

**NOTICE OF COMMENCEMENT OF INQUIRY
(E-REGISTRY SERVICE PILOT PROJECT)**

CERTAIN UPHOLSTERED DOMESTIC SEATING

Notice was received by the Canadian International Trade Tribunal on May 5, 2021, from the Director General of the Trade and Anti-dumping Programs Directorate at the Canada Border Services Agency (CBSA), stating that preliminary determinations had been made respecting the dumping and subsidizing of the subject goods defined as follows:

Upholstered seating for domestic purposes originating in or exported from the People's Republic of China and the Socialist Republic of Vietnam, whether motion (including reclining, swivel and other motion features) or stationary, whether upholstered with a covering of leather (either full or partial), fabric (including leather-substitutes) or both, including, but not limited to seating such as sofas, chairs, loveseats, sofa-beds, day-beds, futons, ottomans, stools and home-theatre seating.

Excluding:

- (a) stationary (i.e. non-motion) seating upholstered only with fabric (rather than leather), even if the fabric is a leather-substitute (such as leather-like or leather-look polyurethane or vinyl);
- (b) dining table chairs or benches (with or without arms) that are manufactured for dining room end-use, which are commonly paired with dining table sets;
- (c) upholstered stools with a seating height greater than 24 inches (commonly referred to as "bar stools" or "counter stools"), with or without backs, and/or foldable;
- (d) seating manufactured for outdoor use (e.g. patio or swing chairs);
- (e) bean bag seating; and
- (f) foldable or stackable seating.

For greater certainty, the product definition includes:

- (a) upholstered motion seating with reclining, swivel, rocking, zero-gravity, gliding, adjustable headrest, massage functions or similar functions;
- (b) seating with frames constructed from metal, wood or both;
- (c) seating produced as sectional items or parts of sectional items;
- (d) seating with or without arms, whether part of sectional items or not; and
- (e) foot rests and foot stools (with or without storage).

Pursuant to section 42 of the *Special Import Measures Act (SIMA)*, the Tribunal has initiated an inquiry to determine whether the dumping and subsidizing of the subject goods have caused injury or retardation or are threatening to cause injury, and to determine such other matters as the Tribunal is required to determine under that section.

Each person or government wishing to participate in the inquiry and at the hearing as a party must file a Form I – Notice of Participation with the Tribunal on or before **May 20, 2021**. Each counsel who intends to represent a party in the inquiry and at the hearing must file a Form II – Notice of Representation, as well as a Form III – Declaration and Undertaking, with the Tribunal on or before **May 20, 2021**. The forms can be found in English and French on the Tribunal’s website (citt-tcce.gc.ca/en/forms/forms.html).

The Tribunal will hold a hearing relating to this inquiry in August 2021. Given the current COVID–19 situation, the type of hearing, the place, and the exact date will be communicated at a later date.

In accordance with section 46 of the *Canadian International Trade Tribunal Act*, a person who provides information to the Tribunal and who wishes some or all of the information to be kept confidential must submit to the Tribunal, at the time the information is provided, a statement designating the information as confidential, together with an explanation as to why that information is designated as confidential. Furthermore, the person must submit a non-confidential edited version or non-confidential summary of the information designated as confidential, or a statement indicating why such a version or summary cannot be made.

Written submissions, correspondence and requests for information regarding this notice should be addressed to the Deputy Registrar, Secretariat to the Canadian International Trade Tribunal, at citt-tcce@tribunal.gc.ca (e-mail). The Registry can also be reached by telephone at 613-993-3595.

The documents entitled “Additional Information” and “Inquiry Schedule” are appended to this notice of commencement of inquiry, which is also available on the Tribunal’s website (decisions.citt-tcce.gc.ca/citt-tcce/ra/en/item/18072/index.do).

Dated at Ottawa, Ontario
this 6th day of May 2021

ADDITIONAL INFORMATION

BACKGROUND INFORMATION

On May 5, 2021, the Tribunal received notice from the Director General of the Trade and Anti-dumping Programs Directorate at the CBSA, stating that preliminary determinations had been made respecting the dumping and subsidizing of the subject goods defined as follows:

Upholstered seating for domestic purposes originating in or exported from the People's Republic of China and the Socialist Republic of Vietnam, whether motion (including reclining, swivel and other motion features) or stationary, whether upholstered with a covering of leather (either full or partial), fabric (including leather-substitutes) or both, including, but not limited to seating such as sofas, chairs, loveseats, sofa-beds, day-beds, futons, ottomans, stools and home-theatre seating.

