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# MACH

## Machinery Program



Government  
of Canada

Gouvernement  
du Canada

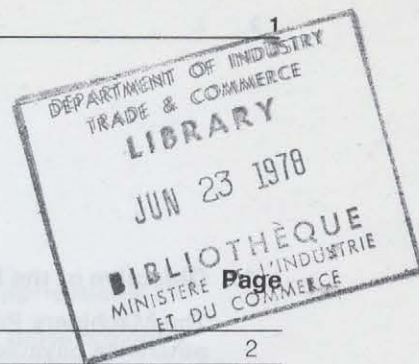
Industry, Trade  
and Commerce

Industrie  
et Commerce

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Machinery Program  
on Remission of  
Duty under  
Tariff Items  
42700-1 and 41100-1  
(MACH)

### 1. Objective of the Program

The Machinery Program provides that the duty otherwise payable on goods classified under Tariff Items 42700-1 and 41100-1 may be remitted if such goods are not available from production in Canada. The objective is to increase efficiency throughout Canadian industry by enabling users to acquire advanced equipment not obtainable from Canadian production at the lowest possible cost, yet affording Canadian manufacturers tariff protection on the machinery and equipment they produce as soon as they are in a position to supply. This is particularly significant for Canadian producers of custom-engineered machinery.

### 2. Scope of Tariff Items 42700-1 and 41100-1

Tariff Item 42700-1 replaced 18 previous tariff items. It covers a broad range of machines including general purpose machinery, metal-working and woodworking machinery, construction and materials handling equipment, and various types of special industry machinery such as pulp and paper and plastics industry machinery and service industry equipment. Tariff Item 41100-1 covers logging machinery and machines for sawing lumber.

The Tariff Items are worded as follows:

- 42700-1 Machines, n.o.p. and accessories, attachments, control equipment and tools for use therewith, parts of the foregoing:
- |                             |      |
|-----------------------------|------|
| British Preferential Tariff | 2½ % |
| Most Favoured Nation Tariff | 15%  |
| General Tariff              | 35%  |
| General Preferential Tariff | 2½ % |
- 41100-1 Machines for use in sawing lumber, up to but not including the operation of planing, and parts thereof, not including equipment for driving the machinery of the saw mill, when for use exclusively in saw mills;
- Machines, and parts thereof, for use exclusively in the operation of logging, such operation to include the removal of the log from stump to skidway, log dump, or common or other carrier.

British Preferential Tariff	10%
Most Favoured Nation Tariff	12½ %
General Tariff	20%
General Preferential Tariff	8%

Except that in the case of the importation into Canada of any goods enumerated in these items, the Governor-in-Council, on the recommendation of the Minister of Industry, Trade and Commerce, may, whenever he considers that it is in the public interest and that the goods are not available from production in Canada, remit the duty specified in these items applicable to the goods, and subsections (2), (3), (4), (5) and (8) of section 22 of the Financial Administration Act apply in the case of a remission granted under this provision.

The relevant subsections of section 22 of the Financial Administration Act are set out in part 10.

### 3. Basis on Which Remission of Duty Is Recommended

Remission of duty may be granted on the recommendation of the Minister of Industry, Trade and Commerce whenever he considers the following criteria have been met:

- (i) remission is in the public interest, and
- (ii) the machinery is not available from production in Canada.

#### *Public Interest*

Remission of duty on machinery not available from production in Canada is expected to assist machinery users by reducing their capital costs, and normally would be regarded as being in the public interest.

#### *Availability*

Machinery is considered to be available from production in Canada if at least one manufacturer has proved capability to manufacture machinery which, insofar as its range of physical qualities, operational characteristics and efficiency are concerned, is reasonably equivalent to the machinery for which remission is sought.

Proven capability may be deemed as existing in Canada if:

- (a) the full range of technical and physical capabilities necessary for production of the machinery exists within the operational framework of at least one manufacturer; and
- (b) such facilities have in fact produced machinery demonstrating competence reasonably equivalent to that required to produce the machinery for which remission is sought.

#### 4. Conditions Under Which Applications for Remission Will Be Considered

The Minister of Industry, Trade and Commerce will consider applications for remission, subject to the following conditions:

- (i) *Application Form*  
Applications must be made on Department of Industry, Trade and Commerce form "Application for Remission of Duty on Imports under Tariff Items 42700-1 and 41100-1." (These forms are available at customs offices.)
- (ii) *Eligible Period*  
Applications will be accepted before importation or normally not later than 90 days after date of customs clearance. However, in exceptional circumstances the Minister may accept applications submitted later than 90 days after importation.
- (iii) *Commitment*  
Applications by other than users of machinery must include assurances which are satisfactory to the Minister that remission of duty, if granted, will be reflected in prices to users.
- (iv) *Minimum Value*  
Remission of duty will not be recommended on the first five hundred dollars (\$500) of value for duty on machinery eligible for remission covered by any one application.

#### 5. Instructions for Submitting Applications

These instructions supplement those provided on the application form.

- (i) *Eligible Goods*  
An application may cover machinery of similar types to be imported in more than one shipment.
- (ii) *Related Equipment*  
Accessories, attachments, control equipment and tools, which are not integral parts of a machine, may be considered for remission separately from the machines with which they are used, provided such equipment is classifiable under Tariff Item 42700-1 or 41100-1.
- (iii) *Replacement Parts*
  - (a) Remission of duty on machinery will normally cover subsequent importations of replacement parts, classifiable under Tariff Item 42700-1 or 41100-1.
  - (b) Applications are not required for parts, classifiable under Tariff Item 42700-1, for those machines, accessories for machines, or attachments to machines imported prior to January 1, 1968, provided such machines were, as of December 31, 1967, held to be "of a class or kind not made in Canada." These parts are allowed to enter free of duty under P.C. 1971-2727 as amended.
- (iv) *Parts for Use in Production*  
Applications may be submitted for parts to be incorporated in machinery being manufactured in Canada, provided they are classifiable under Tariff Item 42700-1 or 41100-1. As with complete machines, a recommendation for remission would only be made in accordance with the criteria of "public interest" and "availability" as described in part 3.
- (v) *Used Machinery*  
Applications may be submitted for used machinery and will be considered on the same basis as for new machinery.

## 6. Remission Procedure

When applications are received, the Department of National Revenue determines if the goods are classified under Tariff Item 42700-1 or 41100-1. The applications are then referred to the Machinery and Equipment Advisory Board which advises the Minister of Industry, Trade and Commerce regarding the eligibility of machinery for remission of duty in accordance with the provisions of Tariff Item 42700-1 or 41100-1.

The Machinery and Equipment Advisory Board is composed of a Chairman and the Deputy Ministers of Industry, Trade and Commerce, Finance, and National Revenue. It is assisted by the branches of the Department of Industry, Trade and Commerce which are concerned with individual industries, including machinery manufacturing.

Where the Board advises that an application is eligible for remission, the Minister of Industry, Trade and Commerce may recommend accordingly to the Governor-in-Council. If remission is granted, notice thereof is provided on the original copy of the application which is returned to the applicant.

Where the Board advises that an application for remission is not eligible under the provisions of Tariff Item 42700-1 or 41100-1, the applicant is notified directly.

## 7. Renewal Procedure

The holder of an approved application for which the remission authority is still in force may apply for renewal of the remission by completing the form "Request for renewal of remission of duty on imports under Tariff Items 42700-1 and 41100-1." (These forms are available at customs offices.) In most cases, these requests can be processed more quickly than original applications and there is no need to re-submit supporting documentation other than a copy of the approved application. This procedure does not apply to applications for which the remission authority has expired nor to those where there has been a change in the goods described in the original application.

## 8. Review of Decisions

The Machinery and Equipment Advisory Board will consider and review decisions made regarding the eligibility of machinery for remission of duty under the provisions of the Program upon presentation of new and pertinent information.

A Machinery and Equipment Review Board will be established as and when required, to deal with appeals arising in respect of the provisions of Tariff Item 42700-1 or 41100-1. The Review Board will be established by the Governor-in-Council on the recommendation of the Minister of Industry, Trade and Commerce.

## 9. Customs Procedure

### *Importation After Notice of Remission Is Received*

If goods are imported after notice of remission is received, the notice must be presented at the Port of Entry in order to clear the goods without paying the amount of duty for which remission has been granted.

### *Importation Before Notice of Remission Is Received*

If a notice of remission is received after the date of customs clearance, a refund of duties paid may be obtained by submitting a Customs Form B-2 Refund Claim to the Department of National Revenue. The B-2 form must include reference to the Order-in-Council number under which remission was granted. If the applicant for refund is not the importer of record, he must obtain an appropriate power of attorney authorizing payment to him.

### *Transferability*

An applicant may assign to another party his right to remission of duty authorized in respect of his application. Such assignment should be in the form of a letter from the applicant to the assignee, indicating the description and quantity of the goods remitted which the assignment covers, and this letter or a copy thereof should accompany the Notice of Remission when presented for customs clearance or refund.

**10. Subsections of Section 22 of the Financial Administration Act**

- (2) A remission pursuant to this section may be total or partial, conditional or unconditional, and may be granted
- (a) before, after or pending any suit or proceeding for the recovery of the tax, fee or penalty in respect of which it is granted,
  - (b) before or after any payment thereof has been made or enforced by process or execution, and
  - (c) in the case of a tax or fee, in any particular case or class of case and before the liability therefor arises.
- (3) A remission pursuant to this section may be granted
- (a) by forbearing to institute a suit or proceeding for the recovery of tax, fee or penalty in respect of which the remission is granted,
  - (b) by delaying, staying or discontinuing any suit or proceeding already instituted,
  - (c) by forbearing to enforce, staying or abandoning any execution or process upon any judgment,
  - (d) by the entry of satisfaction upon any judgment, or
  - (e) by repaying any sum of money paid to or recovered by the Receiver General for the tax, fee or penalty.
- (4) Where a remission is granted under this section subject to a condition, and the condition is not performed, it may be enforced, or all proceedings may be had as if there had been no remission.

- (5) A conditional remission, upon performance of the condition, and an unconditional remission, have effect as if the remission was made after the tax, fee or penalty in respect of which it was granted had been sued for and recovered.
- (8) A statement of each remission of one thousand dollars or more granted under this section shall be reported to the House of Commons in the Public Accounts.

**11. For further information write to:**

The Secretary  
Machinery and Equipment Advisory Board  
235 Queen Street  
Ottawa, Ontario  
K1A 0H5