

Department of Finance Considers Imposing Provisional Safeguards on the Import of Certain Steel Products

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The Department of Finance is considering imposing provisional safeguards on the import of certain steel products, and is seeking comments and feedback by **Wednesday, August 29, 2018**.

The WTO Agreement on Safeguards allows member countries to impose safeguard measures if it is believed, after thorough investigation by the Canadian International Trade Tribunal (CITT), that a surge in the importation of a particular good would “cause or threaten to cause serious injury to the domestic industry that produces like or directly competitive products.” However, member countries can forego the investigation and impose ‘provisional safeguards’ in critical circumstances “where delay would cause damage which it [sic] would be difficult to repair.” Provisional safeguards can only be imposed for up to 200 days, and a formal investigation would immediately take place to determine if they are in fact justified.

The government has indicated that the provisional safeguard could take the form of a surtax on all or quantities exceeding a particular threshold. While Canada has never imposed provisional safeguards, there have been instances where general safeguards have been recommended by the CITT, yet never actually imposed by the Government. However in July of this year, the European Union imposed provisional safeguards on the import of steel products in the form of a 25% surtax on imports exceeding 100% of the average 2015-2017 volume.

Feedback will be taken into consideration as the Minister of Finance prepares a report and recommendation on whether the Governor in Council should impose any provisional safeguard measures as authorized by *Customs Tariff*. If imposed, the matter will immediately be referred to the CITT for the formal investigation pursuant to the *Canadian International Trade Tribunal Act*. Interested parties can then participate in the safeguard inquiry conducted by the CITT, which would include the potential for both written and oral submissions, leading to a final report submitted by the CITT to the Government. If the CITT's report indicates a positive finding, the safeguard could be sustained for a period of up to four years. In the event that there is not a positive finding of serious injury or threat thereof to domestic producers, the provisional safeguard surtax must be refunded. Any parties directly affected by the Tribunal's report may also apply for judicial review in the Federal Court of Canada.

The government has indicated that the following seven steel products are under review for potential safeguard measures:

Cassels

- Steel plate: heavy machinery and transportation manufacturing and construction.
- Concrete reinforcing bar (rebar): strengthening and preventing concrete from cracking.
- Energy tubular products: oil and gas exploration, extraction and transmission.
- Hot-rolled sheet: construction and automotive, agricultural product and pipe and tube manufacturing.
- Pre-painted steel: construction, industrial packaging and appliances manufacturing.
- Stainless steel wire: manufacturing of pins, nails, springs, filters and conveyor belts.
- Wire rod: manufacturing of wires, springs, wire mesh, fasteners and nails, and automotive and industrial components.

For further details on each of the products, please see the Annex of this webpage.

Do not hesitate to reach out if you are concerned that you may be affected by the imposition of these safeguards and are interested in making submissions at any stage of this process.

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