

## GOVERNMENT SUBSIDY REQUEST FOR INFORMATION

Information requested under the *Special Import Measures Act* concerning Canada's subsidy re-investigations of

### REFINED SUGAR ORIGINATING IN OR EXPORTED FROM THE EUROPEAN UNION

**DUE DATE FOR RESPONSE** Your complete response to **Parts D, E, F, G and H** of this Request for Information must be received at the CBSA SIMA Registry and Disclosure Unit's email address below by **November 12, 2021**.

**PERIOD OF INVESTIGATION** 1, 2020 to August 31, 2021

**EMAIL YOUR RESPONSE TO** Email: [simaregistry-depotlmsi@cbsa-asfc.gc.ca](mailto:simaregistry-depotlmsi@cbsa-asfc.gc.ca)

**FOR FURTHER INFORMATION** Contact the following officers:  
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343-553-2004 [Serena.Major@cbsa-asfc.gc.ca](mailto:Serena.Major@cbsa-asfc.gc.ca)  
Rebecca Akuoko-Asibey:  
613-954-7370 [Rebecca.Akuoko-Asibey@cbsa-asfc.gc.ca](mailto:Rebecca.Akuoko-Asibey@cbsa-asfc.gc.ca)

#### **IMPORTANT NOTE**

Information provided is deemed to be public (non-confidential) unless clearly marked **CONFIDENTIAL**. Refer to the *Treatment of Confidential and Non-Confidential Information* section for further details on how to protect the confidentiality of your information.

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## **PART A – SUBJECT GOODS**

### **PRODUCT DEFINITION**

#### **Definition of Goods Subject to this Re-investigation**

The subject goods are defined as:

“Refined sugar, refined from sugar cane or sugar beets, in granulated, liquid, and powdered form.”

Refined sugar is sold as white granulated, liquid and specialty sugars. Granulated sugar comes in a range of grain fractions (e.g., medium, fine, and extra fine). Liquid sugar includes invert sugar. Specialty sugars include soft yellow sugar, brown sugar, icing sugar, demerara sugar and others and may be sold in granulated, liquid, or powdered form.

A number of products have been excluded from the original product definition by the CITT. These exclusions are as follow:

#### **Exclusions as of November 6, 1995**

1. Co-crystallized products - For greater clarity, these products are comprised of sugar syrups or liquid sucrose blends and one or more non-sucrose ingredients combined through a co-crystallization process to form a dry solid structure in granulated or powder form.
2. Pearl sugar - For greater clarity, pearl sugar is hard granulated sugar, pellet-formed by subjecting sugar syrup to intense heat. The pellet, which is the size of a pea, is shaped like a football. It is coarser than coarse sugar, i.e. confectioners' sugar.
3. Bottler's floc-free beet sugar - Imported by McNeil Consumer Products Company for use in pharmaceutical preparations.
4. Lyle's Golden Syrup - Produced by Tate & Lyle PLC.
5. Lyle's Pouring Syrup - Produced by Tate & Lyle PLC.
6. Daddy brand wrapped sugar dominoes in 1-kg boxes - For greater clarity, these are sugar cubes which are wrapped in illustrated paper wrappings, each of which contains two sugar cubes.
7. Daddy brand wrapped sugar cubes in 5-kg boxes containing 960 portions - For greater clarity, each portion contains two sugar cubes which are wrapped in illustrated paper wrappings.

8. Saint Louis brand pre-cut brown cane sugar lumps in 1-kg boxes - For greater clarity, these are rough-shaped sugar lumps comprised of brown cane sugar.
9. Daddy brand shaped white sugar pieces in 500-g boxes - For greater clarity, these sugar pieces are pre-cut into diamond, heart, spade and club shapes.
10. Daddy brand brown or blond "Vergeoise" sugar in 500-g cases.
11. Comptoir du Sud brand brown and white sugar pieces in 1-kg and 500-g boxes.
12. Daddy brand brown coffee sugar in 500-g box packets - For greater clarity, this is a large granule brown sugar.
13. Demerara sugar cubes - Produced by Tate & Lyle PLC.
14. Amber sugar crystals - Produced by Tate & Lyle PLC. For greater clarity, these are large sugar crystals in varying shades of brown.
15. Low-colour liquid sucrose with a colour no higher than 10 maximum ICUMSA (International Commission for Uniform Methods of Sugar Analysis) colour units and distiller's grade liquid sucrose imported by Gilbey Canada Inc. for use as ingredients in its production process.

**Additional Exclusions as of November 3, 2000**

16. Bottler's floc-free beet sugar imported for use in pharmaceutical preparations where it is established by the importer that floc-free beet sugar from Canadian sources does not meet the applicable product specifications.
17. Golden, pouring and other table syrups imported in retail-ready packaging in containers not exceeding 3 litres.
18. Subject to the exception below, specialty wrapped sugar cubes, each individual wrapping containing not more than 3 sugar cubes, imported in retail-ready packages not exceeding 5 kg in weight. This exclusion does not include generic wrapped white sugar cubes (i.e. where the illustration consists of primarily a trade-mark, trade name, company name or other commercial identification as opposed to a unique illustration).
19. Pre-cut specialty shaped sugar pieces, imported in retail-ready packaging, in packages not exceeding 1 kg in weight - For greater clarity, these include diamond-, heart-, spade- and club-shaped sugar but do not include cube- or domino- (i.e. rectangular) shaped sugar.
20. Rough-shaped lumps and pieces, in lumps or pieces weighing between 3 and 10 grams on average, imported in retail-ready packaging, in individual packages not exceeding 1 kg in weight.

21. Very large crystal sugar, in crystals exceeding 0.05 g in weight on average, imported in retail-ready packaging, in individual packages not exceeding 1 kg in weight.
22. Specialty sugar cubes and dominoes (i.e. rectangles), made from demerara, brown, yellow or any other non-white sugar, imported in retail-ready packaging, in packages not exceeding 1 kg in weight - For greater clarity, this does not include any sugar cube or domino made from white granulated sugar.
23. Low-colour liquid sucrose with a colour no higher than 10 ICUMSA (International Commission for Uniform Methods of Sugar Analysis) colour units and distiller's grade liquid sucrose imported for use in the production of distilled spirits where it is established by the importer that low-colour liquid sucrose and distiller's grade liquid sucrose from Canadian sources do not meet the applicable product specifications.
24. Organic sugar meeting the requirements of the Canadian General Standards Board standard No. CAN/CGSB-32.310-99 (Organic Agriculture), the U.S. *Federal Organic Foods Production Act of 1990* or any rules adopted under that act, or the European Union EN2092/94 (Organic Regulation), where it is accompanied by a transaction certificate affirming compliance with the standard signed by an ISO Guide 65 accredited certifying authority.

**Additional Exclusion as of November 2, 2005**

25. Individually wrapped rectangular cane sugar tablets.

**Additional Exclusion as of October 30, 2015**

26. Specialty-coloured decorative sugar crystals in granulated form combined with carnauba wax and food colouring matter, imported in small retail-ready containers not exceeding 16 oz. for use exclusively as a superficial decoration in baked goods (such as pies, cakes, pastries, muffins, cookies, etc.) and other prepared foods.

