

Canadian Steel Producers Association (CSPA) **2017 Pre-Budget Submission**

Overview

The Canadian Steel Producers Association (CSPA) is the national voice of Canada's \$14B steel industry. Our member companies annually produce approximately 13 million tonnes of primary steel as well as over 1 million tonnes of steel pipe and tube products in facilities located across five provinces. Canadian steel producers provide a critical foundation for Canada's automotive, energy, transportation, construction, and general manufacturing supply chains. CSPA member companies serve the demands of North American customers with high quality, competitive, innovative, and environmentally responsible products.

Most importantly, domestic steel operations directly employ some 22,000 Canadians while supporting an additional 100,000 indirect jobs with the average annual wage of steel sector workers being approximately \$75,000. As major contributors to local, regional, and national economies, we believe the best way to support the middle-class is to enable the Canadian businesses who employ them, to continue doing so.

Unfortunately, Canadian steel jobs are under major threat from unfairly traded imports that are heavily subsidized, dumped, or otherwise produced under non-market conditions. To provide benefits to Canadians, free trade must also be fair trade with a level-playing field established through a modern framework of effective, common-sense legislative and regulatory measures.

In Budget 2016, the Government of Canada affirmed its commitment to maintaining an effective trade remedy system and announced it would "take steps to ensure that domestic producers have access to the appropriate tools to respond to unfair trade" while also "consulting stakeholders to ensure that Canada's trade remedy system offers Canadian businesses the ability to respond to changing global trade conditions."

While we are very pleased that two procedural changes we had previously requested were enacted through the 2016 Budget Implementation Act, we are now looking for the near term adoption of our other eight proposals. These proposals, as detailed in our submission to the Department of Finance's spring 2016 consultation on potential amendments to the *Special Import Measures Act (SIMA)*, reflect the CSPA's desire to move forward rapidly with the implementation of all elements of our Trade Remedy Modernization (TRM) initiative.

Most important of these is the integration of provisions for Particular Market Situation (PMS) into SIMA. While already a well-established instrument available to our major trading partners, the Canada Border Services Agency (CBSA) must be empowered with the legislative tools they need in order to address situations where the price and cost data in an export market are distorted. Otherwise, there will continue to be a serious understatement as to the degree which products are being unfairly dumped into the Canadian marketplace and direct harm to Canadian steel producers and their employees.

Our recommendation is that most if not all of these eight remaining proposals be enacted through the expected Part 2 of the 2016 Budget Implementation Act in fall 2016, with any others put in place no later than through the 2017 budgetary process. It crucial to understand that the underlying issues which these measures address have meaningful, time-sensitive implications for investment and employment decisions on the part of manufacturing and related operations in Canada which are now at risk.

State of the Canadian Steel Market

In August 2016, the Canadian steel industry continues to be in a state of crisis. Two of our largest member companies remain in creditor protection and over 1600 employees are now laid-off sector-wide. Massive overcapacity, primarily from China, continues to damage the North American steel market with no end in sight. With trading partners moving ahead with their own trade remedy modernization, Canada is increasingly becoming a primary target for surge in unfairly traded steel goods that gets diverted from countries with stronger defenses in place.

In addition, China's well-established pattern of flagrant, non-market behavior across several industrial sectors is increasingly having significant negative consequences globally. Through their maintenance of massive surplus production capacity and export subsidies, China's state-owned and/or controlled industries have disrupted global trade patterns, eroded pricing of manufactured goods around the world, as well as forcing reductions in output, and ultimately the bankruptcy of several market-based competitors in other countries.

Trade Remedy Modernization (TRM)

As a reminder, the Canadian trade remedy system is a framework of laws, regulations, policies, and procedures administered by several federal departments, agencies, and judicial bodies that help remove trade distortions in the Canadian marketplace for the benefit of all stakeholders. These elements work together to identify, adjudicate, halt, and remedy unfair trading practices involving several distinct categories of goods, including steel, which can seriously harm domestic manufacturers.

This system was established to help prevent Canadian producers and their workers from being seriously harmed when imported products are:

- Dumped - imported into Canada at prices below true costs of production.
- Subsidized - foreign government support provided for products exported to Canada.
- Produced under non-market conditions, e.g. State-Owned Enterprises (SOE's) using government resources to gain unfair advantages.

In April 2016, the Department of Finance launched a formal consultation process requesting comments on several additional aspects of Canada's trade remedy system which may be improved. CSPA put forward a detail submission to this process which included a suite of Trade Remedy Modernization (TRM) proposals developed in concert with officials from Finance Canada and the Canada Border Services Agency (CBSA) over the last two and half years.

