notice of representation and, if appropriate, a declaration and undertaking referred to in subrule 16(1) or (2);
- (e) the date on or before which any written submissions must be filed;
- (f) the number of copies of each written submission that must be filed;
- (g) instructions with respect to the filing of confidential information;
- (h) the date, place and time fixed for the commencement of a hearing in the inquiry; and
- (i) any other information that is relevant to the inquiry that the Tribunal specifies.

(2) The Secretary shall send a copy of a notice of commencement of inquiry referred to in subrule (1) to

- (a) the Commissioner;
- (b) all of the persons known by the Tribunal to be interested parties or interested persons; and
- (c) the government of any country from which goods in respect of which the final determination was made were exported to Canada.

Information to be Provided by the Secretary

68.2 The Secretary shall, forthwith after the expiry of the date on or before which interested parties or interested persons are required to file a notice of participation or counsel for them is required to file a notice of representation, provide each counsel and, where an interested party or interested person is not represented by counsel, that interested party or interested person, with the following information:

- (a) the names and addresses of all parties and interested persons to the inquiry and their counsel, if any; and
- (b) the procedure for the filing of documents.

Written Submissions and Documentary Evidence

68.3 The Tribunal may at any time direct any party or interested person to a public interest inquiry to file with the Tribunal, on or before a date fixed by the Tribunal, the following material:

- (a) written submissions, documents or evidence relating to the inquiry;
- (b) a statement of the evidence adduced or to be adduced by the party or interested person; and
- (c) a description of any exhibit in other than documentary form that the party or interested person intends to adduce at the inquiry.

Additional Information to be Provided by Parties or Interested Persons

68.4 The Tribunal may at any time direct a party or interested person to a public interest inquiry to produce any additional information that relates to any factors or that it considers relevant to the inquiry.

36. Part VI of the Rules is replaced by the following:

PART VI

**REVIEWS UNDER SECTIONS 76.01, 76.02, 76.03 AND 76.1 OF
THE SPECIAL IMPORT MEASURES ACT**

Application

69. This Part applies in respect of a review of an order or finding by the Tribunal

- (a) under subsection 76.01(1), 76.02(1) or 76.03(3) of the *Special Import Measures Act*, whether on the Tribunal's own initiative or at the request of the Commissioner or any other person or of any government;
- (b) under subsection 76.02(3) of that Act, if the order or finding is referred back to the Tribunal under an order made by a panel under subsection 77.015(3) or (4), 77.019(5), 77.15(3) or (4) or 77.19(4) of that Act; or
- (c) under subsection 76.1(2) of that Act.

Review under Section 76.01 or 76.02 of the Special Import Measures Act

70. (1) A request by a person to the Tribunal for a review under subsection 76.01(1) or 76.02(1) of the *Special Import Measures Act* shall be filed with the Secretary and shall set out the following information:

- (a) the name, address for service, telephone number and fax number, if any, of the person making the request and of their counsel, if any;
- (b) the nature of their interest in the order or finding;
- (c) the grounds on which the person believes initiation of the review is warranted and a statement of the facts on which the grounds are based; and
- (d) the nature of the order or finding that the person believes the Tribunal should make under subsection 76.01(5) or 76.02(4) of the *Special Import Measures Act* on completion of the review.

(2) On receipt of a properly documented request referred to in subrule (1), the Tribunal shall inform each party to the inquiry or review that resulted in the order or finding of its receipt of the request and shall give them an opportunity to make representations to the Tribunal concerning the request.

71. (1) If the Tribunal decides to review an order or a finding under subsection 76.01(1) or 76.02(1) of the *Special Import Measures Act*, the Secretary shall forthwith cause to be published in the *Canada Gazette* a notice of review that sets out the following information:

- (a) the statutory authority for the review;
- (b) the subject-matter of the review, together with any other details of the review that the Tribunal directs;
- (c) the date on or before which an interested party must file a notice of participation;
- (d) the date on or before which counsel for an interested party must file a notice of representation and, if appropriate, a declaration and undertaking referred to in subrule 16(1) or (2);
- (e) the date on or before which any written submissions must be filed;
- (f) the number of copies of each written submission that must be filed;
- (g) instructions with respect to the filing of confidential information;
- (h) the address to which written submissions or correspondence may be sent or delivered and at which information in respect of the review may be obtained; and
- (i) the place and time fixed for commencement of a hearing in the review.

