

Minister of
Foreign Affairs



Ministre des
Affaires étrangères

Ottawa, Canada K1A 0G2

JUIN 12 2019

The Honourable Mark Eyking, P.C., M.P.
Chair, Standing Committee on International Trade
House of Commons
Ottawa ON K1A 0A6

Dear Mr. Chair,

Pursuant to Standing Order 109 of the House of Commons, I am pleased to respond on behalf of the Government of Canada to the recommendations made in the Report of the Standing Committee on International Trade entitled: *Section 232 of the United States Trade Expansion Act: Implications of Tariffs for Canada*, tabled in the House of Commons on February 20, 2019.

I thank the Committee for its study, which was conducted over many months and involved a range of stakeholders. I also wish to thank the firms, trade associations, and groups representing workers who appeared as witnesses, and other stakeholders who provided written submissions to the Committee.

This report demonstrates the Committee's commitment to assessing the impact of the U.S. Section 232 tariffs on the Canadian economy and on the steel and aluminum sectors more particularly. The Government supports all the recommendations made in the report and I am pleased that our efforts led to the removal of the U.S. tariffs and Canada's countermeasures as of May 20, 2019. I wish to thank you and your colleagues for your contribution to this process and I look forward to our continued collaboration as we protect the interests of Canadian industries and workers going forward.

Please find enclosed a copy of the Government's response to the recommendations of the Committee.

Sincerely,

A handwritten signature in blue ink, appearing to be 'C. Freeland', written over a light blue horizontal line.

The Honourable Chrystia Freeland, P.C., M.P.

Enclosure

Canada

GOVERNMENT RESPONSE TO THE FIFTEENTH REPORT OF THE HOUSE OF COMMONS
STANDING COMMITTEE ON INTERNATIONAL TRADE –
SECTION 232 OF THE UNITED STATES TRADE EXPANSION ACT:
IMPLICATIONS OF TARIFFS FOR CANADA

INTRODUCTION

The Government of Canada is pleased to respond to the Fifteenth Report of the House of Commons Standing Committee on International Trade, entitled *Section 232 of the United States Trade Expansion Act: Implications of Tariffs for Canada*.

The Government appreciates the work of the Committee and welcomes its analysis, views, and recommendations. The Government thanks the firms, trade associations, and groups representing workers who appeared as witnesses, and other stakeholders who provided written submissions to the Committee. The Government has carefully reviewed the Committee's report and supports all the recommendations made by the Committee. The Government would like to thank the Committee for its continued interest in the international competitiveness of Canadian businesses.

CANADIAN RESPONSE TO THE U.S. SECTION 232 TARIFFS

On March 23, 2018, the U.S. announced illegal and unjustified tariffs of 25 percent and 10 percent, respectively, on certain steel and aluminum products from most countries, except for Argentina, Australia, Brazil, Canada, the European Union (EU), Mexico, and South Korea. On June 1, 2018, these illegal and unjustified tariffs were extended to imports from Canada, Mexico, and the EU. Certain countries were exempted from tariffs as they agreed to quotas.

These tariffs were applied as a result of a national security investigation undertaken pursuant to Section 232 of the U.S. *Trade Expansion Act of 1962* (hereafter, U.S. Section 232 tariffs). Canada believes that there was no basis for these U.S. tariffs, as Canada-U.S. trade in the products subject to Section 232 investigations could not possibly pose a threat to the national security of the U.S. As Minister Freeland has said, the application of national security tariffs against Canada was absurd, given Canada's long-standing security and defense relationship with the U.S.

In response to the U.S. tariffs, on July 1, 2018, Canada started imposing reciprocal countermeasures (surtaxes) against \$16.6 billion in imports of steel, aluminum, and other products from the U.S., representing the value of 2017 Canadian exports affected by the U.S. tariffs. Canada also challenged these U.S. tariffs under the World Trade Organization (WTO) dispute settlement mechanism.