Excluding:

- (a) stationary (i.e. non-motion) seating upholstered only with fabric (rather than leather), even if the fabric is a leather-substitute (such as leather-like or leather-look polyurethane or vinyl);
- (b) dining table chairs or benches (with or without arms) that are manufactured for dining room end-use, which are commonly paired with dining table sets;
- (c) upholstered stools with a seating height greater than 24 inches (commonly referred to as "bar stools" or "counter stools"), with or without backs, and/or foldable;
- (d) seating manufactured for outdoor use (e.g. patio or swing chairs);
- (e) bean bag seating; and
- (f) foldable or stackable seating.

For greater certainty, the product definition includes:

- (a) upholstered motion seating with reclining, swivel, rocking, zero-gravity, gliding, adjustable headrest, massage functions or similar functions;
- (b) seating with frames constructed from metal, wood or both;
- (c) seating produced as sectional items or parts of sectional items;
- (d) seating with or without arms, whether part of sectional items or not; and
- (e) foot rests and foot stools (with or without storage).

Pursuant to section 42 of *SIMA*, the Tribunal will now determine whether the dumping and subsidizing of the subject goods have caused injury or retardation or are threatening to cause injury, and determine such other matters as the Tribunal is required to determine under that section.

The Tribunal has sent the Notice of Commencement of Inquiry, as well as a letter outlining the details of the procedures and the Schedule of Inquiry, to the domestic producers, importers, foreign producers, and certain purchasers with a known interest in the inquiry. Some interested parties have been requested to complete questionnaires.

All questionnaires can be downloaded, in English or French, from the Tribunal's website (citt-tcce.gc.ca/en/collections/anti-dumping-injury-inquiries/questionnaires.html).

REQUEST FOR SUBMISSIONS ON LIKE GOODS

In its statement of reasons issued on March 8, 2021, for the preliminary determination of injury it made on February 19, 2021, the Tribunal stated that, in determining the scope of the like goods, it starts with the principle, articulated in previous decisions, that the like goods must be co-extensive with the scope of the subject goods as defined by the CBSA in the product definition. As the Tribunal was not persuaded that there were adequate grounds to distinguish its previous decisions concerning the application of the principle of co-extensiveness at the preliminary stage of the proceedings, it found that the domestically produced like goods did not include upholstered seating products that are excluded from the product definition. However, the Tribunal noted that arguments in support of defining the like goods more broadly may merit further consideration during an eventual inquiry under section 42 of *SIMA*.

In order to come to an early decision on the issue of like goods, the Tribunal is inviting interested parties to file submissions on whether there is merit in expanding the definition of the like goods in this case to include stationary (i.e. non-motion) seating for domestic purposes upholstered only with fabric (rather than leather), even if the fabric is a leather-substitute (such as leather-like or leather-look polyurethane or vinyl).

In making their submissions, parties are asked to present facts and arguments on (1) whether the previously applied principle that the like goods must be co-extensive with the scope of the subject goods is well founded in law, and (2) whether stationary seating for domestic purposes upholstered only with fabric are like goods to the subject goods. With respect to the second question, parties are also asked to address the factors that the Tribunal typically considers in determining the like goods, including:

- the physical characteristics of the goods (such as appearance and composition);
- the market characteristics of the goods (such as substitutability, pricing, distribution channels, end uses and whether the goods fulfil the same customer needs); and
- any other relevant factors.

The Tribunal requests that parties support their submissions with evidence, as appropriate.

Parties filing submissions on like goods are required to do so by **noon (ET) on June 4, 2021**. Parties wishing to respond to these submissions are required to do so by **June 9, 2021**. Counsel and parties are required to serve their respective submissions on each other on the above dates and provide the Tribunal with proof of service. Public submissions are to be served on all parties. Confidential submissions are to be

served only on independent counsel who have access to the confidential record, and who have filed an Undertaking with the Tribunal.

Moreover, on or about May 31, 2021, the Tribunal will distribute to parties a summary of the responses to the purchasers' questionnaire that pertain specifically to like goods in order to allow parties to use this information in preparing their submissions.

The Tribunal will render its decision on like goods no later than June 16, 2021.

REQUESTS FOR PRODUCT EXCLUSIONS

The Tribunal's *Guideline to Making Requests for Product Exclusions*, which can be found on the Tribunal's website (citt-tcce.gc.ca/en/resource-types/guideline-making-requests-product-exclusions.html), describes the procedure for filing requests for specific product exclusions. This guide also includes a form for filing requests for product exclusions and a response form for any party that opposes such requests. This does not preclude parties from making submissions in a different format if they so wish, provided all the information and supporting documentation requested in the forms are included. Please see the filing deadlines for the product exclusion process in the attached Inquiry Schedule.

REQUESTS FOR A PUBLIC INTEREST INQUIRY

In the event of an injury finding, a request for a public interest inquiry conducted pursuant to subsection 45(1) of *SIMA* may be made by any party to the injury inquiry or by any other group or person affected by the injury finding. Such a request must be filed with the Tribunal within 45 days of an injury finding. A public interest inquiry and an injury inquiry are completely separate proceedings. The Tribunal does not seek nor does it accept submissions on public interest issues during an injury inquiry.

PROCEDURE FOR FILING WITH THE TRIBUNAL

The public may file documents electronically with the Tribunal through its Secure E-filing Service at <https://efiling-depote-pub.citt-tcce.gc.ca/submit-eng.aspx>. The information is fully encrypted from the sender to the Tribunal.

Form I – Notice of Participation, Form II – Notice of Representation and Form III – Declaration and Undertaking should be filed electronically through the Tribunal's Secure E-filing Service at <https://efiling-depote-pub.citt-tcce.gc.ca/submit-eng.aspx>.

Following receipt of Forms I – Notice of participation, Forms II – Notice of representation and Forms III – Declaration and Undertakings, the Tribunal will send a letter to counsel and self-represented participants with information on the E-registry Service and the filing of documents.

PUBLIC HEARING

The Tribunal will hold a hearing relating to this inquiry in August 2021. Given the current COVID-19 situation, the type of hearing, the place, and the exact date will be communicated at a later date.

INTERPRETATION AT THE HEARING

Parties' requirements for interpretation services will vary depending on factors including the language(s) used by other parties, and the language(s) used by witnesses. The Tribunal's experience is that much depends on people's comfort level in understanding the language(s) used in a proceeding.

The procedure that follows is a two-step process that provides the Tribunal with advanced notice to ensure the availability of interpretation services for hearings, when required. It is geared at allowing parties to make informed requests in a timely manner.

- Step One: 25 days prior to the hearing, parties are to declare to the Tribunal and all parties, in writing, *which language(s)* their counsel and witnesses will be using.
- Step Two: 20 days prior to the hearing, pursuant to subrule 23(4) of the *Canadian International Trade Tribunal Rules (CITT Rules)*, parties are to declare to the Tribunal and all parties, in writing, *which interpretation services* they and/or their witnesses require for the hearing and declare if the interpretation service is required for the entirety of the hearing or for specific testimonies and/or arguments.

OTHER INFORMATION

The *CITT Rules* govern these proceedings.

Written and oral communication with the Tribunal may be in English or in French.

In order to observe and understand production processes, the Tribunal, accompanied by its staff, may conduct plant visits.

At the end of these proceedings, the Tribunal will issue a decision supported by a summary of the case, a summary of the arguments and an analysis of the case. The decision will be posted on its website and distributed to the parties and interested persons, as well as to organizations and persons that have registered to receive decisions of the Tribunal.

INQUIRY SCHEDULE

May 6, 2021	Distribution of notice of commencement of inquiry and schedule Questionnaires available on Tribunal's website
May 20, 2021	Notices of participation and representation, declarations and undertakings
May 27, 2021	Replies to all questionnaires
May 31, 2021	Distribution of Tribunal summary of the responses to the purchasers' questionnaire that pertain specifically to like goods
June 4, 2021, by noon, ET	Submissions on like goods
June 9, 2021	Reply submissions on like goods
June 16, 2021	Tribunal decision on like goods
June 24, 2021	Distribution of Tribunal exhibits, including the investigation report
June 24 to July 2, 2021, by noon, ET	Requests for information (RFIs)
June 28, 2021	Investigation report teleconference (if required)
July 2, 2021, by noon, ET	Requests for product exclusions Submissions of parties supporting a finding of injury
July 5, 2021, by noon, ET	Objections to RFIs
July 8, 2021	Tribunal decisions on RFIs
July 9, 2021, by noon, ET	Responses to requests for product exclusions
July 9, 2021	Identification of language(s) to be used at the hearing
July 12, 2021, by noon, ET	Submissions of parties opposing a finding of injury
July 14, 2021	Requests for interpretation services during the hearing
July 19, 2021, by noon, ET	Replies to RFIs Replies to responses to requests for product exclusions Reply submissions of parties supporting a finding of injury

August 2021	Public hearing (TBD)
September 2, 2021	Finding issued
September 17, 2021	Statement of reasons issued