Through this consultation, we received full support for these measures through parallel submissions from a multitude of leading domestic and international industry and business associations, as well as organized labour, chambers of commerce, and municipal and provincial governments. These partners included the Aluminum Association of Canada; Automotive Parts Manufacturers' Association, the Business Council of Canada, Canadian Chamber of Commerce, Canadian Institute of Steel Construction, Canadian Labour Congress, Canadian Manufacturing Coalition, the United Steel Workers (USW), and our American, Mexican, and South American steel industry counterparts.

Below is an outline of our proposed amendments to the *Special Import Measures Act (SIMA)*:

Summary of Proposed Changes

Theme A - Improving Normal Values

Proposal: Particular Market Situation

What does it entail: Calculating normal values to account for market distortions in exporting countries.

Positive impact: This provision is absolutely critical for Trade Remedy Modernization to be deemed a success. It essentially allows assessments during trade investigations to be based on fair-market comparisons. Also aligns directly with the similar measures in the US and other countries.

Proposal: Affiliated party transactions

What does it entail: Clarifying and codifying the existing authority of CBSA to value major inputs between affiliates in accordance with market-based values.

Positive impact: Financial records used by the CBSA are the ones that would exist under normal competitive conditions.

Proposal: Reasonable amount for profits

What does it entail: Requirement for measurement of profit for the same product in a jurisdiction where profits are market-based. Enables dumping and normal value calculations to reflect what they should be in a market environment.

Positive impact: Accurate comparison leading to fairer outcomes for domestic industry.

Theme B - Increasing Transparency and Stakeholder Involvement

Proposal: Transparency in determinations and re-determinations

What does it entail: Giving domestic producers opportunity to participate in relevant processes and rights to appeal decisions that address aspects like if a product is within the scope of a determination.

Positive impact: More transparent and democratic process that has all parties impacted by decisions able to provide input.

Theme C - Eliminating Circumvention

Proposal: Anti-circumvention enforcement

What does it entail: Specific and meaningful provisions to create effective anti-circumvention offences.

Positive impact: Meaningful deterrent and punishment for those trying to evade duties. Alignment with our trading partners, especially the US which has a very robust approach.

Theme D – Strengthening Trade Case Outcomes and Lowering Costs

Proposal: Amending legal standard for Preliminary Injury Inquiries

What does it entail: Defining appropriate test regarding “reasonable indication” of injury.

Positive impact: Greater certainty for industry and more legitimate trade cases that will proceed with lower costs.

Proposal: Requiring enforceability be a criteria for granting exclusions.

What does it entail: SIMA should be amended to require that, prior to granting an exclusion, the enforceability of the exclusion should also be taken into consideration.

Positive impact: Less harm to domestic industry from unfairly traded goods that are transformed after import or used to circumvent the original scope of the finding.

Proposal: Standard for Initiation of Expiry Reviews

What does it entail: Reviews should only be initiated if positive evidence exists that review is warranted.

Positive impact: Lower legal costs for government and industry.

Summary

With increasing pressures coming from dumped and subsidized products entering the North American market, Canadian manufacturers are counting on Canada's trade remedy system to establish and maintain a level-playing field. We believe the urgency of current circumstances and their impact on the domestic manufacturing sector, calls for the immediate implementation of the above noted amendments to the *Special Import Measures Act (SIMA)*. These proposals are well-defined, practical, affordable, and consistent with Canada's WTO obligations and the best practices of our trading partners.

We also want to be very clear that we are completely in favour Canada's pursuit of current and future trade agreement opportunities and the development of new export markets for our member companies and their customers. Having a robust legislative and regulatory framework aligned with our major trading partners will help shield domestic industrial sectors from unfair trading practices while enabling a more confident Canadian negotiating position for both governments and industries and facilitate the enhanced flow of fairly-traded goods once these agreements are in place.

To reiterate, the CSPA is very concerned for the future competitiveness of steel producers and other trade exposed manufacturing companies across Canada, and for the continued prosperity of their prospective workers. These middle-class Canadians deserve a fair opportunity to earn a good living and the federal government has a primary role in ensuring this remains intact by acting to preserve fair market trade in Canada. Failing to properly address this issue puts Canadian jobs and the economy needlessly at risk.

As such, we urge the Government of Canada to take immediate action in implementing the remainder CSPA's trade remedy proposals. These solutions will provide a solid underpinning for Canadian firms and Canadian employees to thrive in both the domestic and global marketplace.

CSPA Recommendation:

Responding to the Budget 2016 commitment to maintain an effective trade remedy system, we are requesting that most if not all of the eight proposed amendments, as detailed in CSPA's recent submission to the consultation on changes to the *Special Import Measures Act (SIMA)*, be enacted through the expected Part 2 of the 2016 Budget Implementation Act in the fall of 2016. Any remaining provisions should be implemented by no later than through the 2017 budgetary process.