



## WTO rules against Ontario's FIT Program

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As an update to our first news release found [here](#), the World Trade Organization (WTO) has officially announced its ruling on the domestic content requirements of Ontario's Feed-In Tarriff (FIT) program. Much like the interim report, the final ruling finds that the FIT program violates the WTO rules that forbid treating domestic suppliers and products differently from foreign ones.

To quickly summarize the claim, the [EU and Japan first appealed to the WTO in 2011](#) claiming that the FIT program violated three WTO conventions: General Agreement on Tariffs and Trade (GATT); Trade-Related Investment Measures Agreement (TRIM); and the Subsidies and Countervailing Measures Agreement (SCM). As outlined in the WTO's [160 page decision](#), the three member panel has found that the FIT program discriminates against foreign suppliers of equipment and components for renewable energy facilities under GATT and TRIM, but not under SCM.

"In the light of the findings set out in the foregoing sections of this Report, we conclude that Japan [and the European Union] ha[ve] established that the "Minimum Required Domestic Content Level" prescribed under the FIT Programme, and implemented through the individual FIT and microFIT Contracts executed since the FIT Programme's inception, places Canada in breach of its obligations under Article 2.1 of the TRIMs Agreement and Article III:4 of the GATT 1994. On the other hand, in the light of the findings set out in the foregoing sections of this Report, we conclude that Japan [and the European Union] ha[ve] failed to establish that the FIT Programme, and the individual solar PV and windpower FIT and microFIT Contracts executed since the FIT Programme's inception, constitute subsidies, or envisage the granting of subsidies, within the meaning of Article 1.1 of the SCM Agreement, and thereby that Canada has acted inconsistently with Articles 3.1(b) and 3.2 of the SCM Agreement."

As a result, the report recommends that "Canada bring its measures into conformity with its obligations under the TRIMs Agreement and the GATT 1994."

In the meantime, Canada has already announced that it plans to appeal the WTO ruling. As the [Globe and Mail reports](#), "A spokeswoman for the federal Department of Foreign Affairs and International Trade said that 'as this is the first time Canada has received a WTO panel ruling arising solely from provincial policy or legislation, the government of Canada will be appealing the decision as requested by the government of Ontario.'"

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