The subject goods are normally classified under the following tariff classification numbers:

|               |               |               |               |
|---------------|---------------|---------------|---------------|
| 1701.91.10.00 | 1701.99.10.00 | 1702.90.12.00 | 1702.90.17.00 |
| 1701.91.90.21 | 1701.99.90.20 | 1702.90.13.00 | 1702.90.18.00 |
| 1701.91.90.29 | 1701.99.90.30 | 1702.90.14.00 | 1702.90.69.00 |
| 1701.91.90.91 | 1701.99.90.90 | 1702.90.15.00 | 1702.90.89.10 |
| 1701.91.90.99 | 1702.90.11.00 | 1702.90.16.00 |               |

**Like goods**

*Like goods* are goods that are *identical* or *similar* to the subject goods and are sold in the exporter's domestic market. Identical goods are goods that are identical in all respects to the

subject goods exported to Canada by having all the characteristics used to identify a model. For these re-investigations, a good is identical when it has the same following seven characteristics:

1. Form
2. Product Description
3. Grain Fraction
4. Organic
5. Polarimetry
6. Type of Packaging
7. Unit of Measure

*Similar goods* are goods that are not identical in all respects but are similar in use and in characteristics to the subject goods exported to Canada. As such, similar goods would generally meet several of the characteristics listed above.

### **Goods of the same general category**

In the absence of domestic sales that would meet the above-noted like goods selection criteria, provide domestic sales and costing information for goods of the same general category as refined sugar, produced in the subject country and sold in the exporter's domestic market. The goods of the same general category includes refined sugar not covered by the product definition.

### **Goods next largest to the goods of the same general category**

In the absence of domestic sales that would meet the above-noted like goods selection criteria and the absence of domestic sales of goods of the same general category, provide domestic sales and costs information for the group or range of goods that is next largest to the goods of the same general category, produced in the subject country and sold in the exporter's domestic market.

## PART B – INSTRUCTIONS

### PURPOSE OF THE REQUEST FOR INFORMATION

**B.1.** This Request for Information (RFI) specifies the information and documents required concerning:

A. **Subsidies** as defined in Canada's *Special Import Measures Act* (SIMA) and the *Agreement on Subsidies and Countervailing Measures* (ASCM) being a part of the *Agreement Establishing the World Trade Organization* (WTO Agreement), which are deemed to exist because of a **financial contribution** (as defined in Part C of this RFI) or **any form of income or price support** within the meaning of Article XVI of the GATT 1994, being part of Annex 1A to the WTO Agreement [Attachment I] by the *Government of the European Union*,<sup>1</sup> that confers a benefit to persons engaged in the production, manufacture, growth, processing, purchase, distribution, transportation, sale, export or import of subject 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; **AND**

B. The countervailability of any such **subsidy** (i.e. whether the subsidy is specific and actionable) within the meaning of SIMA.

➤ **Note that additional questions may be requested in the form of a Supplemental Request for Information at a later date as a result of new information obtained by the CBSA.**

**B.2.** The Canada Border Services Agency (CBSA) will be assessing to what extent countervailable programs have affected the sale price of subject goods shipped to Canada during the **period of investigation (POI) of March 1, 2020 to August 31, 2021**. In certain instances, information and documentation may be requested outside this period in order to determine any amount of subsidy applicable to subject goods. Benefits from certain types of subsidies are allocated over time corresponding to the average useful life of an asset and thus subsidies received in number of years preceding the POI may require review.

**B.3** An exporter subsidy RFI has been sent directly to all exporters identified to date by the CBSA. Where adequate responses are not received by the CBSA, the CBSA will base its decision on the facts available.

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<sup>1</sup> Refer to the definition of Government of the European Union found in Part C – Glossary.

- B.4.** Please note that information is required to be presented for any program, regardless of the date of implementation, to assess if a benefit has been conferred upon companies in the European Union that have produced or sold subject goods during the POI.

## **CONFIDENTIAL AND NON-CONFIDENTIAL INFORMATION**

- B.5.** **Part F** of the questionnaire, which contains several sections deals with the requirements pertaining to the confidential and non-confidential information submitted to the CBSA in connection with proceedings under SIMA.

## **FORMAT OF INFORMATION SUBMITTED**

- B.6.** During the COVID-19 pandemic, please note that you must submit your response or supplementary response to the questionnaire electronically as follows: by email (with size of 10 MB or less per email – your response can be fragmented and sent in more than one email to accommodate the size capacity) at the following address: [simaregistry-depotlmsi@cbsa-asfc.gc.ca](mailto:simaregistry-depotlmsi@cbsa-asfc.gc.ca); or by way of secure file transfer link/electronic portal sent to [simaregistry-depotlmsi@cbsa-asfc.gc.ca](mailto:simaregistry-depotlmsi@cbsa-asfc.gc.ca).
- B.7.** Submit the confidential information and the non-confidential edited version or summary separately identified as follows: CONFIDENTIAL or NON-CONFIDENTIAL, company name, date and SIMA case file number (**SUG 2021 RI**). CONFIDENTIAL submissions should be password protected; please send the password in a separate email to: [simaregistry-depotlmsi@cbsa-asfc.gc.ca](mailto:simaregistry-depotlmsi@cbsa-asfc.gc.ca)
- B.8.** Hardcopies (paper), USB keys or CD submissions will not be accepted.
- B.9.** If you submit by way of secure file transfer or electronic portal, please note that the CBSA does not accept any risk, responsibility or liability for the use of secure file transfer providers or e-platforms, nor do we recommend one provider over another as the CBSA cannot guarantee the confidentiality of documents uploaded to third party servers.
- B.10.** If you have any questions about how to submit, please inquire at the contact email provided for the SIMA Registry.
- B.11.** Use the YYYY-MM-DD format for all dates. For example, write October 23, 2020 as 2020-10-23.
- B.12.** Narrative or text responses must be provided in Microsoft Word compatible format. Spreadsheets or data responses must be provided in Microsoft Excel compatible format. Files may be submitted in a compressed ZIP format, but not RAR.
- B.13.** Your response must state each numbered question followed by a complete response. If a question does not apply to your company or requests information in a format that is

different than that in which it is maintained, an explanation as to why the question does not apply or how the information was adjusted to respond to the question is required.

- B.14.** Your response must be in either English or French. Any source material that you provide must be in the document's original language and must be accompanied by a translation in either English or French.
- B.15.** Replies to questions should be as specific as possible and clearly reflect the situation. It is essential to submit a complete and detailed response to each question. Where a question does not apply, an appropriate explanation should be given as to why it does not apply. Consequently, in many instances, "Not Applicable" or an answer that only refers to an exhibit or an attachment will not provide the CBSA with a clear explanation of the existing situation and will be considered an incomplete response
- *Note that answers such as: "Not Applicable" or an answer that only refers to an exhibit, an attachment, or previous submission is not acceptable. Your response to any question should be complete on its own. Any supporting cross-references to exhibits, attachments or previous submission must be specific in nature, citing the name of the document, where it can be found, the page number and paragraph or section reference.*

## **DUE DATE FOR RESPONSE**

- B.15.** Late responses may not be considered for purposes of these re-investigations. Therefore, the CBSA must receive your response no later than the due date shown on the covering page of this RFI (**November 12, 2021**). If you do not fully respond to this RFI, amounts of subsidy/countervailing duty assessed on subject goods will be based on the facts available to the CBSA.

## **VERIFICATION MEETINGS**

- B.16.** A complete response, including all of the documentation requested, must be submitted to the CBSA before a verification meeting will be considered.
- B.17.** It is common practice for CBSA officers to visit government officials, exporters and the manufacturer(s) of the subject goods in order to verify the information submitted. You will be contacted in advance of such a meeting to make arrangements as to the time and place of the verification meeting.
- B.18.** If the verification meeting is delayed or cancelled due to the unavailability of government officials to meet with CBSA officers, countervailing duty assessed on subject goods may be based on the facts available to the CBSA.
- B.19.** The purpose of the verification meeting is to verify information already provided to the CBSA in your submission prior to the meeting or to obtain further details. **It is not**

**intended to be a second opportunity to provide new or additional information.**

Accordingly, the original response should be complete and accurate.

- B.20.** During any verification meeting with the CBSA, each government official who prepared any part of the response and who has knowledge of the source documentation and the information contained therein must be available to meet with CBSA officers and to provide additional clarification and explanation, as required..
- B.21.** To satisfy itself as to the integrity, completeness and accuracy of the information supplied, the CBSA may examine information in respect of other companies not listed in ATTACHMENT C. For example, the CBSA may require information on companies or industries not covered by this re-investigation in order to determine whether a particular subsidy is specific in accordance with Article 2 of the WTO Agreement on Subsidies and Countervailing Measures.
- B.22.** During the verification meeting, your office should be in a position to promptly retrieve requested documents and to provide photocopies of such documents when requested by the CBSA officers. During the meeting, you will also be required to provide a non-confidential version of each document requested by CBSA officers. CBSA officers will require two copies of each document (plus one copy of the non-confidential version) requested during the verification meeting.

## **SOURCE DOCUMENTS**

- B.23.** Source documents should be kept easily accessible at your location for possible review during a verification meeting.

## **FAILURE TO COOPERATE**

- B.25.** Failure to submit all required information and documentation, including non-confidential versions, failure to comply with all instructions contained in this RFI, failure to permit verification of any information, failure to provide reliable/accurate information, or failure to provide documentation requested during the verification visits may result in the assessment of amount of subsidy/countervailing duties on subject goods based on the facts available to the CBSA.

## **RESULTS OF THE RE-INVESTIGATIONS & DISCLOSURE MEETINGS**

- B.26.** The results of the re-investigations, including the methodologies for determining the amount of subsidy, if any, will be provided to your company upon completion of the re-investigations. Subsequently, should you wish to discuss the results of the re-investigations and the decisions taken, CBSA officers will be available to meet with you or your representatives in Ottawa, Canada.

## **ESTABLISHING CONTACT WITH THE CBSA**

- B.27.** You are requested to contact a CBSA officer indicated on the covering page of this RFI within a week following the receipt of this request, by telephone or e-mail to indicate whether you will be responding to the RFI and if so, your government's contact person. If applicable, indicate the name, telephone number, and e-mail address of the counsel that will be representing your government during this re-investigation. At the same time, you are encouraged to raise any questions you may have and seek any explanations necessary to assist you in completing your submission.

## **COUNSEL**

- B.28.** If you have retained counsel to represent you in this matter before the CBSA, a letter of authorization must be provided. When such letter of authorization is provided, the CBSA will, upon request, undertake to provide copies of all outgoing correspondence with the the designated counsel. Furthermore, if it is your wish that confidential be released to or discussed with your counsel, the letter should specifically authorize the CBSA to do so. In such circumstances, the letter of authorization will serve as the CBSA's authority to release confidential materials to your counsel such as calculation spreadsheets, or to discuss the particulars of your file. Please note that the CBSA is not in a position to either discuss the particulars of your file or to provide copies of any materials contained in the file to the designated counsel unless the letter of authorization has been provided.

## PART C – GLOSSARY

### **Associated Persons**

"Associated persons" is defined as follows:

The following persons are "associated persons" or persons associated with each other, namely,

- persons related to each other; or
- persons not related to each other, but not dealing with each other at arm's length.

Persons are related to each other if

- they are individuals connected by blood relationship, marriage or adoption;
- one is an officer or director of the other;
- each such person is an officer or director of the same two corporations, associations, partnerships or other organizations;
- they are partners;
- one is the employer of the other;
- they directly or indirectly control or are controlled by the same person;
- one directly or indirectly controls or is controlled by the other;
- any other person directly or indirectly owns, holds or controls five per cent or more of the outstanding voting stock or shares of each such person; or
- one directly or indirectly owns, holds or controls five per cent or more of the outstanding voting stock or shares of the other.

The term "person" includes a partnership, corporation or an association.

### **Enterprise**

"*Enterprise*" includes a group of enterprises, an industry and a group of industries.

### **Financial Assistance**

"*Financial assistance*" includes a quantifiable benefit.

### **Financial contribution**

There is a "*financial contribution*" by a government where:

- (a) practices of the government involve the direct transfer of funds or liabilities or the contingent transfer of funds or liabilities;

- (b) amounts that would otherwise be owing and due to the government are exempted or deducted or amounts that are owing and due to the government are forgiven or not collected;
- (c) the government provides goods or services, other than general governmental infrastructure, or purchases goods; or
- (d) the government permits or directs a non-governmental body to do anything referred to in any of paragraphs (a) to (c) where the right or obligation to do the thing is normally vested in the government and the manner in which the non-governmental body does the thing does not differ in a meaningful way from the manner in which the government would do it.

**Government of the European Union (GOE)**

For the purposes of this re-investigation “Government of the European Union” refers to all levels of government, i.e. federal, central, provincial/state, regional, municipal, city, township, village, local, legislative, administrative or judicial, singular, collective, elected or appointed. It also includes any person, agency, enterprise, or institution acting for, on behalf of, or under the authority of any law passed by the GOE.

**Like Goods**

Like goods are goods that are identical in all respects to the subject goods exported to Canada, or in the absence of identical goods, goods the uses and other characteristics of which closely resemble those of the exported goods (similar goods). Refer to the specific characteristics contained under the definition of subject goods in Part A of this RFI.

**Period of Investigation (POI)**

The POI represents the time frame selected at the time of initiation to delineate the importations into Canada for which information is required and that will be investigated. The POI for this re-investigation is listed on the cover page of this RFI.

**Person**

Includes a partnership, corporation or an association.

**Sale**

Includes leasing and renting, an agreement to sell, lease or rent and an irrevocable tender.

**Similar Goods**

Similar goods are goods that are not identical in all respects but are similar in use and in characteristics to subject goods exported to Canada. Refer to the specific characteristics contained under the definition of subject goods in Part A of this RFI.

**Special Economic Zone (SEZ)**

Refers to a Organized Industrial Zone, Free Zone, Special Economic Area, Economic and Technical Development Zone, Bonded Zone, Export Processing Zone, High Technology Industrial Development Zone, or any other designated area where benefits from the Government of the European Union (including central, provincial, municipal or county government) accrue to a company because of being located in such an area

**State-Owned Enterprise (SOE)**

“State-Owned Enterprise” means any company or enterprise that is wholly or partially owned by the Government of the European Union (as defined above). This can include companies operating in a partnership or joint-venture capacity with the Government of the European Union or whose shares are publicly traded and wholly or partially owned by the Government of the European Union.

In order to be capable of granting a countervailable subsidy, an SOE must possess, exercise or be vested with government authority.

For further clarity, this definition also applies to state-owned commercial banks.

**Subject Goods**

The definition of subject goods is contained in Part A of this RFI.

**Subsidy**

A financial contribution or any form of income or price support within the meaning of Article XVI of the GATT 1994, being part of Annex 1A to the WTO Agreement (Attachment I of this RFI), by a government of a country that confers a benefit to persons engaged in the production, manufacture, growth, processing, purchase, distribution, transportation, sale, export or import of subject 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 which have been exempted or have been or will be relieved by means of remission, refund or drawback.

## **PART D – GENERAL INFORMATION REQUESTED**

**Please provide written responses for all questions in this Part.**

**National administrations are kindly requested to reply to all points under this part of the questionnaire, except for certain aspects at EU level that will be covered only in the Commission’s reply to the questionnaire (clearly indicated under each point). Your reply should focus on the activities linked to the sugar sector carried out at national level.**

**→ Please write the name of your country on the top-right side of each page.**

- D1.** Please provide the name of the person who will be responsible for providing the response to this Request for Information (“RFI”), along with title, address, telephone number and e-mail address. This person will be our contact for any further inquiries concerning the response and for arranging any verification visit by CBSA officers that may be planned.
- D2.** Explain, in detail, the structure of the refined sugar sector in your country, particularly with respect to the production and sale of the goods. Your response should cover the government departments, agencies or offices, trade associations or chambers of commerce responsible for and/or supervising this industrial sector, the functions undertaken by them, government input into establishing and enforcing qualitative standards and the decision making process respecting the manufacture, marketing and sales of refined sugar, including any restrictions, quotas, limits for the production volume and any state set or administrative guidance selling prices for export and domestic sales of refined sugar.
- D3.** Identify and provide an explanation of the specific roles and responsibilities of government departments, agencies or institutions, which are/were directly or indirectly involved in economic policy development, economic regulation and decision-making activities with respect to the refined sugar sector.

**Only the Commission will provide a description of the above activities at EU level. Suggested answer: "Please refer to the European Commission's reply to the RFI"**

- D4.** Please provide the following statistical information as maintained by an official government entity for the POI, in domestic currency and Canadian dollars, and indicate the source:

- (a) Total volume and value of exports of subject goods to Canada during the Period of Investigation (POI). Please specify if the value is based on ex-factory, F.O.B. (port, shipping point, etc.), C.I.F., or some other value; and

**Only the Commission will provide the statistics with total figures at EU level.  
Suggested answer: "Please refer to the European Commission's reply to the RFI"**

- (b) Total volume and value of exports of subject goods to Canada during the POI, by company. Please specify if the value is based on ex-factory, F.O.B. (port, shipping point, etc.), C.I.F., or some other value.

**D5.** For your information, a listing of known and potential exporters and producers are included in ATTACHMENT C of this RFI. In response to this question, please provide the names, address including the city (town), province and postal code, telephone number and e-mail address of any other company not listed in ATTACHMENT C, which have produced and/or exported subject goods to Canada during the POI.

**Your administration is kindly requested to list below any sugar producers/exporter operating in your country, which have produced and/or exported subject goods to Canada during the POI, not included in Attachment C (produced by Canada) or in the "List of sugar producers in the European Union"(produced by the Commission).**

**Possible answers (for clarification purposes):**

**-There are no producers/exporters in Country X having exported to Canada during the POI.**

**-Sugar producers or exporters to Canada from Country X are already included either in Attachment C or the "List of sugar producers in the European Union"**

**-There are producers/exporters exporting to Canada during the POI not listed in Attachment C or in the "List of sugar producers in the European Union".  
The names are the following:.... .**

**France and Portugal: are kindly requested to indicate the sugar producers/exporters, which have produced and/or exported subject goods to Canada during the POI, including the overseas territories (i.e. covered by the POSEI programs)**

## **PART E – SUBSIDY PROGRAMS UNDER RE-INVESTIGATION**

*For each program*, if no producer/company subject to investigation or associated producers/companies as indicated in **Attachment C**, applied for, used, or benefited from that program during the POI, your government must so state and provide a brief explanation of the program and a detailed description of the records kept on that program. Otherwise, please answer the questions listed.

**See in the cover email the clarifications given by Canada concerning the programmes that need to be included in this part.**

For any program that has multiple funding sources or is administered by different governmental levels, please provide information as to the roles played by each administering authority (e.g., organization, source of funding, administration, approving authority). If a question requires information from other authorities, e.g., state governments, please forward questions to the appropriate source. However, it is the responsibility of the Government of the European Union to ensure that full and complete responses to questions on regional programs are obtained from the appropriate regional authority.

For each of the programs identified in 1 and 2 below, please provide the information requested in Section A and Section B:

### **1.0 Programs in effect at the time of the last Re-investigation**

At the time of the last re-investigation, the following two programs were confirmed to be in existence and had been determined to be actionable subsidy programs by the CBSA.

- A) Price Support
- B) Programmes of Options Specifically Relating to Remoteness and Insularity (POSEI)

### **2.0 Changes to the E.U. Sugar Program since 2014**

The CBSA is aware that there have been some major reforms to the EU sugar program since the CBSA's last re-investigation in 2014.

- A) Elimination of the E.U. sugar quota regime in September 2017 (as detailed in Regulation (EU) No 1308/2013 of 17 December 2013)

### **3.0 Any Other Program not Previously Addressed**

There may be other assistance programs administered directly or indirectly by the GOE resulting in benefits granted and/or received by your company.

Such assistance programs are those that constitute a subsidy as defined in Paragraph 1 of Part B, consisting of any financial contribution as defined in Part C, as described in **Attachment I**,

that confers a benefit to persons engaged in the production, manufacture, growth, processing, purchase, distribution, transportation, sale, export or import of the subject goods.

## **SECTION I: INFORMATION REQUESTED ON ALL ALLEDGED SUBSIDY PROGRAMS**

**Please provide the following information for each of the programs identified above, as well as any other programs not previously addressed:**

**National administrations are kindly requested to reply to all points under this part of the questionnaire, except for certain aspects at EU level that will be covered only in the Commission's reply to the questionnaire (clearly indicated under each point).**

**Your reply should focus on the activities linked to the sugar sector carried out at national level.**

- SQ.1 Provide the name of the department or government agency and the name, address, e-mail address, facsimile and telephone numbers of a senior official therein, responsible for providing and administering each of the identified programs.
- SQ.2 Provide a detailed narrative explaining the operation of the program. Please include a detailed description of the benefits available under the program. Indicate the date that the program first came into operation, as well as the effective dates of any significant changes in how the program operates. Please also stipulate whether the program was in operation during the POI and if it continues in operation today. If the program has been terminated, indicate whether there are any administrative arrangements in effect that allow producers/companies to continue to benefit from the program. Provide a copy of the legislation that proclaims that the program has been terminated if such is the case.

**Only the Commission will provide a description of the following programmes applied at EU level:**

- **Aid for private storage (Art.17 of R.1308/2013**
- **Measures against market disturbance ( art.219 of R.1308/2013**
- **Measures to resolve specific problems (art.221 of R.1308/2013)**
- **Application of Article 101(1) of TFEU (art.222 of R.1308/2013)**
- **State aid paid in the context of POSEI in France and Portugal**
- **POSEI measures for sugar sector in France Portugal and Spain**
- **Coupled and Decoupled Direct Payments (R. 1307/2013)**
- **Measures and sub-measures available /open to sugar sector under EAFRD in your MS**

**Your administration is kindly requested to include a description of all other measures at national level, for example, EAFRD measures actually implemented for the sugar sector in the POI to either beet growers or sugar producers. For each of these measures, please clearly indicate the reason for granting the aid.**

- **Investment support both for the modernisation of sugar beets' farms and sugar processing industries under EAFRD;**

- **Rural development support or other to cover preventive actions aiming at reducing the consequences of probable natural disasters or support seeking the restoration of agricultural potential due to a natural disasters or even diseases ;**
- **Rural Development support or other of environmental purpose aiming to reduce fertilisers, antiparasites or in general other chemical inputs and thus protecting the water reservoir and the soil ;**
- **Social or risk management support to address a serious crisis in the sector and/or reconverting from sugar beets to other sectors or other business models**
- **Support to address the negative effects of COVID-19 crisis.**

**Your administration is kindly requested to include any information on State Aid schemes provide to both farmers and sugar producers/exporters in the POI under this section by replying to the questions listed under section 1 and 2.**

**Any state aid under the de minimis rule (under R.1408/2013) needs to be also included.**

**Finnish authorities are kindly requested to include a description of the national payment for the sugar sector under Article 214 of R.1308/2013**

**For each State Aid schemes, please clearly indicate its objective, for example restoration of agricultural potential, compensation for income forgone due to natural disasters and adverse climate conditions, increase productivity and competitiveness, addressing the negative effects of COVID-19 crisis etc.**

SQ.3 For each of the identified programs, provide copies of all laws, regulations and/or other legal instruments under which financial assistance is provided and provide any reports pertaining to the programs that were published during or since the POI.

**Only the Commission will provide the laws, regulations etc. applicable at EU level.**

**Your administration is kindly requested to include the same information for any EAFRD or State Aid measure taken at national level listed under SQ2.**

SQ.4 Identify and explain the types of records maintained by the government agency or authority (e.g., accounting records, company-specific files, databases, budget authorizations, etc.) regarding each of the identified programs.

**Your administration is kindly requested to provide information about the types of records concerning the programmes identified under SQ2.**

SQ.5 Describe the application process (including any application fees charged by the government agency or authority) for each of the identified programs and provide a blank copy of the application form. Describe in detail the eligibility criteria established for receipt of assistance for each of the identified programs. Describe the procedures by

which an application is analyzed and eventually approved or disapproved. In addition, provide all approval documents together with any conditions or criteria subject to the approval. Similarly, provide the disapproval documents together with the reasons for disapproval in situations in which an application would be disapproved.

**Your administration is kindly requested to provide:**

- a description of the application process for all programs identified under SQ2, including the programs at EU level.
- a description of the eligibility criteria set at national level for the EAFRD programs where the sugar sector can also be a beneficiary, POSEI programs for the sugar sector in France, Portugal and Spain and State Aid measures.
- a template of all documents used during each stage of the approval process, including templates of all documents used when the application is disapproved. Documents should be provided either in English or French. Otherwise, a translation of these documents will be needed. Further details concerning translation may be sent in the coming days.

#### **PART E. SECTION II: Benefits to Exporters/Producers listed in Attachment C**

For each program above, provide the following information:

SQ.6 Please indicate which of the exporters/producers (i.e., all companies listed in **Attachment C**, and those identified by the Government of the European Union), applied for, accrued, or received benefits under the identified program during the POI and the appropriate number of preceding years. For recurring benefits, this period is the POI. For non-recurring benefits, please indicate the year in which the benefits were received. **If none of the exporters/producers applied for, or received benefits during the relevant period, you need not answer the remaining questions.**

**Your administration is kindly requested to use both the Attachment C (produced by Canada) and the "List of sugar producers in the European Union" for this exercise. Please indicate in your reply, if you identify additional sugar producers/exporters (to any destination) not included in the two lists above, that benefited from any of the programs identified under SQ2 (including the programs at EU level for which the Commission will provide a general description).**

**Please make sure that all sugar exporters to Canada included in the statistics for point D4(b) above are taken into account.**

**Please note that the POI covers applied for, accrued or received benefits.**

**For a specific programme, if no company in your country complies with the above conditions, you need not answer the remaining questions (i.e. SQ7 to SQ 14).**

- SQ.7 Identify the amounts of the benefits received under the identified program from the Government of the European Union, by each of the identified exporters/producers during the POI.
- SQ.8 Provide copies of the accepted application form, all attachments and all contractual agreements entered into with the identified exporters/producers that received benefits from the program.
- SQ.9 Outline the fees charged to, or expenses incurred by the identified exporters/producers for purposes of obtaining those benefits.
- SQ.10 Specify the eligibility criteria that exporters/producers are required to meet in order to receive benefits under this program. State whether eligibility was or is currently contingent on one or more of the following criteria:
- (i) whether or not the company exports or has increased its exports;
  - (ii) the use of domestic rather than imported inputs;
  - (iii) the industry to which the company belongs; or
  - (iv) the region in which the company is located.
- SQ.11 Specify the criteria the exporter/producer met in order to receive the particular amount of assistance provided.
- SQ.12 If, in the approval documents (e.g., loan contract, grant authorization) the activity to be supported by the funding was specified, please identify the activity and provide supporting documentation.
- SQ.13 Please provide a list by industry and by region, of the exporters/producers that have received benefits under the program in the year the provision of benefits was approved and each of the preceding three years. Provide the total amounts of benefits received by each type of industry in each region in the year the provision of benefits was approved and each of the preceding three years.
- SQ.14 How many exporters/producers have applied for benefits under the program in the year the financial assistance or benefit was approved and each of the preceding three years? How many applicants have received financial assistance/benefit and how many applicants have been rejected in the year the financial assistance/benefit was approved and each of the preceding three years? Please explain why applicants have been rejected.
- SQ.15 Describe any anticipated changes in the programs. Provide documentation substantiating your answer. If the programs have been terminated, state the last date that a producer/company could apply for or claim benefits under the program. When is the last date that a company could receive benefits under the program?