(2) The Secretary shall send a copy of a notice of review to each person to whom and government to which the Secretary would be required by rule 55 to send a copy of the notice of commencement of inquiry if the review were an inquiry referred to in rule 53.

72. In order to decide whether an interim review under section 76.01 of the *Special Import Measures Act* is warranted, the Tribunal may request the parties to provide information concerning

- (a) whether changed circumstances or new facts have arisen since the making of the order or finding;

- (b) facts that were not put in evidence in the original proceedings and that were not discoverable by the exercise of reasonable diligence; and
- (c) any other matter that is relevant to the review.

73. When the Tribunal makes an order or a finding under subsection 76.01(5) or 76.02(4) of the *Special Import Measures Act*, the Secretary shall

- (a) send a copy of the order or finding and the reasons for the decision to each party and to each person who was provided with the notice of review; and
- (b) cause a notice of it to be published in the *Canada Gazette* in accordance with the appropriate subsection of that Act.

Review under Section 76.03 of the Special Import Measures Act

73.1 (1) When an order or a finding is deemed to be rescinded on the expiry of a five-year period in accordance with subsection 76.03(1) of the *Special Import Measures Act*, the notice of expiry that the Secretary must cause to be published in the *Canada Gazette* in accordance with subsection 76.03(2) of that Act shall set out the following information:

- (a) the date on which the order or finding will be deemed to be rescinded;
- (b) the date on or before which any written submissions must be filed by any person or government requesting or opposing the initiation of a review of the order or finding;
- (c) the number of copies of each written submission that must be filed;
- (d) instructions with respect to the filing of confidential information; and
- (e) the address to which written submissions or correspondence may be sent or delivered and at which information in respect of the expiry may be obtained.

(2) After the publication of a notice of expiry referred to in subrule (1), the Tribunal shall

- (a) if it does not receive a request for a review from a person or government and it decides not to initiate a review on its own initiative under subsection 76.03(3) of the *Special Import Measures Act*, advise the interested parties of that decision;
- (b) if it makes an order not to initiate a review under subsection 76.03(5) of that Act, ask the Secretary to cause a notice of that order to be published in accordance with that subsection; or
- (c) if it decides to initiate a review, ask the Secretary to publish a notice of review in the *Canada Gazette* that sets out the information specified in subrule 71(1).

(3) The Secretary shall send a copy of a notice of expiry or a notice of review, as the case may be, to each person to whom and government to which the Secretary would be required by rule 55 to send a copy of the notice of commencement of inquiry if the review were an inquiry referred to in rule 53.

73.2 In order to decide whether an expiry review under section 76.03 of the *Special Import Measures Act* is warranted, the Tribunal may request the parties to provide information that addresses the following:

- (a) the likelihood of a continuation or resumption of dumping or subsidization of the goods;
- (b) the likely volume and price ranges of dumped or subsidized imports if dumping or subsidization were to continue or resume;
- (c) the domestic industry's recent performance, including trends in production, sales, market share and profits;
- (d) the likelihood of injury to the domestic industry if the order or finding were allowed to expire, having regard to the anticipated effects of a continuation or resumption of dumped or subsidized imports on the industry's future performance;
- (e) any other developments affecting, or likely to affect, the performance of the domestic industry;
- (f) changes in circumstances, domestically or internationally, including changes in the supply or demand for the goods, and changes in trends in, and sources of, imports into Canada; and
- (g) any other matter that is relevant to the review.

