

**GOVERNMENT RESPONSE TO THE SEVENTH REPORT  
OF THE STANDING COMMITTEE ON INTERNATIONAL TRADE:  
THE CANADIAN STEEL INDUSTRY'S ABILITY TO COMPETE INTERNATIONALLY**

**INTRODUCTION**

The Government of Canada is pleased to respond to the Seventh Report of the House of Commons Standing Committee on International Trade, entitled *The Canadian Steel Industry's Ability to Compete Internationally*.

The Government appreciates the work of the Committee and welcomes its analysis, views and recommendations. The Government has carefully reviewed the Committee's report and recommendations and welcomes the opportunity to respond to each recommendation individually. The Government would like to thank the Committee for its continued interest on the international competitiveness of the Canadian steel industry.

**THE CANADIAN STEEL INDUSTRY AND THE INTERNATIONAL TRADE ENVIRONMENT**

Steel and steel product manufacturing is an important sector for the Canadian economy, which directly supports 22,500 middle class jobs and contributes \$3.9 billion to gross domestic product annually. The industry also serves as a hub for other manufacturing activities and supports upstream and downstream industries that reinforce local and regional economies. Specifically, the Canadian steel sector is highly integrated into North American supply chains in the energy, construction and certain manufacturing industries (e.g. machinery, fabricated metal products, automotive, and electrical equipment, appliance and component manufacturing).

As noted in the Committee report, steel producers in Canada and across the world have been confronted with the fundamental problem of global steel excess capacity in recent years. According to the OECD, global steelmaking capacity has increased from 1.05 billion tonnes in 2000 to 2.39 billion tonnes in 2016, representing a 128 per cent increase while global steel demand only increased by 97 per cent during the same period. Despite weakness in steel demand growth, new investment projects may continue to increase global steelmaking capacity in the short-term, placing increasing pressure on Canadian steel producers. In 2016, Canada accounted for approximately one per cent (20.7 million tonnes) of global steelmaking capacity. The subsidization and other market distortions that have caused global steel excess capacity resulted in an oversupply of steel, which has led to an increase in unfairly traded steel. Under international trade rules, imports are considered unfairly traded if they are dumped (exported at a price lower than prices in the home market or below the cost of production) or if they have benefited from certain types of government subsidies.

As a result of this situation, steel producers around the world have sought the application of trade remedies (i.e. anti-dumping and countervailing duties) to address the injury caused by unfairly traded steel. The World Trade Organization (WTO) sets out detailed rules concerning how these trade measures are applied, which each WTO Member can apply in their domestic law.

In Canada, producers harmed by unfairly traded imports may seek to have anti-dumping and countervailing duties applied pursuant to the *Special Import Measures Act (SIMA)* following investigations by the Canada Border Services Agency (CBSA) and the Canadian International Trade Tribunal (CITT). These trade remedy investigations are conducted in an independent, impartial and transparent manner. As of August 2017, Canada has 69 trade remedy measures in force that apply to 15 different steel products originating from 23 countries.

The Government is committed to ensuring that Canadian producers injured by unfair trade have adequate remedies under domestic law, while ensuring consistency with WTO rules. Since Budget 2016, the Government has taken steps to modernize and strengthen Canada's trade remedy system to provide Canadian producers with a more rigorous response to unfair trade and better align Canada's trade remedy system with those of our major trading partners. Moving forward, the Government will continue to work closely with Canada's trading partners to address the problems of global steel excess capacity and unfair trade.

## **RECOMMENDATIONS**

**Recommendation 1:** *That the Government of Canada proactively participate in discussions and initiatives of international organizations, – the Organisation for Economic Co-operation and Development, for example – that want to find solutions to global excess steelmaking capacity.*

The Government has actively engaged in formal multilateral mechanisms, initiatives and forums over the years to address the challenge of global steel excess capacity. Since 2003, government and steel industry representatives from Canada, the U.S. and Mexico have worked together to address steel trade issues through the North American Steel Trade Committee (NASTC). Through this forum, the three countries' governments and steel industries have tracked developments in global steelmaking capacity and monitored steel import trends in North America, including the impact of imports on North American steel markets, as well as coordinated government positions ahead of international discussions.

These international discussions include the OECD Steel Committee, where Canada, alongside other countries such as the U.S., endorsed a statement addressing excess capacity and structural adjustment in the sector and calling on countries to refrain from subsidizing inefficient or loss-making plants in 2016. Canada is also an active participant in the G20/OECD Global Forum on Excess Steel Capacity, which brings together over 30 countries with the specific task of developing concrete policy solutions for addressing the root causes of excess capacity by November 2017. At the WTO, Canada has worked with the EU, the U.S., and Japan to move discussions forward on how the WTO can contribute to global efforts to reduce steel excess capacity, highlighting the role of subsidies in creating overcapacity and advancing options for addressing this through improved subsidies transparency and disciplines. Canada will continue to engage trading partners to develop solutions for addressing global steel excess capacity.

