

July 31st, 2024

Consultations on potential policy responses to unfair Chinese trade practices in electric vehicles and its supply chain



Executive Summary

Chinese excess industrial capacity has been a concern of the global steel industry for a long time and several countries are addressing this challenge head on with different approaches and means, either targeted or more comprehensively with the imposition of tariffs on several Chinese industry sectors where excess capacity has been proven. Canada, unlike the United States, has taken a notable, but underwhelming approach to consult essentially on the Chinese unfair trade practices from the electric vehicles industry and its supply chain. Last May, the US announced a holistic approach to Chinese excess capacity by imposing 387 tariffs on products ranging from steel, aluminium, EVs, batteries, medical protective equipment, ship-to-shore cranes, critical minerals, etc. In the case of steel, the US administration will be applying Section 232 and Section 301 tariffs for a combined 50% tariffs on 289 Chinese steel products. Other countries are following suit, and the Canadian Steel Producers Association believes it is in Canada's best interest to align our trade measures with the US. Indeed, Canada should impose at least a 25% tariff on all melted and poured Chinese steel entering the country.

Canada should adopt the same measures as the Americans for mainly three reasons: A) Preserving our access to our main export market is essential. Over 50% of the Canadian steel production is sold to the US. In recent months, the US industry and officials have been preoccupied with transshipment and trade alignment from their partners. As such, the US have worked in tandem with Mexico to better coordinate their trade policies. Canada can not afford to be excluded from the North American market considering the upheaval that can be created by the current US Presidential elections and the upcoming 2026 CUSMA Review. B) While many countries are improving their protection against Chinese excess steel capacity, it is anticipated that more Chinese steel will be in search of a market. Canada can not, and should not, absorb further diverted excess Chinese steel. Finally, C) Canada's trade remedy system is not able to change China's egregious trade behaviour. 56% of all trade cases at Canada Border Services Agency are imposed, partially or wholly, on China and new cases are added on a regular basis. Only an exceptional tool like Section 53 of the *Custom Tariff Act* can swiftly address China's unfair trade practices, which is, a tool similar to the US Section 301. Again, using a similar tool as our main trading partner sends the signal of our alignment.

We recognise that Section 53 is an exceptional tool and that it should be used wisely. The current situation we're facing with Chinese excess industrial capacity fits the purpose of Section 53. China's steel overcapacity poses an existential threat to Canada's steel industry. Canada is justified in responding to this threat by imposing a surtax under section 53 of the *Customs Tariff Act* and invoking the available exceptions under Articles XX and XXI of the GATT to justify the measure.

Table of Contents

Executive Summary	1
Chinese Excess Steel Capacity	3
Recommendation	6
Chinese Excess Industrial Capacity: A Globally Shared Concern	7
United States	7
Mexico	8
European Union	8
Latin America	9
Brazil	9
Chile	9
Colombia	9
India	10
Request by the Canadian Steel Industry	10
Addressing Chinese Steel Excess Capacity Is Crucial for Canada	10
Canada and the Automotive Sector	13
Section 53 is the Right Tool	14
The Purpose of Section 53	15
WTO Compliance	15
Concluding Remarks	15
The Canadian Steel Producers Association	16

Chinese Excess Steel Capacity

The Canadian Steel Producers Association (CSPA) welcomes the opportunity to contribute to the Government of Canada’s consultations on potential policy responses to unfair Chinese trade practices in electric vehicles and its supply chain, as announced on June 24th, 2024. The launch of these consultations underlines that the federal government is now realizing the devastating impact of Chinese excess industrial capacity on domestic jobs and competitiveness in Canada. CSPA has often sounded the alarm over the years regarding Chinese excess industrial capacity in the steel sector. It is the view of the CSPA members that any action to defend Canada against excess industrial capacity due to state-directed initiatives must be broader than the EV sector and include the full range of products covered by the US Section 301, which includes steel.