73.3 If the Commissioner determines under subsection 76.03(9) of the *Special Import Measures Act* that the expiry of the order or finding is likely to result in a continuation or resumption of dumping or subsidizing, the Commissioner shall cause to be filed with the Secretary, in addition to the notice of determination that must be provided under paragraph 76.03(7)(b) of that Act,

- (a) the reasons for the determination;
- (b) information relating to the enforcement of the Tribunal's order or finding and, in particular, to the extent available, the total volume and value of the imports and the volume and value of the dumped or subsidized imports and undumped or unsubsidized imports; and
- (c) any other information that has been taken into consideration by the Commissioner.

73.4 If the Tribunal makes an order under subsection 76.03(12) of the *Special Import Measures Act*, the Secretary shall

- (a) send a copy of the order and reasons for it to each party and to each person who was provided with the notice of review; and
- (b) cause a notice of it to be published in the *Canada Gazette*.

Review under Section 76.1 of the Special Import Measures Act

73.5 (1) If the Minister of Finance requests the Tribunal to review an order or a finding under subsection 76.1(1) of the *Special Import Measures Act*, the Secretary shall publish a notice of review in the *Canada Gazette* that sets out the information specified in subrule 71(1).

(2) The Secretary shall send a copy of a notice of review to each person to whom and government to which the Secretary would be required by rule 55 to send a copy of the notice of commencement of inquiry if the review were an inquiry referred to in rule 53.

73.6 If the Tribunal makes an order or a finding under subsection 76.1(2) of the *Special Import Measures Act*, the Secretary shall

- (a) send a copy of the order or finding and the reasons for the decision to each party and to each person who was provided with the notice of review; and
- (b) cause a notice of it to be published in the *Canada Gazette*.

Application of Certain Rules

73.7 (1) Subject to subrule (2), rules 59 to 61.2 apply, with any modifications that the circumstances require, to a review under this Part.

(2) Rules 61.1 and 61.2 do not apply to a public interest inquiry under section 45 of the *Special Import Measures Act* or to a review under section 76.01, 76.02 or 76.1 of that Act.

37. Paragraph 74(a) of the Rules is replaced by the following:

- (a) to a request made to the Tribunal by the Commissioner pursuant to section 89 of the *Special Import Measures Act* for a ruling on the question of which of two or more persons is the importer in Canada of goods imported or to be imported into Canada on which duty is payable or has been paid or will be payable if the goods are imported; and

38. The heading before Rule 75 of the Rules is replaced by the following:

Notice of Request by Commissioner

39. The portion of rule 75 of the Rules before subparagraph (a)(iii) is replaced by the following:

75. Where the Commissioner makes a request pursuant to subsection 89(1) of the *Special Import Measures Act*, the Commissioner

- (a) shall give notice of the request to
 - (i) each of the two or more persons referred to in that subsection,
 - (ii) where the Commissioner made the request at the request of a person interested in the importation of the goods referred to in that subsection, that person interested, and

40. (1) Subparagraphs 76(1)(f)(ii) and (iii) of the Rules are replaced by the following:

- (ii) the date on or before which an interested person must file with the Tribunal a notice of participation, and

- (iii) the date on or before which counsel for a person who files a notice of participation must file with the Tribunal a notice of representation and, if appropriate, a declaration and undertaking referred to in subrule 16(1) or (2);

(2) The portion of subrule 76(2) of the Rules before paragraph (b) is replaced by the following:

(2) The Secretary shall send a copy of a notice of request for a ruling to the following persons:

- (a) the Commissioner; and

41. Subparagraphs 78(f)(ii) and (iii) of the Rules are replaced by the following:

- (ii) the date on or before which any person interested in the matter or thing must file with the Tribunal a notice of participation, and
- (iii) the date on or before which counsel for a person who files a notice of participation must file with the Tribunal a notice of representation and, if appropriate, a declaration and undertaking referred to in subrule 16(1) or (2);

42. (1) That portion of Rule 79 of the Rules before paragraph (a) is replaced by the following:

79. The Secretary shall send a copy of the notice of reconsideration referred to in Rule 78 to the following persons and governments:

(2) Paragraph 79(b) of the Rules is replaced by the following:

- (b) the Commissioner;

43. Rule 81 of the Rules is replaced by the following:

81. Rules 59 and 60 apply, with any modifications that the circumstances require, to a request for a ruling that is referred to in subsection 89(1) of the *Special Import Measures Act* and any re-hearing in connection with a reconsideration by the Tribunal under paragraph 91(1)(g) of that Act.