**Recommendation 2:** *That the Government of Canada increase the visibility of trade remedy services and tools available to Canadian companies and that it proactively inform Canadian steel*

*industry stakeholders when a decision is made regarding the imposition of anti-dumping duties or countervailing duties on steel products.*

The CBSA and CITT maintain websites that provide clear and publicly accessible information regarding Canada's trade remedy system and tools that are available to all Canadian producers to assist them in preparing dumping or subsidizing complaints. The CBSA and CITT endeavour to enhance the accessibility and availability of information on their websites regularly. For instance, in response to stakeholder feedback, in 2014 the CBSA added on its website import statistics of goods subject to trade remedies to allow the public to track the level of imports after the application of measures. In January 2017, the CBSA also added a portal allowing the public to submit allegations of anti-dumping and countervailing duty evasion. The CITT has posted new guidelines on its website describing its practices and procedures to raise awareness and help Canadians better understand how Canada's trade remedy system operates.

The CBSA's website includes guidelines to inform Canadian producers of the process and information requirements for submitting a dumping or subsidizing complaint. The CBSA also maintains in house capacity to assist small and medium-sized enterprises and ensure that all levels of Canadian industries have access to the trade remedy system. Similarly, the Advisory Committee of the CITT, which includes representatives from a number of business associations including the Canadian Manufacturers and Exporters Association and the Canadian Steel Producers Association, meets semi-annually to discuss, among other topics, ways to improve the accessibility and transparency of Canada's trade remedy system.

Under SIMA, the CBSA and CITT are required to notify interested parties (e.g. domestic producers, exporters, importers and the government of the exporting country) directly and publish in the *Canada Gazette* all decisions in a SIMA investigation. In Budget 2017, the Government also announced that regulatory amendments would be made to ensure that unions can participate as interested parties in trade remedy investigations. These decisions are also published on the CBSA and CITT's websites. Anyone who wishes to be informed of new anti-dumping and countervailing duty decisions may subscribe to free email alert services maintained by the CBSA and CITT, which sends notifications to subscribers on a real-time basis.

**Recommendation 3:** *That the Government of Canada work with its closest trading partners, particularly the United States, to ensure that those countries and Canada have adequate and effective trade remedy systems in place and that Canada does not become a dumping ground for foreign steel.*

Canada's trade remedy system is effective in providing relief for Canadian producers against injury caused by unfairly traded imports. It is one of the most responsive systems among major countries that use trade remedies, allowing anti-dumping and countervailing duties to be imposed 210 days after the initiation of an investigation, compared to timeframes of approximately one year in many other countries. This ensures that Canada is able to respond quickly to the presence of unfairly traded imports in the Canadian market. Once anti-dumping and countervailing duties are imposed, the CBSA maintains a robust compliance regime by ensuring that 100 per cent of

steel shipments identified as potentially subject to a trade remedy measure are verified by CBSA compliance officers with expertise on steel products in a timely and comprehensive manner. The CBSA has also taken measures to enhance the enforcement of trade remedy measures by proactively seeking information from external stakeholders regarding alleged duty evasion and leveraging the presence of CBSA officers stationed abroad to assist in verifying allegations of duty evasion.

In Budget 2017, the Government announced measures to strengthen Canada's trade remedy system, including providing the CBSA and Canadian steel producers with more robust tools to address the circumvention and evasion of trade remedy measures through formal investigative proceedings. The amendments to SIMA required for these proceedings received Royal Assent on June 22, 2017, as part of Bill C-44 (*Budget Implementation Act, 2017, No. 1*). These tools will become operational once the required amendments to the *Special Import Measures Regulations* are made in Fall 2017.

The Government also works closely with its U.S. and Mexican counterparts on trade remedy issues. The need for robust trade remedies is often discussed at meetings of the NASTC, which also allows governments from the three NAFTA countries to share perspectives on their respective experiences in using trade remedies to address unfairly imported steel. Moreover, the Trilateral Customs Steel Enforcement and Cooperation Dialogue, which was announced during the 2016 North America Leaders' Summit, meets semi-annually. Leaders established the Dialogue in recognition of the need for customs agencies to collaborate more closely to ensure robust trade enforcement. The Dialogue facilitates the development of a coordinated enforcement strategy for North American anti-dumping and countervailing duties on steel imports through initiatives such as information-sharing on high-risk shipments and exchange of best practices.

**Recommendation 4:** *That the Government of Canada reserve the right to use methods other than prices on the exporting country's market to establish the dumping margin when foreign companies cannot prove that they are operating under market economy conditions.*

As part of anti-dumping investigations, a margin of dumping will usually be calculated by comparing export prices into Canada with the domestic selling prices in the exporting country, known as normal values. As part of a series of amendments to SIMA included in Bill C-44, the CBSA will be provided with new tools to address price distortions in the domestic market of an exporting country in anti-dumping investigations. Where a "particular market situation" is found to exist, which renders domestic prices unreliable for the purpose of calculating normal values, the CBSA will be able to use alternative methodologies for calculating normal values, including a constructed price (based on the cost of production, plus administrative, selling and all other costs, and an amount for profit) or export prices to third country markets. This change reflects Canada's rights and obligations under the WTO and will come into effect once consequential regulatory amendments to the *Special Import Measures Regulations* are made in Fall 2017.