This phenomenon of excess steel capacity has been widely documented by the Organisation for Economic Cooperation and Development (OECD) and the Global Forum on Steel Excess Capacity (GFSEC). They have long recognised the unfair and damaging trade practices that China employs. The GFSEC has reported that “Chinese excess capacity has significant and harmful impacts on the health of the steel industry in other countries. In particular, it seems to boost import penetration, lower capacity utilisation rates, and reduce the profitability of the industry in countries that are impacted by Chinese excess capacity.”¹ This past July 17th, Deputy Permanent Representative David Bisbee delivered a statement on the Trade Policy Review of the People’s Republic of China in which he said:

“Through state-led industrial plans like Made in China 2025, the PRC targets key industries for domination, both in the PRC-based market and globally, and the full weight of the PRC state is deployed in support of this goal of domination. It means that foreign companies are not competing against individual PRC companies; they are competing against the PRC state and PRC companies acting in concert.”²

Excess steel capacity exists when the production capacity of steel surpasses the actual demand for the material. The phenomenon has been present since the early 2000s. It is believed that “if left unaddressed, steel excess capacity could climb to 644 million metric tonnes (mmt) by 2025.³” About 50 times Canada’s annual production. Most, if not all of the excess capacity issue emanates from China. “Every year, Chinese steelmakers gradually increase their production capacity, in particular, in 2021 it amounted to 1,146 mmt, in 2022 – 1,149 mmt, and in 2023 – 1,173 mmt. At the same time, capacity utilization is declining, creating a surplus. Thus, in 2021, this figure was 90.1%, in 2022 – 88.1%, and in 2023 – 86.9%.”⁴

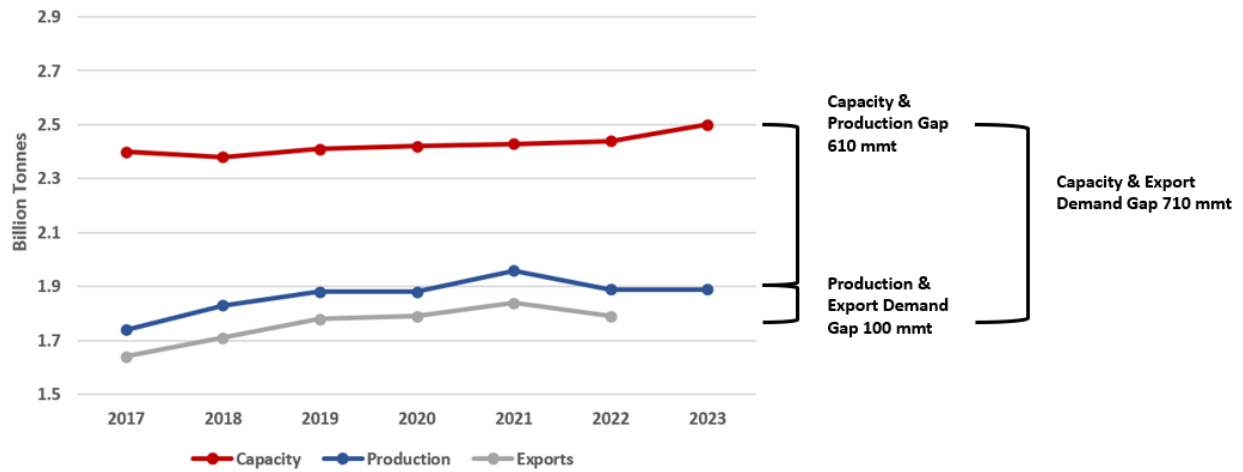
¹ Global Forum on Steel Excess Capacity (GFSEC): [Impacts of global excess capacity on the health of GFSEC steel industries](#), March 2024, p.10

² Office of the United States Trade Representative, Executive Office of the President, 17 July 2024 <https://ustr.gov/about-us/policy-offices/press-office/speeches-and-remarks/2024/july/trade-policy-review-peoples-republic-china>

³ Global Forum on Steel Excess Capacity, [2023 Results Report](#)

⁴ GMK Center, [China’s steel market in 2021-2023: overcapacity and export growth](#), 22 May 2024

