

programs was not a subsidy on the ground that "the practice in question was a tax law, and tax laws are not subsidies to the taxpayer if their terms are generally available."¹⁹ The judge's comments on the broad rule of general availability or specificity do not constitute a binding precedent. However, the fact that he went to great lengths to criticize the ITA's reasons for a specificity test and to distinguish his ruling from the precedent set by Carlisle indicates an unwillingness on the part of at least one judge on the court to accept the ITA's interpretation of this section of the act. His views thus create some uncertainty about the strength of the specificity test in U.S. countervailing duty law.

Recent Cases Involving Canada

In its recent decisions, the ITA has continued to countervail only those subsidies that are targeted to specific enterprises, industries, groups of enterprises or industries, or regions in a country. The specificity test was applied to Canada's benefit in two recent cases. One case was Certain Softwood Products from Canada (Softwood Products).²⁰ The other was Live Swine and Fresh, Chilled, and Frozen Pork Products from Canada (Swine and Pork).²¹

In Softwood Products, numerous federal and provincial programs were found to confer subsidies because assistance was made available only to certain industries or to certain regions. These programs were not countervailed, however, because the net ad valorem subsidies were de minimis -- less than the .5 percent level required in the law. The following federal programs were determined to confer subsidies: