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Canada

Canada Keeps Close Eye on Steel Imports

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Canada has made further moves to help safeguard the Canadian steel industry and ensure that imports do not increase beyond historical levels. Finance recently announced amendments to allow the Canada Border Services Agency (CBSA) to address price distortions when calculating margins of dumping along with new policy changes to help monitor anti-dumping levels. These measures are in addition to recent changes that allow Canada to re-impose surtaxes on steel imports if required, which followed announcements by Canada and the United States that they would eliminate their respective trade tariffs on steel and aluminum, effective May 20, 2019.

Background
The United States previously imposed tariffs on imports of Canadian steel and aluminum during trade negotiations to replace the North American Free Trade Agreement (NAFTA). In response to the new tariffs, which came into effect on June 1, 2018, Canada announced its own countermeasures to impose surtaxes on imports of steel, aluminum and other products, effective on July 1, 2018.

Canada and the United States cancelled these measures effective May 20, 2019, following a tentative agreement to enact the Canada-United States-Mexico Agreement (CUSMA) to replace NAFTA in October 2018 (see *TaxNewsFlash-Canada* 2019-22, "U.S. Removes Tariffs on Canadian Steel and Aluminum"). While the agreement has not yet been officially ratified, Canada initiated the legislative process to ratify the CUSMA on May 29, 2019.

Following this announcement, Canada took steps to safeguard Canadian business where steel imports may increase beyond historical levels. Specifically, Canada temporarily canceled a two-year moratorium on imposing surtaxes, which is intended to allow Canada to more quickly take action to address surges of steel imports (see *TaxNewsFlash-Canada* 2019-26, "Canada Prepares to Respond to Potential Steel Import Surge”).

New consultation on CBSA calculation methods

Finance has proposed changes to the ways that the CBSA can calculate the appropriate levels of anti-dumping duties in situations where there are price distortions. Specifically, in calculating the costs of production when inputs are supplied by an associated supplier (e.g., a subsidiary or affiliated company), the CBSA will be allowed to use either:

- The highest of the transfer price between parties
- The actual costs to the supplier, or
- A reasonable benchmark determined in the country of export (if such information is available).

In addition, Finance has proposed changes to allow the CBSA to use alternative methodologies, such as constructed costs, when calculating margins of dumping. The CBSA would be able to use these methodologies in cases where, for example, government intervention in the country of export results in price distortions, or when factors such as significant macroeconomic volatility affect the prices and input costs in the market. Further, in determining the costs of production in these particular market situations, the CBSA would be allowed to use alternative options to determine the cost of inputs, if they do not allow for a proper comparison between the sale of goods in the country of export and the sale of goods exported to Canada. The amendments provide a hierarchy of alternatives to be used to determine the costs of inputs, depending on the information available and whether the alternative would allow for such a proper comparison.

Finance is accepting feedback on these proposed changes until August 5, 2019.

CBSA policy changes

The CBSA has announced changes to its administrative policies to allow anti-dumping levels to be reviewed more frequently and to enhance the verification of steel import data, following the results of a recent public consultation. Specifically, the CSBA said it would introduce changes to its re-investigative and normal value review processes. The CBSA periodically conducts re-investigations and normal value reviews to update existing normal values, export prices or amounts of subsidy (values), establish values for new exporters or new models of products and to ensure that the values in place accurately reflect current market conditions.

The CBSA said it would update its policies in these areas to:

- List the criteria for determining when to start an investigative process to update normal values
- List specific factors for determining whether to initiate a full re-investigation or a more streamlined normal value review
- State normal values in a currency other than that of the country under investigation
- Make retroactive assessments where exporters failed to adjust prices when their normal values became outdated due to changes in prices or costs of production
- Clarify that the CBSA will use a normal value review process to determine normal values requested pursuant to a redetermination or an appeal.

In addition, the CBSA says it has instituted a process to allow stakeholders to make representations regarding the need to update normal values established through a previous investigative proceeding. The CBSA notes that, in the future, it will publish all representations on its website to allow other stakeholders to view and make submissions in response.

KPMG observations

Antidumping is a complex area. The CBSA's "re-investigations" cover all exporters from all countries where dumping was found in the past. Under "normal value reviews", which started in June 2018, the CBSA reviews a single exporter and not the country or market as a whole.

We can help

KPMG's Trade & Customs team are well-positioned to help you analyze the impact of these trade-related measures and strategize the most effective ways to minimize the effects on your business. Please contact a KPMG's Trade & Customs professional in Canada:

Bob Sacco
GTA Trade and Customs Leader
416 777 3693
bobsacco@kpmg.ca

Angelos Xilinas
Partner, Trade and Customs
604 691 3479
axilinas@kpmg.ca

Joy Nott
Partner, Trade and Customs
416 228 7175
jnott@kpmg.ca

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