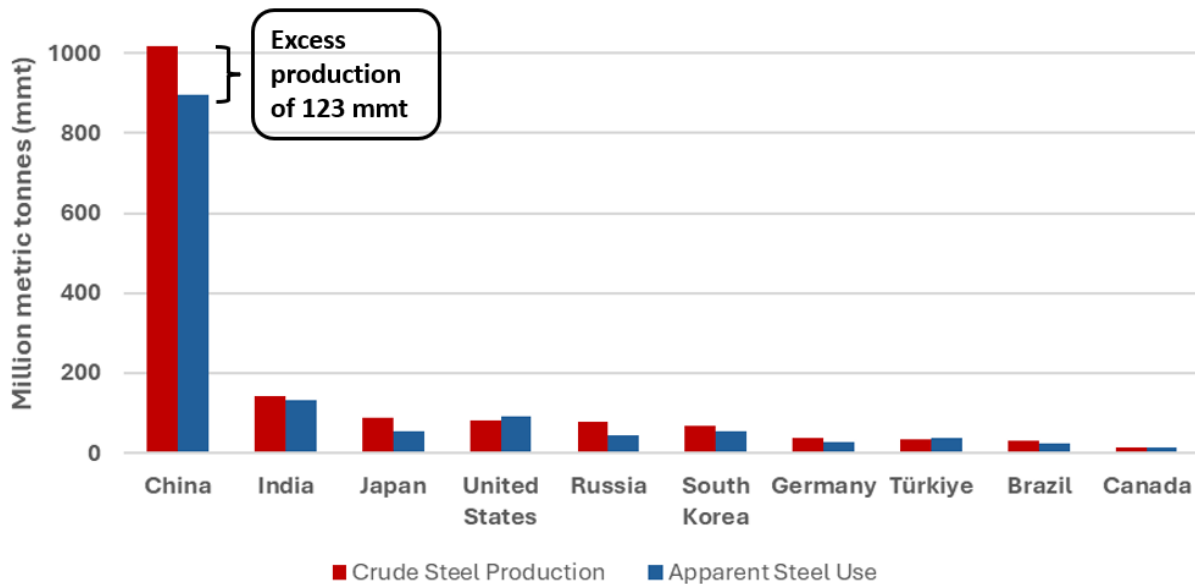
Global Steel Excess Capacity



Source: World Steel Association

According to World Steel⁵, China represented 53.9% of global crude steel production in 2023, an increase from 49.7% in 2013. That figure was barely 17.6% in 2001⁶. We are witnessing an excessive production from the fact that the total Chinese production of crude steel equalled 1,019 mmt in 2023, while their domestic steel consumption was 12% less, at 895.7 mmt. As their crude production has barely slowed down by 4% from 2020 to 2023, their domestic consumption has declined by 10% exacerbating their overcapacity and creating a glut of steel that threatens markets worldwide, which can be seen by the increase of 84% of their exports in the same time period.

Steel Production vs Apparent Steel Use 2023



Source: World Steel Association

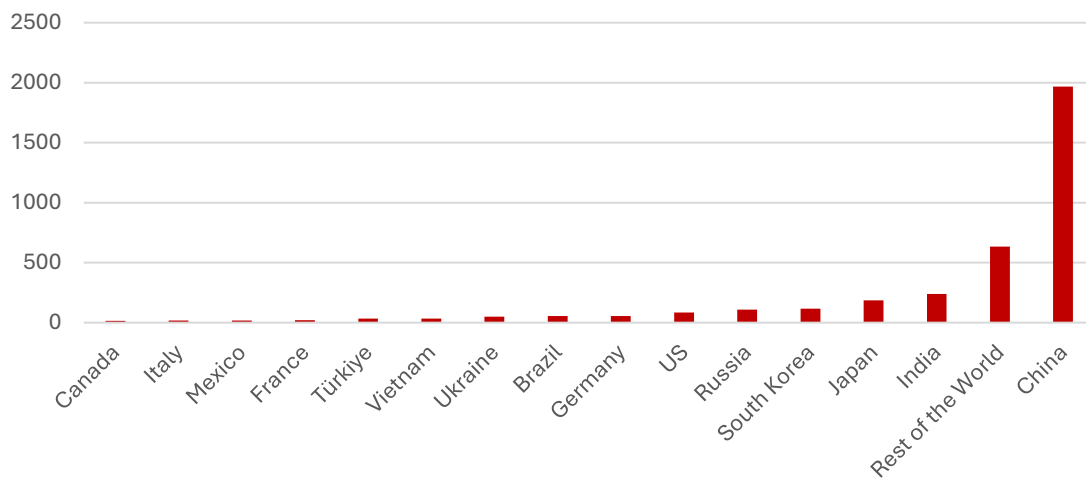
⁵ 2024 World Steel in Figures, [May 2024](#)

⁶ [2002 World Steel in Figures](#)

