

for delivery of the same items to Canada.⁷⁷ The commercial mandate given to Canada Post requires it to obtain the best possible rate in order to maximize its returns.

113. Almost half the direct-deposit foreign periodicals business Canada Post receives is contracted through specific agreements, negotiated on a case-by-case basis subject to customer- and market-specific needs and opportunities as opposed to generic pricing policies. Canada Post's commercial pricing policies are determined by the demands of the markets in which it operates and not by governmental directives or public policy considerations.

D. Justification of Subsidized Postal Rates under Article III:8(b) of the GATT 1994

114. The funds paid by the Department of Canadian Heritage to Canada Post to enable it to grant Canadian publishers of publications reduced postal rates are allowable subsidies under Article III:8(b). It states:

"The provisions of this Article shall not prevent the payment of subsidies exclusively to domestic producers, including payments to domestic producers derived from the proceeds of internal taxes or charges applied consistently with the provisions of this Article and subsidies effected through governmental purchases of domestic products."

Article III:8(b), which explicitly recognizes that subsidies to domestic producers are not subject to the national treatment rules of Article III, applies with respect to all provisions of Article III, including Article III:4.

115. Canada disagrees with the argument put forward by the United States that subsidies paid to a Crown corporation (Canada Post), by a government department (Canadian Heritage), cannot be considered subsidies paid exclusively to domestic producers (Canadian publishers of publications), as provided in Article III:8(b). The sole purpose and function of the reduced postal rates, effected through negotiated payments to Canada Post, is to subsidize publishers of Canadian publications. The provision of reduced postal rates is a way of paying subsidies that is compatible with the GATT 1994. The sole purpose of the government payments to Canada Post is to allow eligible Canadian publishers the benefits of reduced postal rates. These payments are made to Canada Post four times a year in return for its undertaking to deliver eligible publications at the agreed reduced rates. The benefit of the subsidies flows directly to eligible Canadian magazine publishers. The Canadian publication industry is the exclusive beneficiary of these subsidies and must qualify for this subsidized rates in accordance with criteria set by the Department of Canadian Heritage before being found to be eligible.

77. This "mailed-in-Canada" rate has to be low enough to compensate the foreign publisher for: additional mail preparation requirements; the transportation cost to the designated Canadian point of mailing; the cost of maintaining correct postal codes; and other additional administrative requirements (often contracted out) due to mailing in Canada as opposed to mailing with the USPS for delivery to Canada.