**If need be, only the Commission will provide a reply to question SQ.15.**

**PART E. SECTION III: ANY OTHER PROGRAMS NOT PREVIOUSLY ADDRESSED**

If any level of government in the European Union, any of its agencies or any other authorized non-governmental body provides any other assistance programs not previously addressed, to companies listed in **Attachment C**, please identify the program(s) and respond to the questions in Sections I and II (above) of Part E of the Request for Information.

Such assistance programs are those that constitute a subsidy as defined in Paragraph 1 of Part B, consisting of:

- i) any financial contribution as defined in Part C, or
- ii) any form of income or price support within the meaning of Article XVI of the GATT 1994, as described in **Attachment A**,

that confer a benefit to persons engaged in the production, manufacture, growth, processing, purchase, distribution, transportation, sale, export or import of the subject goods.

For greater certainty, this includes any subsidy which is contingent, whether solely or as one of several other conditions, upon export performance, including those illustrated in Annex I of the *Agreement on Subsidies and Countervailing Measures* (copy attached as **Attachment A**) and any program which is contingent, whether solely or as one of several other conditions, upon the use of domestic over imported goods (i.e. does any level of government provide financial assistance to exporters of the subject goods for purposes of reducing their cost of domestically sourced inputs, tools, machinery and so forth with the result that the said goods are purchased from domestic producers rather than from other countries?).

**The Commission is waiting for a general clarification by Canada concerning the information requested in this Section.**

## **PART F – TREATMENT OF CONFIDENTIAL AND NON-CONFIDENTIAL INFORMATION**

### **Submitted to the CBSA for all Proceedings under SIMA**

**NOTE:** The CBSA updated its administrative process concerning the submission and disclosure of confidential information. Please use the following hyperlink to access the updated guideline: [Confidentiality and Disclosure Guidelines for SIMA Proceedings](#). You may also locate the new supporting documents in the [Counsel's Toolkit](#).

### **Why Provide Confidential and Non-Confidential Information?**

The *Special Import Measures Act* (SIMA) requires that confidential information submitted to the CBSA be accompanied by a non-confidential (public) version of the information. The following explains how non-confidential and confidential information will be handled and how to prepare both a confidential and non-confidential submission of your information.

### **Treatment of Your Non-Confidential Information**

Your non-confidential information will be given to any party that asks for this information for the purposes of the proceeding.

### **Treatment of Your Confidential Information**

There are certain times when the CBSA will release your confidential information: first, to independent counsel for a party to the proceeding; and second, to Canadian courts, tribunals and panels.

1. Confidential information will be provided to independent counsel for a party to the proceeding.

**Counsel** includes any person, other than a director, servant or employee of the party, who acts in the proceedings on behalf of the party, not limited to legal counsel. A **party** is a person, or business, that participates in and has a direct interest in the proceeding.

Counsel must ask for the confidential information in writing and must provide a written guarantee to the CBSA stating that they will:

- only use the information in relation to this proceeding;
- not distribute the information;
- protect the information;
- destroy the information within the earlier of 45 days of the completion of a SIMA proceeding, or within 30 days of the end of their participation in a proceeding;
- provide the CBSA with a written notice that the information is destroyed; and
- report any violations or possible violations to the CBSA.

The CBSA will not give your confidential information to independent counsel if the CBSA believes that it might cause harm to you or your business.

- Confidential information will be given to the Canadian International Trade Tribunal, any Court in Canada, a Binational or World Trade Organization (WTO) Panel, to act on appeals. These organizations will use your information to fulfill their responsibilities under Canadian law, NAFTA or WTO Agreements. The confidential information is subject to the rules of procedure of the Court or Panel to which it is provided.

### Providing Only Non-Confidential Information?

If you decide that your reply to this RFI does not contain confidential information, every page of your reply should be marked "NON-CONFIDENTIAL". You must make a statement, in a covering letter, that you do not consider any information in your submission to be confidential.

### Providing Confidential Information?

If your reply to this RFI contains confidential information, this reply, along with all of the attachments and supporting documents, will be your confidential submission. In the confidential submission, you must:

- Clearly identify confidential information by enclosing it within [square brackets] and **highlighting** all confidential information therein; and
- Clearly mark every page of the confidential submission as "CONFIDENTIAL", including all attachments.

The following example would be considered as an acceptable confidential version:

*The selling price of product ABC to our Canadian distributor was US\$[25.99] per unit.*

#### NOTE:

The highlighted text must clearly be legible.

Please ensure that the highlight does not render the text undecipherable when the information is converted electronically to PDF format.

In some cases (e.g. appendices and excel data), simply highlighting the confidential information, without the use of brackets, will be considered sufficient. To this effect, the following example represents an acceptable confidential version of a listing of export sales to Canada.

| 1              | 2          | 3        | 4          | 5             | 6                | 7                |
|----------------|------------|----------|------------|---------------|------------------|------------------|
| IMPTR          | DATSHIP    | INVNUM   | INVDATE    | QUANTITY      | EXTSP            | NETSP            |
| <b>XX Inc.</b> | 2016-02-16 | 14064555 | 2016-02-16 | <b>500 MT</b> | <b>\$500,000</b> | <b>\$450,000</b> |
| <b>YY Inc.</b> | 2016-03-14 | 14179020 | 2016-03-12 | <b>250 MT</b> | <b>\$225,000</b> | <b>\$202,500</b> |
| <b>ZZ Inc.</b> | 2016-04-14 | 14253018 | 2016-04-16 | <b>300 MT</b> | <b>\$330,000</b> | <b>\$297,000</b> |

Further, in order for submissions containing confidential information to be accepted as exhibits and taken into consideration by the CBSA, a “Designation of Confidential Information” must be on record with the CBSA regarding the subject proceeding, and a non-confidential version of the information must be provided in each instance.

## 1. **Designation of Confidential Information**

When you provide confidential information for the first time in respect of a SIMA proceeding, a “Designation of Confidential Information” must be submitted to the CBSA. Here, you must identify the nature of the information you wish to designate as confidential, and provide reasons why you request that the information be treated as confidential. For your reference, a template of such designation is attached to this section.

## 2. **Non-confidential Version**

The non-confidential version is a public version of the same document with the confidential information removed. However, it must contain sufficient detail to enable readers to understand the nature of the submitted information, as they are provided to other parties involved in this proceeding and members of the public upon request.

A non-confidential version may be submitted either as a **bracketed version**, or as a **summary**, as described below:

### **[Non-confidential Bracketed Version]**

This is a duplicate of the confidential version with all confidential information removed. The parts where confidential information was deleted should clearly be identified in square brackets and highlighted.

As an example, the following would be considered as an acceptable non-confidential bracketed version:

*The selling price of product ABC to our Canadian distributor was US\$[ ] per unit.*

#### **NOTE:**

The spacing between the brackets [ ] should reflect the same spacing as in the confidential version.

Do not use “shading”, “font colors” or any other type of masking to hide confidential information in the non-confidential version. You must delete (remove) the confidential information in the non-confidential version.