The trade disruptions affecting steel and aluminum, which are key manufacturing inputs, resulted in higher steel and aluminum prices and market uncertainty for Canadian businesses. Recognizing these challenges, on June 29, 2018, the Government of Canada announced that it would make available up to \$2 billion in support programs to defend and protect the interests of Canadian workers and businesses in the steel, aluminum and manufacturing industries. On March 11, 2019, the Government also announced \$100 million in support to Canadian small- and medium-sized enterprises (SME) manufacturing or using steel and aluminum.

In addition to these support programs, the Government is also providing assistance to Canadian manufacturers which faced increased surtax costs through targeted relief from Canadian surtaxes collected. This relief is provided through surtax remissions led by the Department of Finance and through the Canada Border Services Agency (CBSA) Duties Relief Program and Drawback Program.

The Government of Canada worked diligently to remove these illegal and unjustified tariffs. The Government engaged intensively with U.S. officials, members of Congress, and stakeholders to achieve a resolution to this issue. Canada stood firm and did not back down until we achieved the full lifting of the U.S. tariffs. This outcome was achieved on Friday, May 17, 2019, when the U.S. announced that it would eliminate tariffs on Canadian steel and aluminum imports within two days. Consequently, Canada announced that by May 20, Canada would lift its retaliatory measures against the U.S. These recent actions taken by Canada and the U.S. will allow our closely-linked economies to be more competitive around the world, creating good, well-paying, jobs for our citizens, and improving our combined security.

The Government of Canada will continue to ensure that Canada's steel and aluminum industries and workers have the support to be competitive and succeed, building on the more than \$2 billion in program support already in place.

RECOMMENDATIONS

Recommendation 1: *That the Government of Canada, on a priority basis, intensify its discussions with the Government of the United States regarding the tariffs that are being applied on certain Canadian steel and aluminum products pursuant to section 232 of the Trade Expansion Act of 1962. The Government should seek an outcome in which bilateral trade in steel and aluminum products is not limited by tariffs, quotas or other trade restrictions. Until that time, the Government of Canada should continue to consult with Canadian stakeholders on potential actions and support measures that would increase protections for Canadian workers, firms and jobs.*

The Government supports this recommendation. Removing the illegal and unjustified U.S. tariffs as soon as possible was a priority for the Government and led to the full removal of the U.S. tariffs. The Government recognizes the importance of the steel and aluminum industries and will continue to defend Canada's steel and aluminum industries and workers.

The removal of the tariffs was the result of the Government's continuous engagement with the U.S. administration on the Section 232 tariffs since President Trump announced the initiation of the Section 232 investigation in 2017 in order to push for an exemption for Canada from any national security tariffs. Advocacy continued after duties were imposed against Canada in June 2018. The Prime Minister frequently raised the issue of the tariffs with President Trump. Minister Freeland regularly met with the United States Trade Representative Robert Lighthizer, Secretary of State Mike Pompeo, and Vice President Mike Pence. She also raised this issue with Members of Congress, such as Senator Chuck Grassley, Congressman Earl Blumenauer, Speaker Nancy Pelosi, and Senator Jim Risch. Other Government Ministers also engaged their U.S. counterparts and U.S. stakeholders on the tariffs. In addition, Canada's mission network in the U.S., led by Canada's Ambassador, engaged in an extensive advocacy effort with U.S. administration officials, members of Congress, and stakeholders to seek removal of the tariffs.

Government ministers and officials also held frequent meetings with Canadian steel and aluminum companies and unions to hear their concerns regarding the impact of the U.S. tariffs on their operations and workers, and to discuss possible approaches to removing the tariffs. These were very productive discussions that informed the Government's engagement with the U.S. administration, as well as the development of the Government's support measures. In addition, the Government regularly consulted the steel and aluminum industries and unions, and provincial and territorial governments through the Steel Trade Monitoring Committee and the Aluminum Trade Monitoring Committee, established in March and April 2018, respectively. The Government also established a Committee on Remission of Surtaxes, which provided industry associations representing downstream users of steel and aluminum with an opportunity to share information with respect to steel and aluminum tariffs.