44. Rule 82 3 of the Rules is replaced by the following:

82. This Part applies in respect of a written complaint filed with the Tribunal under subsection 23(1), (1.01), (1.02), (1.03), (1.04), (1.05), (1.06) or (1.1) of the Act by a domestic producer of goods that are like or directly competitive with goods being imported into Canada, or by a person or an association acting on behalf of such a domestic producer.

45. Rule 83 of the Rules is renumbered as subrule 83(1) and is amended by adding the following:

(2) In addition to the information specified in subrule (1), information that is necessary to apply the factors set out in subsection 4(1) or (1.1) of the *Canadian International Trade Tribunal Regulations* shall be filed at the request of the Tribunal.

46. Subparagraphs 85(f)(ii) and (iii) of the Rules are replaced by the following:

- (ii) the date on or before which any person interested in the matter must file with the Tribunal a notice of participation, and
- (iii) the date on or before which counsel for a person who files a notice of participation must file with the Tribunal a notice of representation and, if appropriate, a declaration and undertaking referred to in subrule 16(1) or (2);

47. The portion of rule 86 of the Rules before paragraph (a) is replaced by the following:

86. The Secretary shall send a copy of a notice of inquiry referred to in rule 85 to

48. Rules 88 and 89⁴ of the Rules are replaced by the following:

88. Rules 59 and 60 apply, with any modifications that the circumstances require, to an inquiry conducted by the Tribunal in connection with a standing reference to which this Part applies.

PART X

**REFERENCES UNDER SECTION 19 AND REVIEWS UNDER
SECTION 19.02 OF THE ACT**

Application

89. This Part applies in respect of

- (a) a standing reference made to the Tribunal under section 19 of the Act by the Minister for inquiry and report into
 - (i) any written complaint made to the Tribunal by a domestic producer of goods alleging that like or directly competitive goods that originate in a country designated in the List of Countries set out in the schedule to the *Customs Tariff* as a beneficiary of the General Preferential Tariff and that are being imported into Canada at the General Preferential Tariff rates of customs duty under section 33 of the *Customs Tariff*, or that originate in a country designated in the List of Countries set out in the schedule to the *Customs Tariff* as a beneficiary of the Least Developed Country Tariff and that are being imported into Canada at the Least Developed Country Tariff rates of customs duty under section 37 of the *Customs Tariff*, are causing or threatening injury to that producer, or
 - (ii) any written complaint made to the Tribunal by a domestic producer of goods alleging that like or directly competitive goods that originate in a country designated in the List of Countries set out in the schedule to the *Customs Tariff* as a beneficiary of the Commonwealth Caribbean Countries Tariff and that are being imported into Canada at the Commonwealth Caribbean Countries Tariff rates of Customs duty under section 41 of the *Customs Tariff*, are causing or threatening injury to that producer; and
- (b) a review made under section 19.02 of the Act.

⁴ SOR/98-39

49. (1) The portion of subrule 90(1) of the Rules before paragraph (a) is replaced by the following:

90. (1) A written complaint by a domestic producer referred to in paragraph 89(a) shall be

(2) Subrule 90(2) of the Rules is replaced by the following:

(2) If the Tribunal determines that the information provided by the complainant and any other information examined by the Tribunal discloses a reasonable indication that the domestic producer has suffered, or may suffer, injury as a result of imports occurring or that might occur under the tariff preferences referred to in paragraph 89(a), the Tribunal shall commence an inquiry into the complaint.