Please also note that as per the earlier instruction, the non-confidential information must still indicate the nature of the deleted information, which in this case, is the selling price information.

In some cases (e.g. appendices and excel data), it will be considered sufficient to simply remove the confidential information, and not use brackets or highlights to identify parts

where confidential information had been deleted. A sample page for a multi-page listing could look like this:

| 1     | 2          | 3        | 4          | 5        | 6     | 7     |
|-------|------------|----------|------------|----------|-------|-------|
| IMPTR | DATSHIP    | INVNUM   | INVDATE    | QUANTITY | EXTSP | NETSP |
|       | 2016-02-16 | 14064555 | 2016-02-16 |          |       |       |
|       | 2016-03-14 | 14179020 | 2016-03-12 |          |       |       |
|       | 2016-04-14 | 14253018 | 2016-04-16 |          |       |       |

**[Non-Confidential Summary Version]**

Where deleting information for a non-confidential bracketed version would not leave enough detail to provide an understanding of the confidential information removed, a non-confidential summary of the deleted information must be included, describing the confidential information that has been removed, the name of the party and the reason why the information must remain confidential.

**Review of Non-Confidential Submission**

The non-confidential version of your submission will be reviewed by the CBSA to ensure that it is in sufficient detail to convey a reasonable understanding of the substance of the information submitted in the confidential version.

If CBSA determines that an adequate non-confidential bracketed version *or* a non-confidential summary of information designated as confidential has not been provided by the respondent, and the respondent fails to justify why it cannot be provided, does not withdraw the designation, does not take corrective action or does not submit a revised version, the CBSA will **NOT** use the confidential information provided by your organization in the proceedings. As a result, the CBSA’s determination will be based on the best information available. It is imperative that companies delete only the minimum information necessary to protect their interests and only what is confidential.

You will find on the next page the Designation of Confidential Information discussed in the previous sections.

DESIGNATION OF CONFIDENTIAL INFORMATION

I, \_\_\_\_\_, \_\_\_\_\_ of \_\_\_\_\_  
(Print name) (Print Position / Title) (Print name of company)

request to designate the information contained in response to the Request for Information concerning the subsidy re-investigation into certain refined sugar originating in or exported from the European Union, and identified in section A of this statement as confidential.

**Section A** - *Briefly list the nature of the information you wish to designate as confidential*

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**Section B** - *Provide reasons why you request that the information be treated confidential*

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Signed: \_\_\_\_\_

Date: \_\_\_\_\_

## PART G -REQUEST FOR INFORMATION CHECKLIST

To be submitted with your response to the RFI

Please respond to each of the following questions by placing a checkmark in the “yes” or “no” column. **If a response is no**, provide an explanation as to why you have not complied with the instructions.

| <b>Question 1:</b>   | <b>Yes</b>               | <b>No</b>                |                |
|--|--------------------------|--------------------------|----------------|
| Did you provide a confidential and non-confidential version of your response in accordance with the disclosure instructions in the Request?  | <input type="checkbox"/> | <input type="checkbox"/> | If no, reason: |
| <b>Question 2:</b>   | <b>Yes</b>               | <b>No</b>                |                |
| Did you complete the <i>Designation of Confidential Information</i> for designating information as confidential?   | <input type="checkbox"/> | <input type="checkbox"/> | If no, reason: |
| <b>Question 3:</b>   | <b>Yes</b>               | <b>No</b>                |                |
| Did you bracket and highlight the confidential information in the confidential response?   | <input type="checkbox"/> | <input type="checkbox"/> | If no, reason: |
| <b>Question 4:</b>   | <b>Yes</b>               | <b>No</b>                |                |
| Did you mark every page of the confidential submission as “CONFIDENTIAL”, including all attachments?   | <input type="checkbox"/> | <input type="checkbox"/> | If no, reason: |
| <b>Question 5:</b>   | <b>Yes</b>               | <b>No</b>                |                |
| Did you mark every page of the non-confidential version “NON-CONFIDENTIAL” as well as place empty brackets and highlight areas where confidential information was deleted from the non-confidential version? | <input type="checkbox"/> | <input type="checkbox"/> | If no, reason: |

**PART H - CERTIFICATE OF VERACITY,  
ACCURACY AND COMPLETENESS**

**Government Official Certification**

**[Note: this certificate should be reproduced and signed on your department's letterhead by a responsible government official who has authority to respond on behalf of your government.]**

***I, \_\_\_\_\_, currently employed  
(name and title)***

***by \_\_\_\_\_, on behalf of the European Commission,  
(government department)***

***certify that***

certify that the information contained in this submission to the CBSA in response to the Request for Information concerning the subsidy re-investigation into certain refined sugar originating in or exported from the European Union is, to the best of my knowledge, complete and accurate.

Signed: \_\_\_\_\_

Date: \_\_\_\_\_

Telephone number of signatory: \_\_\_\_\_

Fax number of signatory: \_\_\_\_\_

E-mail address of signatory: \_\_\_\_\_

Address of signatory: \_\_\_\_\_

\_\_\_\_\_

## LISTING OF ATTACHMENTS

| <b>ATTACHMENT</b> | <b>DESCRIPTION</b>  |
|-------------------|---|
| <b>A</b>          | Income and Price Support (GATT 1994, Article XVI, Annex 1A)   |
| <b>B</b>          | Illustrative List of Export Subsidies (Agreement on Subsidies and Countervailing Measures, Annex 1) |
| <b>C</b>          | List of Known Exporters and Producers in the European Union ( <b>Confidential</b> )                 |

**ATTACHMENT A**

**Income and Price Support**

***(GATT 1994, ARTICLE XVI, SECTION A1)***

## ATTACHMENT A

### [Excerpt of General Agreement on Tariffs and Trade 1994]

#### Article XVI\*

##### *Subsidies*

##### **Section A - Subsidies in General**

1. If any contracting party grants or maintains any subsidy, including any form of income or price support, which operates directly or indirectly to increase exports of any product from, or to reduce imports of any product into, its territory, it shall notify the CONTRACTING PARTIES in writing of the extent and nature of the subsidization, of the estimated effect of the subsidization on the quantity of the affected product or products imported into or exported from its territory and of the circumstances making the subsidization necessary. In any case in which it is determined that serious prejudice to the interests of any other contracting party is caused or threatened by any such subsidization, the contracting party granting the subsidy shall, upon request, discuss with the other contracting party or parties concerned, or with the CONTRACTING PARTIES, the possibility of limiting the subsidization.

##### **Section B - Additional Provisions on Export Subsidies\***

2. The contracting parties recognize that the granting by a contracting party of a subsidy on the export of any product may have harmful effects for other contracting parties, both importing and exporting, may cause undue disturbance to their normal commercial interests, and may hinder the achievement of the objectives of this Agreement.