Recommendation 2: *That the Government of Canada review the application processes for surtax remissions, as well as the duty drawback and duties relief programs, to ensure that they are user-friendly and timely. As well, the Government should undertake further efforts to share information with small and medium-sized enterprises about available supports, including the remissions of surtaxes that have been applied on certain U.S. products since 1 July 2018, duty drawbacks and duties relief in relation to those surtaxes.*

The Government supports this recommendation. Given the longstanding integration of Canada-U.S. supply chains, the Government recognized that Canadian countermeasures against U.S. imports can create challenges for Canadian manufacturers. The Government made available mechanisms to provide relief from surtaxes in certain circumstances, as outlined below, and monitored their administration, as well as stakeholder's views, to ensure their continuous effectiveness.

Remission

To address the potential effects of the surtaxes on imports of steel, aluminum, and other goods from the U.S., on July 11, 2018 the Government of Canada outlined a framework under which it would consider requests for remission of such surtaxes. Remissions represent an exception to the rules by providing for relief of otherwise applicable duties. Relief consist of refunds of surtaxes already paid, or from the waiver of surtaxes payable at the time of importation.

Since the launch of this framework, the Department of Finance Canada provided continued assistance for companies of all sizes seeking to submit remission requests to ensure that the remission process was as user-friendly as possible. This included responding to all enquiries related to remissions in a timely manner, including prior to the submission of requests, following-up with requestors to allow them to present a complete remission submission before it was assessed, proactively providing information on the remissions process with business associations (including those representing SMEs), and engaging with officials from provincial or territorial governments.

In light of different circumstances faced by businesses, and SMEs in particular, engaging on a case-by-case basis with companies affected by Canada's countermeasures provided the most useful form of assistance to seek to address their specific issues. These efforts were particularly helpful for SMEs, which was highlighted by the fact that the great majority of remissions approved to date were linked to requests made by SMEs.

The Government of Canada also established a Committee on Remission of Surtaxes in order to provide a forum for users of steel and aluminum products to share their views concerning the remission process and their efforts to secure Canadian sources of supply. The Committee was co-chaired by the Department of Finance Canada and the Canadian Manufacturers and Exporters.

The amount of time required to process remissions requests varies according to the level of analysis that is required before a decision can be made. Orders in Council giving effect to the remission are issued periodically in order to provide relief as promptly as possible. For products that are found to be in short supply, remission is provided on a product basis, so any firm importing that product from the U.S. could claim remission.

On the recommendation of the Minister of Finance to the Governor General in Council, the United States Surtax Remission Order (the "Order") took effect on October 11, 2018, and was subsequently amended on December 17, 2018 and April 15, 2019. To date, approximately 200 requests for remission have been processed, out of a total of more than 320 requests received. About three quarters of remissions processed related to submissions by SMEs. Refunds of approximately \$395 million could be claimed pursuant to the Order.

Requests submitted before repeal of Canada's countermeasures by May 20, 2019 will be assessed. As a result, final amendments will be made to the Order to reflect the outcomes of those assessments. Where remission is granted, importers could make claims for refunds of surtax paid.

Duties relief and drawback programs

CBSA's Duties Relief Program provides relief from the payment of surtaxes on imported goods from the U.S. if the goods will eventually be re-exported either in the same condition or after using, consuming or expending them to process the goods. The Drawback Program has the same advantages as the Duties Relief Program, but applies to companies that have already paid the surtaxes and are asking for a refund of those surtaxes.

In its administration of the Duties Relief Program and Drawback Program, CBSA has prioritized the processing of Duties Relief Program applications and Drawback claims related to goods subject to surtax. Since this study, the CBSA has been granted additional funding of approximately \$4 million per year to help these programs face a significant increase in demand by improving their efficiency and providing faster service. This enabled the CBSA to be timely and responsive to the industry, as reflected in the fact that CBSA provided faster service than the 90-day service standard (reduced to 66 days and 57 days, respectively, for Duties Relief Program applications and Drawback claims). As of April 30, 2019, claims processed under the Duties Relief Program and Drawback program have resulted in refunds of approximately \$31.8 million.

