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## Tax Alert – Canada

### Canada imposes final safeguard measures on imports of heavy steel plate and stainless-steel wire: update<sup>1</sup>

EY Tax Alerts cover significant tax news, developments and changes in legislation that affect Canadian businesses. They act as technical summaries to keep you on top of the latest tax issues. For more information, please contact your EY advisor or EY Law advisor.

Effective 13 May 2019, Canada will apply final safeguard orders on imports of heavy steel plate and stainless-steel wire imported from all countries except for:

- Goods originating in Canada
- Goods originating in Chile, Colombia, Mexico, Panama, Peru, South Korea, the US or Israel or another *Canada-Israel Free Trade Agreement* (CIFTA) beneficiary
- Goods originating in a World Trade Organization (WTO) member country that is a beneficiary of the General Preferential Tariff (GPT)<sup>2</sup>

The final safeguards are in the form of a tariff rate quota (TRQ), effective from 13 May 2019 to 24 October 2021. Importers will need to apply for shipment-specific permits, issued by Global Affairs Canada, to obtain access to the quota. The safeguard surtax applies to goods released from a customs bonded warehouse or sufferance warehouse on or after 13 May 2019, absent a specific permit for the goods.

Imports exceeding the quantity of a specific permit at the time of accounting or imports that do not have a specific permit will be subject to a safeguard surtax on the value for duty of the goods, determined in accordance with sections 47 to 55 of the *Customs Act*.

<sup>1</sup> See EY [Tax Alert 2019 No. 20, Finance announces intent to enact final safeguards on imports of heavy plate and stainless-steel wire](#).

<sup>2</sup> Countries benefiting from the GPT are exempt as long as the share of imports from such country does not exceed 3% of total imports of each good, provided that imports from countries accounting for less than 3% of import share do not collectively account for more than 9% of total imports of each good. For a full list of GPT beneficiary countries that qualify for exclusion from the safeguards, see Appendix A of Canada Border Service Agency (CBSA) Customs Notice 19-08.

For the purposes of the final safeguards, the origin of goods is determined according to the rules of origin set out in the *Determination of Country of Origin for the Purposes of Marking Goods (NAFTA Countries) Regulations* or the *Determination of Country of Origin for the Purpose of Marking Goods (Non-NAFTA Countries) Regulations*, as the case may be.

Table 1: Final safeguards on imports of heavy steel plate<sup>3</sup>

Period	Duration	Surtax rate	TRQ (tonnes)
1	One-year period beginning on 13 May 2019 and ending after 12 May 2020	20%	100,000
2	One-year period beginning on 13 May 2020 and ending after 12 May 2021	15%	110,000
3	165-day period beginning on 13 May 2021 and ending after 24 October 2021	10%	54,699

Heavy plate is commonly imported under the following Canadian tariff classification numbers:

- 7208.51.00.10
- 7208.51.00.93
- 7208.51.00.94
- 7208.51.00.95
- 7208.52.00.10
- 7208.52.00.93
- 7208.52.00.96

Plate in coil form and “floor plate”<sup>4</sup> are excluded from the plate safeguard TRQ.

<sup>3</sup> Table reproduced from CBSA Customs Notice 19-08: <https://www.cbsa-asfc.gc.ca/publications/cn-ad/cn19-08-eng.html>.

<sup>4</sup> Floor plate: plate having a rolled, raised figure at regular intervals on the surface.

Table 2: Final safeguards on imports of stainless steel wire<sup>5</sup>

Period	Duration	Surtax rate	TRQ (tonnes)
1	One-year period beginning on 13 May 2019 and ending after 12 May 2020	25%	2,800
2	One-year period beginning on 13 May 2020 and ending after 12 May 2021	15%	3,080
3	165-day period beginning on 13 May 2021 and ending after 24 October 2021	5%	1,532

Stainless steel wire is commonly imported under the following Canadian tariff classification numbers:

- 7223.00.00.10
- 7223.00.00.20

Importers should be aware that it's possible that steel goods imported under a tariff classification number other than the ones listed above may meet the respective product definitions, and therefore would be subject to the safeguard TRQs, as (similar to anti-dumping orders, for example) it is the description of the goods and not their tariff classification that makes them subject to the TRQs. CBSA Customs Notice 19-08 provides a detailed product description for heavy plate and stainless-steel that are subject to the final safeguard surtax.<sup>6</sup>

The issuance of import permits for TRQ access for both types of goods will be divided into three phases:

- 13 May 2019 to 2 June 2019: The TRQ will be administered on a first-come, first-served basis. Importers are invited to submit applications for allocations during this period.
- 3 June 2019 to 31 January 2020: The TRQ will be administered on an allocated basis, with a residual pool of unused quota administered on a first-come, first-served basis. Allocation of quota, not including the residual pool, will only be issued to importers that accounted for a minimum of 0.5% of import share during the period 1 July 2017 to 30 June 2018.<sup>7</sup>

<sup>5</sup> Table reproduced from CBSA Customs Notice 19-08. <https://www.cbsa-asfc.gc.ca/publications/cn-ad/cn19-08-eng.html>.

<sup>6</sup> CBSA Customs Notice 19-08: <https://www.cbsa-asfc.gc.ca/publications/cn-ad/cn19-08-eng.html>.

<sup>7</sup> Global Affairs Canada, Notice to Importers - Steel Goods (Item 82 on the Import Control List): <https://www.international.gc.ca/controls-controles/steel-acier/notices-avis/945.aspx?lang=eng>.

- 1 February 2020 to 24 October 2021: The federal government's approach to the TRQ administration for this period will be informed by public consultations during the summer of 2019.

Quota applications for the period 3 June 2019 to 31 January 2020 must be submitted by 24 May 2019.

The Duties Relief Program and the Duty Drawback Program are available to importers for relief of duties, including safeguard surtax paid or owed, provided importers meet the requirements of these programs.

It is important to note that the burden of proof that the goods meet any of the exceptions as defined in the Final Safeguard Order rests with the importer. The CBSA may require importers to provide documentation, other than a specific import permit, to substantiate whether the goods are subject to the safeguard surtax. As the safeguards will be in place for several years, importers eligible for exemption from the safeguards should ensure their customs function can reliably and promptly provide the necessary documentary proof to the CBSA.

## Learn more

For more information, please contact your EY or EY Law advisor or one of the following EY Global Trade professionals:

### Toronto

Dalton Albrecht  
Canadian Leader, Global Trade  
+1 416 943 3070 | [dalton.albrecht@ca.ey.com](mailto:dalton.albrecht@ca.ey.com)  
Sylvain Golsse  
+1 416 932 5165 | [sylvain.golsse@ca.ey.com](mailto:sylvain.golsse@ca.ey.com)  
Krystal Hicks  
+1 416 943 2518 | [krystal.hicks@ca.ey.com](mailto:krystal.hicks@ca.ey.com)

### Quebec and Atlantic Canada

Michael Zobin  
+1 514 879 2711 | [michael.zobin@ca.ey.com](mailto:michael.zobin@ca.ey.com)  
Mike Cristea  
+1 506 443 8408 | [mihai.cristea@ca.ey.com](mailto:mihai.cristea@ca.ey.com)

### Calgary

Shannon Baxter  
+1 403 956 5703 | [shannon.baxter@ca.ey.com](mailto:shannon.baxter@ca.ey.com)

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