**Recommendation 5:** *That the Government of Canada consider the consequences of dumping and countervailable subsidies for all regions in Canada in steel import investigations and that it study*

*the impact of the imposition of regional rather than national anti-dumping or countervailing duties, where appropriate.*

SIMA includes several mechanisms that allow anti-dumping and countervailing duties to be applied on a regional rather than a national basis. First, domestic industry may request that an anti-dumping or countervailing duty investigation be limited to a regional market within Canada if certain conditions are met (e.g. the domestic producer sells substantially all of its production in the regional market and the regional market is not supplied by producers from outside the region). Any anti-dumping and countervailing duties imposed in a regional case would only apply to imports for use or consumption in the regional market under investigation.

Second, the CITT has the discretion to exclude certain goods, including goods destined for use or consumption in a particular region, from its finding if it is persuaded that the exclusion will not cause or threaten to cause injury to the domestic industry. For example, the CITT may consider whether the domestic industry is able to competitively serve a particular region after a SIMA measure is applied or whether a regional exclusion could give rise to enforcement concerns if subject goods could make their way to non-excluded regions following importation.

Third, SIMA allows interested parties to request that the CITT conduct a public interest inquiry following the imposition of anti-dumping or countervailing duties, to determine whether the imposition of duties in the full amount is in the public interest. A public interest inquiry allows the CITT to evaluate any unintended impacts of the anti-dumping or countervailing duties on downstream users of subject goods, and may be limited to the effect of anti-dumping and countervailing duties on a specific regional market in Canada. If the CITT finds that a reduction of anti-dumping or countervailing duties is in the public interest, it will issue a report to the Minister of Finance containing its opinion and recommendations on the appropriate level of duty specific to subject goods imported for use or consumption in the regional market. The Minister of Finance has discretion on whether to implement the CITT's recommendation, in part or in whole, through the reduction of anti-dumping and countervailing duties payable on subject goods destined for use or consumption in the regional market.

**Recommendation 6:** *That the Government of Canada assist Canadian steel producers in benefitting from the low carbon footprint of Canadian steel compared to foreign steel, including through government procurement processes that take carbon dioxide emissions into account when awarding contracts.*

The Government is committed to a policy framework focused on strengthening the economy while reducing emissions and building resilience to adapt to a changing climate. Specifically, the 2016-2019 *Federal Sustainable Development Strategy* identifies a low-carbon government as one of its thirteen goals, with a target to reduce greenhouse gas emissions from federal government buildings and fleets by 40 per cent below 2005 levels by 2030. To achieve this, the Government has established short-term milestones and key priorities which include a review of procurement practices to align with green objectives and the establishment of the Centre for Greening Government within the Treasury Board of Canada Secretariat. Additionally, the *Policy on Green*

*Procurement* seeks to integrate environmental performance considerations into the procurement decision-making process.

Given that the field of valuing and validating the carbon embodied in goods and services is still relatively new, the Government has not yet integrated a standardized approach for valuing energy and carbon into procurement processes. To date, the Government has adopted an outcome-focused rather than prescriptive approach by providing individual departments ownership over how to implement the Government's stated objectives, such as the 40 per cent reduction target in greenhouse gas emissions. Government departments, such as Public Services and Procurement Canada, are currently exploring how analysis of embodied carbon can be used to support procurement decision-making processes.

**Recommendation 7:** *That the Government of Canada preserve and advance fair trade by continuing to treat China as a non-market economy.*

When China joined the WTO in 2001, special provisions were negotiated allowing for the treatment of China as a non-market economy in anti-dumping investigations. While certain elements of these provisions expired in December 2016, there is considerable disagreement among WTO Members about the implications of this expiry.

Canada's trade remedy system allows the CBSA to treat China as a non-market economy in anti-dumping investigations where evidence shows that non-market economy conditions prevail in the specific sector under investigation. This means that the market circumstances in China for a given sector determine whether a non-market economy methodology is used or not. All anti-dumping measures currently in force against primary steel products imported from China have been determined and established on a non-market economy basis.

In December 2016, China initiated WTO dispute settlement proceedings to challenge the non-market economy practices of the EU and the U.S. On July 10, 2017, a Panel was composed to adjudicate the dispute between China and the EU, while the dispute between China and the U.S. remains at the consultation stage. Canada will be closely monitoring these disputes and participate as a third party in defense of its existing approach to the treatment of China in anti-dumping investigations.

**Recommendation 8:** *That the Government of Canada grant labour unions an expanded role in Canada's trade remedy system, including the right to participate in trade remedy complaints.*

The Government recognizes that labour unions have an important perspective to bring to trade remedy investigations and have consulted unions on ways to make Canada's trade remedy system more inclusive. As announced in Budget 2017, and consistent with the Government's progressive trade agenda, the *Special Import Measures Regulations* and the *Canadian International Trade Tribunal Regulations* will be amended later in 2017 to ensure that trade unions are able to participate as interested parties in trade remedy proceedings. More specifically, interested unions will receive notifications from the CBSA and the CITT and will be provided the right to file

information and provide comments in the CBSA and CITT investigations. This will allow them to fully defend their interests and make meaningful contributions to the investigative process.