CBSA also provided continued support and assistance for companies seeking to submit Duties Relief Program applications and Drawback claims to ensure that these processes were as user-friendly as possible. This includes:

- The recent revision of the Duties Relief Program application form to provide clarity to clients on the requisite information required to enroll;
- Providing interim refund amounts under the Drawback Program of up to 100 percent of the requested amount, while the company's claim continued to be processed and finalized;
- Responding to all program-related enquiries to ensure that questions were addressed, including prior to the submission of requests; and
- Participating in calls and face-to-face meetings with industry associations.

Information sharing

In regard to customs related matters, CBSA issued two Customs Notices and a Customs Memorandum that provided detailed information on the imposition of U.S. surtaxes and the customs mechanisms available for remission, relief or refund. These documents were updated as necessary to reflect changes in the relief available. A special notice was also added to CBSA's website to inform the public of the U.S. surtax with links to the relevant customs information and to a frequently asked questions page developed specifically for surtax.

More generally, a dedicated portal on Finance Canada's website (<https://www.fin.gc.ca/act/msab-meaa/index-eng.asp>) provides information in a single location regarding all measures that may be of interest to steel and aluminum businesses, including in respect of remission of surtaxes, duty drawback and duty relief.

Recommendation 3: *That the Government of Canada ensure that the measures that were announced on 29 June 2018 in response to the U.S. tariffs that are being applied on certain Canadian steel and aluminum products pursuant to section 232 of the Trade Expansion Act of 1962 are available to more of Canada's steel, aluminum and related firms, regardless of their size, and to affected workers.*

The Government supports this recommendation. The Government initially announced on June 29, 2018, that it would make available up to \$2 billion through a comprehensive set of measures to defend and protect the interests of Canadian workers and businesses in the steel, aluminum, and manufacturing industries. This assistance aided a variety of businesses. As of April 30, 2019, the following has been provided:

- The Business Development Bank of Canada has authorized loans totalling \$403 million for approximately 660 steel and aluminium SMEs;
- Export Development Canada has authorized support totalling \$169.9 million for 30 clients (including 21 SMEs);
- The Strategic Innovation Fund has announced commitments of up to \$49.9 million to ArcelorMittal Canada, \$30 million to Algoma Steel, and \$40 million to Evraz. Algoma Steel also received an additional \$60 million from FedDev Ontario. Several other projects are under consideration;
- \$25 million support announced to help workers and their employers through extended work-sharing agreements,
- \$50 million in additional Labour Market Development Agreement funding; and
- \$50 million over five years has been provided to the Trade Commissioner Service at Global Affairs Canada to help Canadian companies diversify their exports to take advantage of new trade agreements, such as the Canada-European Union Comprehensive Economic and Trade Agreement and the Comprehensive and Progressive Trans-Pacific Partnership.

Moreover, on March 11, 2019, the Government announced \$100 million in new support to Canadian SME steel and aluminum manufacturers and users in all regions of the country. This new funding will be delivered through the Regional Development Agencies' Regional Economic Growth through Innovation Steel and Aluminum Initiative. This initiative will provide targeted assistance to SME steel and aluminum manufacturers and users through support for investments in innovative projects to enhance productivity and increase competitiveness.

The Government also created an online portal where businesses can find all the information relevant to support to the steel and aluminum sectors. The creation of the portal was communicated to all key Canadian industry associations, including those representing SMEs, as well as through social media and with the Trade Commissioner Service at Global Affairs Canada. The online portal can be found here: <https://www.fin.gc.ca/act/msab-meaa/index-eng.asp>.

Recommendation 4: *That the Government of Canada, when determining the actions to be taken regarding final steel safeguards, make efforts to balance the needs of Canada's firms that produce steel products with the needs of domestic firms that use these products as production inputs.*

The Government supports this recommendation. On October 11, 2018, following the imposition of provisional safeguards, the Government directed the Canadian International Trade Tribunal (CITT) to conduct an inquiry into whether final safeguards on seven steel product categories are warranted and, if so, to make recommendations to the Government on appropriate remedies. These seven steel product categories include heavy plate, concrete reinforcing bar, energy tubular products, hot-rolled sheet, pre-painted steel, stainless steel wire and wire rod. The CITT's inquiry was conducted in an independent, arm's-length and transparent manner, which allowed the CITT to consider the views of all interested parties in providing its advice to the Government. Interested parties that participated in the CITT's inquiry included Canadian firms that produce steel products and firms that use steel products as production inputs.

