ANTI-DUMPING AND COUNTERVAILING DUTIES

Submission of Laws and Regulations

The following extracts of laws and regulations have been received from the Government of Canada:

Section 6 of the Customs Tariff

"Section 6 (1) In the case of goods exported to Canada of a class or kind made or produced in Canada, if the export or actual selling price to an importer in Canada is less than the fair market value or the value for duty of the goods as determined under the provisions of the Customs Act, there shall, in addition to the duties otherwise established, be levied, collected and paid on such goods, on their importation into Canada, a special or dumping duty, equal to the difference between the said selling price of the goods for export and the said value for duty thereof; and such special or dumping duty shall be levied, collected and paid on such goods although not otherwise dutiable.

(2) The special duty imposed by the preceding subsection shall in no case exceed fifty per cent ad valorem and the following goods shall be exempt from such duty:

(i) Goods of a class subject to duty under the Excise Act;

(ii) Goods or classes of goods declared exempt by any Order or regulation made by the Governor in Council.

(3) Duties and taxes imposed in the country of export shall be disregarded in estimating the value for the purposes of said duty.

(4) 'Export price' or 'selling price' in this section means the exporter's price for the goods, exclusive of all charges thereon after their shipment from the place whence exported direct to Canada.
Evasion of special duty.

(5) If at any time it appears to the satisfaction of the Minister that the payment of the special duty by this section provided for is being evaded by the shipment of goods on consignment without sale prior to such shipment, the Minister may in any case or class of cases authorize such action as is deemed necessary to collect on such goods or any of them the same special duty as if the goods had been sold to an importer in Canada prior to their shipment to Canada.

Additional special or dumping duty.

(6) If at any time it appears to the satisfaction of the Minister that any person owning or controlling or interested in a business in Canada and also in any other country, or any person carrying on a business in any other country and owning or controlling or interested in a business operating in Canada, and by reason thereof is enabled to import goods for further manufacture or assembling or for resale, and while complying with the legal requirements on importation disposes of such imported goods, whether in the form as imported or as further processed, assembled or manufactured, at prices below the duty paid value thereof as entered at Customs plus or including all charges upon the goods after shipment from the place whence exported directly to Canada, including sales, distribution and advertising costs, and plus, if any, the cost of processing, assembling or further manufacturing in Canada, the Minister may declare that goods of such class or kind were and are on importation subject to an additional special or dumping duty not exceeding fifty per cent and authorize such action as is deemed necessary for the collection thereof.

Enforcing payment.

(7) If the full amount of any special duty of Customs as herein provided has not been paid on goods imported, the Customs entry thereof shall be amended and the deficiency paid upon the demand of the Collector.

Regulations.

(8) The Minister may make such regulations as are deemed necessary for carrying out the provisions of this section and for its enforcement.

(9) For the purposes of this section, goods may be deemed to be of a class or kind not made or produced in Canada where similar goods of Canadian production are not offered for sale to the ordinary agencies of wholesale or retail distribution or are not offered to all purchasers on equal terms under like conditions having regard to the custom and usage of trade.

Articles of class or kind made in Canada.

(10) For the purposes of this Act articles shall not be deemed to be of a class or kind made or produced in Canada unless so made or produced in substantial quantities; and the Governor in Council may by Order in Council provide that such quantities, to be substantial, shall be sufficient to supply a certain percentage of the normal Canadian consumption and may in such Order fix such percentage."
General Regulations under Section 6 of the Customs Tariff

1. Order in Council P.C. 1618, 2nd July, 1936 (Memorandum D No. 33 Supplement B). Articles shall not be deemed to be of a class or kind made or produced in Canada unless a quantity sufficient to supply ten per centum of the normal Canadian consumption of such article is so made or produced.

2. BONA FIDE SAMPLES ADMITTED WITHOUT SPECIAL DUTY

3. ADVANCE IN MARKET VALUE AFTER PURCHASE OF GOODS BY IMPORTER NOT SUBJECT TO SPECIAL DUTY

4. CASH DISCOUNTS

5. FREIGHT ALLOWANCES

6. DEFERRED QUANTITY ALLOWANCES

7. JOB LOTS, SECONDS, ETC.

The texts of these regulations are not reproduced but can be consulted in the office of the secretariat.
Section 6A of the Customs Tariff Act

Additional duty in respect of subsidized goods.

6A. (1) Where in the opinion of the Governor in Council subsidized goods of a class or kind made or produced in Canada have been or may be directly or indirectly imported into Canada, he may declare such goods to be subject to an additional duty on their importation equal to the amount of the subsidy on those goods as determined by him.

Definitions.

(2) In this section,

(a) "subsidized goods" means goods

(i) in respect of the production, manufacture, processing, purchase, sale, export or import of which a subsidy has been paid directly or indirectly by a government outside Canada, or any agency thereof, or

(ii) that have been disposed of at a loss by any such government or agency

and includes any goods obtained or derived therefrom by manufacture, assembly, processing or otherwise;

(b) "subsidy" does not include the amount of any internal tax imposed on the goods within the country of origin or export from which the goods have been exempted or have been or will be relieved by means of refund or drawback.

Exception.

(3) Notwithstanding anything in this section, where goods that are subject to additional duty under this section are also subject to special or dumping duty under section 6, the amount of the additional duty payable under subsection (1) of this section shall be reduced by the amount of the special or dumping duty payable under section 6.

Goods deemed of a class or kind not made in Canada.

(4) For the purposes of this section, goods may be deemed to be of a class or kind not made or produced in Canada where similar goods of Canadian production are not offered for sale to the ordinary agencies of wholesale or retail distribution or are not offered to all purchasers on equal terms under like conditions, having regard to the custom and usage of trade.

Regulations.

(5) The Governor in Council may make such regulations as are deemed necessary for carrying out the provisions of this section and for its enforcement."