50. The portion of rule 91 of the Rules before paragraph (a) is replaced by the following:

91. If a temporary safeguard measure that has been implemented by the Government of Canada to prevent or remedy the injury caused to domestic producers by imports under the tariff preferences referred to in paragraph 89(a) is scheduled to expire, the Secretary shall, in order for the Tribunal to receive and review written submissions that may be made by interested parties in relation to the future status of the measure, cause to be published in the *Canada Gazette*, not later than 10 months before the measure is scheduled to expire, a notice of expiry that sets out the following information:

51. Rule 92 of the Rules is replaced by the following:

92. Rules 59, 60 and 85 to 87 apply, with any modifications that the circumstances require, to an inquiry conducted by the Tribunal in connection with a standing reference to which this Part applies.

Notice of Review Under Section 19.02 of the Act

92.1 If the Tribunal is required to conduct a mid-term review under section 19.02 of the Act, the Secretary shall cause to be published in the *Canada Gazette*, not later than five months before the review, a notice of mid-term review that sets out the following information:

- (a) the statutory authority for the review of the safeguard measure;
- (b) the date of the mid-point of the safeguard measure to be reviewed;
- (c) the subject-matter of the review;
- (d) the date on or before which a notice of participation or any written submissions must be filed;
- (e) the address of the Tribunal for the filing or service of documents and where information in respect of the review may be obtained; and
- (f) any other information that is relevant to the review that the Tribunal specifies.

Sending of Notice of Mid-term Review

92.2 The Secretary shall send a copy of the notice of mid-term review referred to in rule 92.1 to each interested party.

Disposal of Mid-term Review

92.3 A mid-term review referred to in rule 92.1 shall be decided on the basis of a hearing by way of written submissions unless the Tribunal, on its own initiative or on the written request of a party, decides to proceed by way of a hearing at which the parties or their counsel appear before the Tribunal or by way of an electronic hearing.

Application of Certain Rules

92.4 Rules 59 and 60 apply, with any modifications that the circumstances require, to a review referred to in rule 92.1.

52. The definition “send”² in rule 93 of the Rules is replaced by the following:
“send”, in respect of a document, information or a notification, means to transmit by hand, registered mail or electronic transmission; (*envoyer*)

53. Rule 942 of the English version of the Rules is replaced by the following:

94. This Part applies in respect of inquiries into complaints made by potential suppliers under subsection 30.11(1) of the Act.

54. Subrule 96(2)² of the Rules is replaced by the following:

(2) For the purpose of subrule (1), the day of receipt is the day stamped by the Secretary on the complaint or on the document containing the information that corrects the deficiencies.

55. Rule 101² of the Rules is replaced by the following:

101. If the Tribunal decides to conduct an inquiry, the Secretary shall forthwith send a notification in writing to the complainant, the government institution and any other interested party and shall publish a notice of commencement of inquiry.

56. Subrule 103(4)² of the Rules is replaced by the following:

(4) The government institution may, within the time limit set out in subrule (1), make a written request to the Tribunal for an extension of that time limit and shall set out in the application the reasons for the extension.

57. (1) Subrule 104(1)² of the Rules is replaced by the following:

104. (1) Subject to subrule 107(5), the complainant shall, within seven days after the day on which the Tribunal sends a copy of the statement to the complainant under subrule 103(3), file with the Tribunal comments on the statement or make a written request to have the case decided on the basis of the existing record.

(2) Subrule 104(3)² of the Rules is replaced by the following:

(3) The Tribunal may extend the time limit for the filing of comments under subrule (1) if the complainant makes a written request for the extension within the time limit referred to in that subrule and the specific circumstances of the complaint warrant the extension.

58. The heading² before rule 105 of the Rules is replaced by the following:

Hearing of Complaints

59. (1) Subrules 105(1)² and (2)² of the Rules are replaced by the following:

105. (1) The Tribunal may, in respect of the merits of a complaint, and on the written request of a party or on the Tribunal's own initiative, hold an electronic hearing or a hearing at which the parties or their counsel appear before the Tribunal.

(2) The request for a hearing shall be submitted as soon as possible during the course of the proceedings on the complaint.

(2) Subrule 105(6)² of the Rules is replaced by the following:

(6) The Tribunal may direct that a hearing be held if at any time during the proceeding it decides that a hearing is needed to clarify material issues.