3. Accordingly, contracting parties should seek to avoid the use of subsidies on the export of primary products. If, however, a contracting party grants directly

or indirectly any form of subsidy which operates to increase the export of any primary product from its territory, such subsidy shall not be applied in a manner which results in that contracting party having more than an equitable share of world export trade in that product, account being taken of the shares of the contracting parties in such trade in the product during a previous representative period, and any special factors which may have affected or may be affecting such trade in the product.\*

4. Further, as from 1 January 1958 or the earliest practicable date thereafter, contracting parties shall cease to grant either directly or indirectly any form of subsidy on the export of any product other than a primary product which subsidy results in the sale of such product for export at a price lower than the comparable price charged for the like product to buyers in the domestic market. Until 31 December 1957 no contracting party shall extend the scope of any such subsidization beyond that existing on 1 January 1955 by the introduction of new, or the extension of existing, subsidies.

5. The CONTRACTING PARTIES shall review the operation of the provisions of this Article from time to time with a view to examining its effectiveness, in the light of actual experience, in promoting the objectives of this Agreement and avoiding subsidization seriously prejudicial to the trade or interests of contracting parties.

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\* Asterisks mark the portions of the text which should be read in conjunction with notes and supplementary provisions in Annex I to the World Trade Organization Agreement. \*

**ATTACHMENT B**  
**Illustrative List of Export Subsidies**

***(AGREEMENT ON SUBSIDIES AND  
COUNTERVAILING MEASURES, ANNEX I)***

## ATTACHMENT B

### [Excerpt of General Agreement on Tariffs and Trade 1994]

#### ANNEX I - ILLUSTRATIVE LIST OF EXPORT SUBSIDIES

- (a) The provision by governments of direct subsidies to a firm or an industry contingent upon export performance.
- (b) Currency retention schemes or any similar practices which involve a bonus on exports.
- (c) Internal transport and freight charges on export shipments, provided or mandated by governments, on terms more favourable than for domestic shipments.
- (d) The provision by governments or their agencies either directly or indirectly through government-mandated schemes, of imported or domestic products or services for use in the production of exported goods, on terms or conditions more favourable than for provision of like or directly competitive products or services for use in the production of goods for domestic consumption, if (in the case of products) such terms or conditions are more favourable than those commercially available<sup>57</sup> on world markets to their exporters.
- (e) The full or partial exemption remission or deferral specifically related to exports, of direct taxes<sup>58</sup> or social welfare charges paid or payable by industrial or commercial enterprises<sup>59</sup>.
- (f) The allowance of special deductions directly related to exports or export performance, over and above those granted in respect to production for domestic consumption, in the calculation of the base on which direct taxes are charged.
- (g) The exemption or remission, in respect of the production and distribution of exported products, of indirect taxes<sup>58</sup> in excess of those levied in respect of the production and distribution of like products when sold for domestic consumption.

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<sup>57</sup>The term "commercially available" means that the choice between domestic and imported products is unrestricted and depends only on commercial considerations.

<sup>58</sup>For the purpose of this Agreement:

The term "direct taxes" shall mean taxes on wages, profits, interests, rents, royalties, and all other forms of income, and taxes on the ownership of real property;

The term "import charges" shall mean tariffs, duties, and other fiscal charges not elsewhere enumerated in this note that are levied on imports;

The term "indirect taxes" shall mean sales, excise, turnover, value added, franchise, stamp, transfer, inventory and equipment taxes, border taxes and all taxes other than direct taxes and import charges;

"Prior-stage" indirect taxes are those levied on goods or services used directly or indirectly in making the product;

"Cumulative" indirect taxes are multi-staged taxes levied where there is no mechanism for subsequent crediting of the tax if the goods or services subject to tax at one stage of production are used in a succeeding stage of production;

"Remission" of taxes includes the refund or rebate of taxes;

"Remission or drawback" includes the full or partial exemption or deferral of import charges.

<sup>59</sup>The Members recognize that deferral need not amount to an export subsidy where, for example, appropriate interest charges are collected. The Members reaffirm the principle that prices for goods in transactions between exporting enterprises and foreign buyers under their or under the same control should for tax purposes be the prices which would be charged between independent enterprises acting at arm's length. Any Member may draw the attention of another Member to administrative or other practices which may contravene this principle and which result in a significant saving of direct taxes in export transactions. In such circumstances the Members shall normally attempt to resolve their differences using the facilities of existing bilateral tax treaties or other specific international mechanisms, without prejudice to the rights and obligations of Members under GATT 1994, including the right of consultation created in the preceding sentence. Paragraph (e) is not intended to limit a Member from taking measures to avoid the double taxation of foreign-source income earned by its enterprises or the enterprises of another Member.

## ATTACHMENT B

- (h) The exemption, remission or deferral of prior-stage cumulative indirect taxes<sup>58</sup> on goods or services used in the production of exported products in excess of the exemption, remission or deferral of like prior-stage cumulative indirect taxes on goods or services used in the production of like products when sold for domestic consumption; provided, however, that prior-stage cumulative indirect taxes may be exempted, remitted or deferred on exported products even when not exempted, remitted or deferred on like products when sold for domestic consumption, if the prior-stage cumulative indirect taxes are levied on inputs that are consumed in the production of the exported product (making normal allowance for waste).<sup>60</sup> This item shall be interpreted in accordance with the guidelines on consumption of inputs in the production process contained in Annex II.
- (i) The remission or drawback of import charges<sup>58</sup> in excess of those levied on imported inputs that are consumed in the production of the exported product (making normal allowance for waste); provided, however, that in particular cases a firm may use a quantity of home market inputs equal to, and having the same quality and characteristics as, the imported inputs as a substitute for them in order to benefit from this provision if the import and the corresponding export operations both occur within a reasonable time period, not to exceed two years. This item shall be interpreted in accordance with the guidelines on consumption of inputs in the production process contained in Annex II and the guidelines in the determination of substitution drawback systems as export subsidies contained in Annex III.
- (j) The provision by governments (or special institutions controlled by governments) of export credit guarantee or insurance programmes, of insurance or guarantee programmes against increases in the cost of exported products or of exchange risk programmes, at premium rates which are inadequate to cover the long-term operating costs and losses of the programmes.
- (k) The grant by governments (or special institutions controlled by and/or acting under the authority of governments) of export credits at rates below those which they actually have to pay for the funds so employed (or would have to pay if they borrowed on international capital markets in order to obtain funds of the same maturity and other credit terms and denominated in the same currency as the export credit), or the payment by them of all or part of the costs incurred by exporters or financial institutions in obtaining credits, in so far as they are used to secure a material advantage in the field of export credit terms.

Provided, however, that if a Member is a party to an international undertaking on official export credits to which at least twelve original Members to this Agreement are parties as of 1 January 1979 (or a successor undertaking which has been adopted by those original Members), or if in practice a Member applies the interest rates provisions of the relevant undertaking, an export credit practice which is in conformity with those provisions shall not be considered an export subsidy prohibited by this Agreement.

- (l) Any other charge on the public account constituting an export subsidy in the sense of Article XVI of GATT 1994.

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<sup>60</sup>Paragraph (h) does not apply to value-added tax systems and border-tax adjustment in lieu thereof; the problem of the excessive remission of value-added taxes is exclusively covered by paragraph (g).

**ATTACHMENT C - LIST OF KNOWN EXPORTERS AND PRODUCERS IN  
THE EUROPEAN UNION**