

# Canada-U.S. Blog

LEGAL DEVELOPMENTS AFFECTING CANADA-U.S. CROSS BORDER TRADE

## The Trade Remedies Chapter of TPP Will Bring Opportunities for Trade Lawyers

By Cyndee Todgham Cherniak on October 5th, 2015

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Trade lawyers may have new tools in their tool belt as a result of the Trans-Pacific Partnership Agreement (TPP). So often when one reads about a free trade agreement, a Chapter will jump out as interesting. Canada has not included a Chapter on trade remedies since NAFTA and the Canada-Chile free trade agreement. As a result, the inclusion of a Chapter in the TPP on trade remedies may cause a trade lawyer or manufacturing business or exporter to take notice.

Canada has prepared technical summaries on the Chapters of the TPP and posted the summaries on the Foreign Affairs, Trade and Development Canada website. Canada's summary about the TPP's Trade Remedies Chapter states as follows regarding TPP provisions:

- Reaffirms WTO rights and obligations with regards to trade remedies.
  - Includes provisions relating to the use of anti-dumping, countervailing, and global safeguard measures.
- Reinforces certain international best practices in anti-dumping and countervail investigations, while still protecting domestic producers from unfair trade practices.
- Allows for, in exceptional circumstances, bilateral safeguard measures (e.g. temporary tariff increases) to protect domestic industry from injury following a surge in imports as a result of the Agreement.
  - Ensures that these safeguard measures are not used as a barrier to trade, but rather are limited to remedying legitimate situations of injury.
  - It does so through a number of substantive and procedural requirements governing the safeguard measures.

Does this mean that there will be a country specific safeguard mechanism in respect of goods from Australia, Brunei, Chile, Japan, Malaysia, Mexico, New Zealand, Peru, Singapore, Vietnam and the United States? Does this mean that Canadian manufacturers can bring a safeguard case against the United States or Mexico? If yes, this is a significant development.

What does "reinforces certain international best practices in anti-dumping and countervail investigations" mean? Are there enhancements in these areas that could not be agreed at the World Trade Organization? Are there new arguments available for importers and exporters? What does this mean for Canadian softwood lumber exporters?

We must wait for the text of the TPP agreement to be released. I, for one, am looking forward to reviewing the Trade

Remedies Chapter. I know, I am a trade geek.

Tags: anti-dumping, countervailing duties, safeguard, softwood lumber, trade remedies

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