August 15, 2023

Canada Gazette, Part I, Volume 157, Number 21: Regulations Amending the Valuation for Duty Regulations

Medtech Canada is the national association representing Canada's innovative medical technology (medtech) industry. Representing over 120 medtech companies (ranging from Canadian-owned to multinationals), Medtech Canada works closely with government and healthcare stakeholders to deliver a patient-centred, safe, accessible, innovative and sustainable universal healthcare system supported by the use of medical technology. Covering a wide range of products, medical technology examples include pacemakers, artificial heart valves, hip implants, synthetic skin, scalpels, medical laboratory diagnostic instruments, test kits for diagnosis to name just a few. More than 1,500 medtech companies operate in Canada and the Canadian medtech industry employs more than 35,000 Canadians. Canada's medical device market is the eighth largest in the world, with the medical device manufacturing industry valued at $6.8bn in 2022 and the lowest-cost G7 country for companies who specialize in biotechnology, product testing and clinical trials. Canada has a dynamic medical technology industry that is critical in supporting the effective and efficient functioning of our health care system.

Medtech Canada supports the joint submission made by the Canadian Chamber of Commerce (CCC) and the United States Chamber of International Business (USCIB) including their four recommendations:

1. CBSA should seek to modify and refine the Proposal to, at the very least, ensure that the unintended consequences of the Proposal are meaningfully addressed. In order to do so, it is important that CBSA engage with industry stakeholders on the formulation of the amendments.
2. Canada should inform its international trading partners via a WTO notification of its proposed intent to modify the VFD regulations to validate CBSA's position that the proposal is consistent with the WTO rules and accepted by Canada's international trading partners.
3. CBSA should initiate a more thorough costing analysis of the proposed regulation's impacts, including projected incremental duties and taxes for Canadian resident importers.
4. The Proposal as currently drafted should not move forward into Canada Gazette 2 because its impact and inherent challenges have been significantly underestimated. However, upon final

publication in Gazette 2, there should be a significant amount of time (at least 12-18 months) before the coming into force of the proposed amendments.

The CCC/USCIB joint submission also references the increased costs for Canadian consumers as a result of this proposal: "A forward shift of higher duty payments resulting in higher prices for consumers was an expected result if the first sale rule had been invalidated in the United States. The Proposal will add significant and unprecedented increased costs to many non-resident importers and Canadian resident importers alike. These costs will ultimately be passed on to consumers, as is generally the case with the forward shift of indirect taxes, thereby further exacerbating inflationary pressures on Canadian citizens." From a medical technology sector / healthcare industry perspective, consumers include government-funded healthcare providers, and with this in mind, we would suggest that CBSA consider the potential negative impact on provincial health budgets.

Thank you for considering our comments.

For more information, please contact Raj Malik, Vice-President, Federal Affairs & National Strategic Partnerships, Medtech Canada at rmalik@medtechcanada.org.