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Committee on Anti-Dumping Practices

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**NOTIFICATION OF LAWS AND REGULATIONS UNDER
ARTICLE 18.5 OF THE ANTI-DUMPING AGREEMENT**

CANADA

Supplement

The following communication, dated 27 September 2019, is being circulated at the request of the delegation of Canada.

Enclosed please find a copy of a supplementary notification pursuant to Article 18.5 of the WTO Anti-Dumping Agreement, concerning amendments to the *Special Import Measures Regulations*, related to the conduct of anti-dumping investigations.

Pursuant to Article 18.5 of the WTO Anti-Dumping Agreement, Canada hereby notifies the Committee on Anti-Dumping Practices of amendments to the *Special Import Measures Regulations*, which came into force on 23 August 2019.

The changes are contained in the *Regulations Amending the Special Import Measures Regulations* (attached), published in the *Canada Gazette*, Part II, on 4 September 2019.¹

The key elements of the changes are as follows:

- **Particular market situation:** Where a particular market situation has been found, in determining the costs of production for goods, alternative methodologies can be used to determine the cost of inputs, if they do not allow for a proper comparison between the sale of goods in the country of export and the sale of goods exported to Canada due to the particular market situation. The amendments provide a hierarchy of alternatives to be used to determine the costs of inputs, with price adjustments to be made as necessary to reflect the actual cost of the input in the country of export.
- **Associated parties:** In situations where inputs are supplied by an associated supplier (e.g. a subsidiary or affiliated company), the Canada Border Services Agency may now use, for this cost, the highest of the transfer price between parties, the actual costs to the supplier, or a reasonable benchmark determined in the country of export if such information is available.

¹ <http://gazette.gc.ca/rp-pr/p2/2019/2019-09-04/html/sor-dors314-eng.html>.

ANNEX

*REGULATIONS AMENDING THE SPECIAL IMPORT
MEASURES REGULATIONS (SOR/2019-314)*

Amendments

**1 The long title of the *Special Import Measures Regulations* is replaced by the following:
Special Import Measures Regulations**

2 Section 1 of the Regulations and the heading before it are repealed.

3 The portion of paragraph 11(1)(a) of the Regulations before subparagraph (i) is replaced by the following:

(a) subject to sections 11.2 and 12, the expression ***cost of production***, in relation to any goods, means the aggregate of all costs that are

4 The portion of paragraph 11.1(a) of the Regulations before subparagraph (i) is replaced by the following:

(a) the cost of production, in relation to any goods, shall, subject to subsection 11.2(1) and section 12, be calculated by aggregating all costs that are

5 The Regulations are amended by adding the following after section 11.1:

11.2 (1) For the purposes of subparagraphs 11(1)(a)(i) and 11.1(a)(i), if an input used in the production of the goods is acquired by the exporter or producer from an associated person and is a significant factor in the production of the goods, the cost of that input in the country of export is considered to be the greater of the following amounts:

(a) the price paid in respect of that input by the exporter or producer to the associated person;

(b) the cost incurred by the associated person in the production of that input, including the administrative, selling and all other costs with respect to that input; and

(c) the price in the country of export of the same or substantially the same inputs, if sufficient information is available to enable the price to be determined on the basis of

(i) the selling prices of those inputs in the country of export, in the same or substantially the same quantities, between parties who are not associated persons, or

(ii) the published prices of those inputs in the country of export.

(2) For the purposes of subparagraph 11(1)(a)(i), if the President is of the opinion that, under paragraph 16(2)(c) of the Act, a particular market situation exists which does not permit a proper comparison of the sale of like goods with the sale of the goods to the importer in Canada, such that the acquisition cost of an input used in the production of the goods does not reasonably reflect the actual cost of that input, the cost of that input in the country of export shall be considered to be the first of the following amounts that reasonably reflects the actual cost of the input so as to permit a proper comparison:

(a) the price of the same or substantially the same inputs that are produced in the country of export and sold to the exporter or to other producers in the country of export;

(b) the price of the same or substantially the same inputs that are produced in the country of export and sold from the country of export to a third country;

(c) the price of the same or substantially the same inputs determined on the basis of the published prices of those inputs in the country of export;

(d) the price of the same or substantially the same inputs that are produced in a third country and sold to the exporter or to other producers in the country of export, adjusted to reflect the differences relating to price comparability between the third country and the country of export; or

(e) the price of the same or substantially the same inputs determined on the basis of the published prices outside the country of export, adjusted to reflect the differences relating to price comparability with the country of export.

6 The portion of section 14 of the Regulations before paragraph (a) is replaced by the following:

14 For the purpose of determining the normal value of any goods under paragraph 20(1)(c) of the Act, sections 4 to 6, 9, 11 and 11.2 shall be read with the substitution of

Coming into Force

7 These Regulations come into force on the day on which they are registered.
