

Canada and US agree to remove tariffs and retaliatory surtaxes on steel and aluminum imports

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On 17 May 2019, Canada and the United States (US) announced that an understanding has been reached on eliminating the US Section 232 tariffs imposed on Canadian steel and aluminum and Canada's retaliatory surtaxes.¹

The US and Canada have agreed to eliminate, within two days from the announcement, all US Section 232 tariffs on Canadian steel and aluminum, and all Canadian retaliatory tariffs on imports of US steel, aluminum and various other consumer goods (e.g., lawn mowers, whiskies) and industrial goods.² Effective 19 May, Canada has repealed the *United States Surtax Order (Steel and Aluminum)*³ and the *United States Surtax Order (Other Goods)*,⁴ and Canadian importers are no longer required to pay surtax pursuant to the orders.⁵

In addition to the above, Canada and the US have agreed to:

- ▶ Terminate all pending litigation between them in the World Trade Organization (WTO) regarding the Section 232 tariffs.
- ▶ Implement effective measures to:
 - Prevent the importation of aluminum and steel that is unfairly subsidized and/or sold at dumped prices.
 - Prevent the trans-shipment of aluminum and steel made outside of Canada or the US to the other country.
 - Consult together on these measures.

- ▶ Establish an agreed-upon process for monitoring surges in aluminum and steel trade between them, including different treatment for products made with steel that is melted and poured in North America.
- ▶ In the event that imports of aluminum or steel products surge beyond historic volumes of trade over an agreed period of time, with consideration of market share, the importing country may request consultations with the exporting country. After such consultations, the importing party may impose duties of 25% for steel and 10% for aluminum in respect to the individual product categories where surges took place. If the importing party takes such action, the exporting country agrees to retaliate only in the affected sector (i.e., aluminum and aluminum-containing products or steel).

The US tariffs were an impediment to the ratification of the *US-Mexico-Canada Free Trade Agreement* (USMCA).⁶

At this time, it is unclear whether Canada or the US will refund (beyond the existing drawback, remission or other exemption programs) any of the US 232 tariffs or Canadian retaliatory surtaxes that were paid by importers to date.

The removal of the tariffs will be a welcome relief for affected importers and businesses, especially as global trade tensions between major economies continue to increase.

As the 17 May announcement makes clear, both Canada and the US intend to engage, to a limited degree, in management of the North American steel and aluminum trade. Indeed, Canada's recent announcement of safeguard measures on imports of heavy steel plate and stainless-steel wire included discussion of implementing measures to defend against dumping and diverting steel and aluminum into Canada.⁷

In addition, the agreement makes clear that tariffs on steel and aluminum can be re-imposed by either party following a rules-based process (e.g., WTO-like consultations, evidence of import surges and market share losses).

Therefore, Canadian importers are advised to continue to closely monitor policy developments in global trade. The international trade regime is experiencing significant disruption, and businesses would be wise not to take for granted the existing stability of any supply chains or trade patterns. Now more than ever, importers should consider investing in data analytics, supply chain reviews and scenario planning exercises to prepare for the financial impacts of future trade disputes and the technological disruption that is developing alongside them.

Endnotes

1. Statement by the Prime Minister welcoming the decision by the United States to remove tariffs on Canadian steel and aluminum. <https://pm.gc.ca/eng>.
2. Joint Statement by Canada and the United States on Section 232 Duties on Steel and Aluminum. <https://www.canada.ca/en/global-affairs/news/2019/05/joint-statement-by-the-united-states-and-canada-on-section-232-duties-on-steel-and-aluminum.html>.
3. SOR/2018-152.
4. SOR/2018-153.
5. Customs Notice 19-09, *Repeal of the United States Surtax Order (Steel and Aluminum) and the United States Surtax Order (Other Goods)*. <https://cbsa-asfc.gc.ca/publications/cn-ad/cn19-09-eng.html>.
6. <https://www.cbc.ca/news/politics/nafta-usmca-trade-freeland-trump-tariffs-1.5091211>; <https://www.cbc.ca/news/politics/freeland-nafta-steel-tariffs-1.5083498>.
7. <https://www.fin.gc.ca/n19/19-046-eng.asp>.

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