

First Session, Thirty-sixth Parliament,
46-47-48 Elizabeth II, 1997-98-99

Première session, trente-sixième législature,
46-47-48 Elizabeth II, 1997-98-99

STATUTES OF CANADA 1999

LOIS DU CANADA (1999)

CHAPTER 12

CHAPITRE 12

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

Loi modifiant la Loi sur les mesures spéciales d'importation
et la Loi sur le Tribunal canadien du commerce
extérieur

BILL C-35

ASSENTED TO 25th MARCH, 1999

PROJET DE LOI C-35

SANCTIONNÉ LE 25 MARS 1999

SUMMARY

This enactment makes several amendments to the *Special Import Measures Act* and the *Canadian International Trade Tribunal Act*. It gives effect to recommendations set out in the December 1996 Report on the *Special Import Measures Act* that was issued by the Sub-Committee on the Review of the *Special Import Measures Act* (of the Standing Committee on Finance) and the Sub-Committee on Trade Disputes (of the Standing Committee on Foreign Affairs and International Trade). The key elements of the enactment include the following:

- (a) assignment of responsibility to the Canadian International Trade Tribunal for preliminary determinations of injury, retardation or threat of injury to Canadian industry caused by the dumping or subsidizing of goods;
- (b) provisions governing the disclosure of confidential information by the Deputy Minister of National Revenue to counsel for parties in dumping and subsidy investigations, and new penalties for the unauthorized use of that information;
- (c) provisions governing the disclosure of confidential information by the Canadian International Trade Tribunal to expert witnesses in proceedings related to dumping and subsidy investigations, and new penalties for the unauthorized use of that information;
- (d) provisions governing the consideration, review and termination of undertakings by the Deputy Minister of National Revenue;
- (e) mandatory cumulation, in Canadian International Trade Tribunal inquiries and expiry reviews of existing orders and findings, of the injurious effects of the dumping or subsidizing of goods imported into Canada from more than one country;
- (f) provisions governing the initiation and conduct of public interest inquiries in respect of Canadian International Trade Tribunal 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
- (g) provisions governing the conduct of interim and expiry reviews of existing orders and findings, including the assignment of responsibility to the Deputy Minister of National Revenue for expiry review determinations as to the likelihood of the continuation or resumption of dumping or subsidizing goods.

The enactment also includes housekeeping amendments that clarify existing provisions of the *Special Import Measures Act*.

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Le texte modifie la *Loi sur les mesures spéciales d'importation* et la *Loi sur le Tribunal canadien du commerce extérieur*. Il met en oeuvre les recommandations incluses dans le *Rapport sur la Loi sur les mesures spéciales d'importation* de décembre 1996. Le rapport a été présenté conjointement par le sous-comité d'examen de la *Loi sur les mesures spéciales d'importation* du Comité permanent des finances et par le sous-comité sur les règlements commerciaux du Comité permanent des affaires étrangères et du commerce international. Les éléments clés du texte sont les suivants :

- a) l'attribution, au Tribunal canadien du commerce extérieur, de la responsabilité à l'égard des décisions provisoires sur le dommage, le retard et la menace de dommage à l'industrie canadienne découlant du dumping ou du subventionnement des marchandises;
- b) les dispositions régissant la communication de renseignements confidentiels par le sous-ministre du Revenu national aux avocats des parties dans les enquêtes sur le dumping ou le subventionnement, et les nouvelles peines à l'égard de l'utilisation non autorisée de tels renseignements;
- c) les dispositions régissant la communication de renseignements confidentiels par le Tribunal canadien du commerce extérieur aux avocats et témoins experts dans le cadre des procédures intentées devant lui relativement à la *Loi sur les mesures spéciales d'importation*, et les nouvelles peines à l'égard de l'utilisation non autorisée de tels renseignements;
- d) les dispositions régissant la prise en considération, le réexamen et la clôture des engagements pris par le sous-ministre;
- e) le cumul obligatoire des risques de dumping et de subventionnement des marchandises importées au Canada à partir de plus d'un pays dans le cadre des enquêtes du Tribunal et du réexamen relatif à l'expiration des ordonnances et conclusions existantes;
- f) les dispositions concernant l'ouverture et le déroulement des enquêtes d'intérêt public à l'égard des conclusions du Tribunal, notamment les dispositions permettant au Tribunal de réduire les droits antidumping ou compensateurs de façon à éliminer le dommage, le retard ou la menace de dommage à l'industrie canadienne;
- g) les dispositions régissant le déroulement du réexamen intermédiaire et de celui relatif à l'expiration des ordonnances et des conclusions existantes, notamment l'attribution, au sous-ministre du Revenu national, de la responsabilité à l'égard des décisions issues du réexamen relatif à l'expiration quant aux probabilités de continuation ou de reprise du dumping ou du subventionnement.

De plus, le texte comprend certaines modifications techniques visant à clarifier certaines dispositions existantes de la *Loi sur les mesures spéciales d'importation*.

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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:

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(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.

(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.

Reasons

(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).

Notification of Minister of Finance

(4) Le paragraphe 76.1(5) de la même loi est modifié par adjonction, après l'alinéa c), de ce qui suit :

d) la décision issue du réexamen prévu au paragraphe 59(1), (1.1) ou (2).

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