The CITT reported its findings and recommendations to the Government on April 3, 2019. The CITT found that final safeguards were warranted on imports of heavy plate and stainless steel wire. On this basis, on April 26, 2019, the Government announced that it intended to impose final safeguards on imports of heavy plate and stainless steel wire. These final safeguards went into effect on May 13, 2019 in the form of tariff-rate quotas (TRQs) and will remain in place until October 2021. The Government's approach to final safeguards is closely informed by the CITT's findings and recommendations, and balances the needs of Canadian producers and users of steel products. Further, in response to the CITT ruling on the five other products, the Government announced an intensive 30-day consultation with industry and workers, in order to determine what further protections are required. The working group will ensure that the views of workers and industry continue to be heard and are acted upon without delay.

The Government amended the *Export and Import Permits Act* in December 2018 in order to provide the Government with the ability to allocate import quantities when safeguards are imposed in the form of TRQs. The allocation of TRQs is important to reduce uncertainties regarding potential surtax implications for importers at the time of importation, and responds to a key concern expressed by stakeholders during the provisional safeguards period. In this regard, Global Affairs Canada will administer the final safeguard TRQs on heavy plate and stainless steel wire through allocation, which will be informed by public consultations planned for summer 2019.

The Government will continue to monitor the Canadian market to ensure that Canadian steel industry and workers are not harmed by steel imports while minimizing the unintended impacts on Canadian steel users.

Recommendation 5: *That the Government of Canada engage in ongoing discussions with the Government of the United States regarding the United States' current and potential use of Section 232 of the Trade Expansion Act of 1962 to apply tariffs on Canadian products. During those discussions, the Government should emphasize the scope, depth and strategic importance of the two countries' trade relationship, and the need to exempt Canadian products from any U.S. trade restrictions.*

The Government supports this recommendation. It will remain in continuous discussions with the U.S. Administration on the potential future use of U.S. Section 232 tariffs. Canada raises the importance of the mutually beneficial trading relationship between Canada and U.S. at all levels of the U.S. Government and with U.S. stakeholders. The Prime Minister frequently raised the issue of the Section 232 tariffs with President Trump. Minister Freeland regularly met with the United States Trade Representative Robert Lighthizer, Secretary of State Mike Pompeo, and Vice President Mike Pence. She also raised this issue with Members of Congress, such as Senator Chuck Grassley, Congressman Earl Blumenauer, Speaker Nancy Pelosi, and Senator Jim Risch. Other Government ministers and Canada's mission network in the U.S. also engaged their U.S. counterparts and stakeholders on the issue.

Canada successfully secured an exemption for automobiles and auto parts in a side-letter that entered into force upon signing of CUSMA on November 30, 2018. Should the U.S. impose Section 232 measures on automobiles and auto parts, the side-letter guarantees an exemption from such measures for 2.6 million Canadian automobiles and US\$32.4 billion worth of Canadian auto parts imported annually. Light Trucks are fully exempt from 232 measures. Separately, Canada also secured a forward-looking process letter on future 232 measures, which includes a commitment from the U.S. to provide at least a 60-day exemption to Canada from any future measures under Section 232 (including for automobiles and auto parts).

Canada made written submissions for the Department of Commerce's Section 232 investigations on autos and auto parts, steel and aluminum, and uranium, highlighting the integrated nature of North American economy and the importance of mutually beneficial trade in these products for the economic well-being of industries, workers and communities in both countries. Canada's submissions also noted that Canada and the U.S. are staunch allies in the North American Aerospace Defense Command (NORAD), in the North Atlantic Treaty Organization (NATO), and that Canada-U.S. trade in the products subject to Section 232 investigations strengthen collective security in North America and do not pose a threat to the national security of the U.S.