60. Rule 106² of the Rules is repealed.

61. (1) Subrules 107(1) to (4)² of the Rules are replaced by the following:

107. (1) When the complainant, the government institution or an intervener requests an expeditious determination of a complaint, the Tribunal shall consider the feasibility of using the express option procedure set out in subrule (5).

(2) The Tribunal may apply the express option in the case of any complaint that is suitable for resolution within 45 days.

(3) A request for the express option shall be made in writing and submitted to the Secretary not later than three days after a notice of inquiry is given under subsection 30.12(3) of the Act.

(4) The Tribunal shall determine whether or not to apply the express option within two days after receiving a request for it and shall notify the complainant, the government institution and all of the interveners of its determination.

(2) Paragraph 107(5)(e)² of the Rules is replaced by the following:

(e) the Tribunal shall issue a determination on the complaint within 45 days after determining that the express option will be applied.

62. The Rules are amended by adding the following after rule 108:

PART XII

EXTENSION INQUIRIES UNDER SECTION 30.07 OF THE ACT

Application

109. This Part applies in respect of an extension inquiry under section 30.07 of the Act.

Notice of Expiry

110. If the Tribunal is required to publish a notice of expiry under subsection 30.03(1) of the Act in respect of an order referred to in that subsection, the notice shall be published in the *Canada Gazette* not later than eight months before the expiry date and shall set out

- (a) the date on which the order is scheduled to expire;
- (b) the date on or before which written submissions must be filed by interested parties requesting or opposing an extension inquiry;
- (c) the address of the Tribunal for the filing or service of documents and where information in respect of the extension inquiry may be obtained;
- (d) the number of copies of each written submission that must be filed;
- (e) instructions in respect of the filing of confidential information; and
- (f) any other relevant information that the Tribunal may re-quire.

Request for Extension

111. A request for an extension inquiry filed with the Tribunal shall be signed by the requester or by their counsel, if any, and, in addition to providing the information required by section 30.05 of the Act, shall be accompanied by the following information:

- (a) the name, address and telephone and fax numbers, if any, of the requester or their counsel;
- (b) the name and description of the imported goods and the like or directly competitive goods;
- (c) the names of the domestic producers on whose behalf the request is being made and the proportion of total domestic production of like or directly competitive goods that is produced by them;
- (d) any information that is necessary to address the matters raised in subsection 4(1) and section 6 or 7 of the *Canadian International Trade Tribunal Regulations* and subsection 30.03(2) of the Act, as the case may be; and
- (e) a statement indicating why the order that is the subject of the extension inquiry continues to be necessary to prevent or remedy serious injury to domestic producers of like or directly competitive goods.

112. If a notice is provided under subsection 30.06(3) of the Act, the Tribunal shall give the other interested parties referred to in that subsection an opportunity to make representations to the Tribunal concerning the request referred to in rule 111.

113. If the Tribunal decides to conduct an extension inquiry, the Secretary shall forthwith cause to be published in the *Canada Gazette* a notice to that effect that sets out the following information:

- (a) the statutory authority for the extension inquiry;
- (b) the subject-matter of the extension inquiry, together with any other details of the extension inquiry that the Tribunal directs;
- (c) the date on or before which an interested party must file a notice of participation;
- (d) the date on or before which counsel for an interested party must file a notice of representation and, if appropriate, a declaration and undertaking referred to in subrule 16(1) or (2);
- (e) the date on or before which written submissions must be filed;
- (f) the number of copies of each written submission that must be filed;
- (g) instructions with respect to the filing of confidential information;
- (h) the address of the Tribunal to which written submissions or correspondence may be sent or delivered and at which information in respect of the extension inquiry may be obtained;
 - (i) the place and time fixed for the commencement of a hearing in the extension inquiry; and
- (j) any other information that is relevant to the extension inquiry that the Tribunal specifies.

Application of Certain Rules

114. Rules 59 and 60 apply, with any modifications that the circumstances require, in respect of an extension inquiry conducted by the Tribunal under this Part.

63. The schedule to the Rules is repealed.

COMING INTO FORCE

64. These Rules come into force on 15 April 2000.