It comes as no surprise, therefore, that China ranks first in global steel exports. In 2023, China exported 94.3 mmt of steel, which amounts to almost eight times the total annual Canadian steel production. Excess capacity becomes an even greater concern when the responsible country does not adhere to the rules-based international trading system. It is an evergreen statement to say that China does not play by the rules. For the period between 2019 and 2023, the GFSEC has evaluated that China alone accounted for 27% of all new anti-dumping and countervailing duties (AD/CVD) steel cases worldwide⁷. As it currently stands, 56% of all Canada’s AD/CVD measures are in response, wholly or partially to China’s actions. Notwithstanding its membership in the World Trade Organization (WTO), Chinese products are often singled out worldwide to be highly subsidized and dumped. Canada continues to be targeted by these products, including by efforts to circumvent the trade remedies in place. Canada must take a new, stronger approach to address China’s excess industrial capacity, or it risks suffering the impacts in many economic sectors including the automotive, energy, and construction sectors. The Canadian market is vulnerable to the impacts of trade flows influenced by harmful practices such as global excess steel capacity, environmental degradation and climate change, ineffective labour and regulatory standards, human rights violations, illegal export subsidies, and state-sponsored competition to acquire finite strategic resources.

In addition to being unfairly traded, Chinese steel products are produced with high carbon emissions. This is also true for products manufactured in countries outside of China using steel-containing materials from China, resulting in a higher embodied carbon footprint compared to production in Canada or other regions. According to Global Efficiency Intelligence⁸, China's carbon intensity for steel production with a basic oxygen furnace (BOF) is 2.05 tonnes CO₂eq/tonne, 20% higher than Canada's. It's 1.34 tonnes CO₂eq/tonne for steel production with an electric arc furnace (EAF), 67% higher than Canada's. When Canadians buy Chinese products containing steel, we increase global carbon emissions.

Total CO₂ Emissions from Steel Industry (Mt CO₂)



Source: Global Efficiency Intelligence

⁷ Global Forum on Steel Excess Capacity (GFSEC): [Steel exports, trade remedy actions and sources of excess capacity](#), May 2024, p.17

⁸ Steel Climate Impact : [An International Benchmarking of Energy and CO₂ Intensities](#)

Recommendation

To defend the Canadian industry from the challenge posed by the Chinese subsidized excess steel capacity, CSPA stresses that the Government of Canada should invoke Section 53 of the Custom Tariff Act to impose at least a 25% tariff on all melted and poured Chinese steel products entering the country. This way, Canada will remain aligned with its main trading partners, most notably the United States, protect strategic industry sectors and send a clear signal of its willingness to use all tools available to address the most egregious trade behaviours threatening the country's economic prosperity.

Chinese Excess Industrial Capacity: A Globally Shared Concern

Chinese excess steel capacity is not a new phenomenon, and it has been well-documented in international forums such as the OECD Steel Committee and the GFSEC. However, no action taken so far has stopped Chinese government initiatives to continue subsidizing and adding to their excess capacity and an urgent response is required. Lately, the subject has gained traction, particularly since it has evolved to encompass new sectors including electric vehicles, solar panels, and batteries.

United States

The charge against excess industrial capacity has been led by the US government, who continues to expand their response to Chinese actions. Among others, US Treasury Secretary Janet Yellen has said China's industrial strategy poses a global threat that requires a united response⁹. Beyond speeches and statements, the US government, Congress and the White House have taken clear and decisive actions to address China's excess industrial capacity. While the US trade remedy system was already ahead of Canada's, important further improvements were made this past March to US antidumping and countervailing duty laws. Furthermore, renewed advocacy has been made by US steel industry associations to Congress to adopt *Leveling the Playing Field Act 2.0*, which is under consideration for addressing China's Belt and Road Initiative.

On May 14th, 2024, following an in-depth review by the United States Trade Representative (USTR), Katherine Tai, the President announced key actions aimed at protecting American workers and businesses from China's unfair trade practices. In a nutshell, tariffs were increased across strategic sectors, namely steel and aluminum, semiconductors, electric vehicles, batteries, critical minerals, solar cells, ship-to-shore cranes, and medical products. USTR has identified 382 8-digit HTS subheadings, as well as 5 10-digit HTS statistical reporting numbers to which the tariff increases would apply in the strategic product categories. 75% of these 387 product categories, or 289, are primary forms of steel (see the list in the Annexes). All these listed products will see their Section 301 tariffs increase from 0-7.5% to 25%. In August 2024, this will apply on top of the current 25% Section 232 tariff. The US has taken this latest significant action on the remaining 630,000 tonnes of Chinese steel that were still entering the country in 2023¹⁰, which is 2.4% of the 25.8 mmt of foreign steel that entered the US that year. An increase from the previous year, when Chinese steel amounted to 2.3% of the 27.9 mmt of foreign steel received in the US. In other words, even a slight increase in Chinese steel entering the US has prompted a significant response by the administration, given the looming threat of a far greater impact posed by China's industrial overcapacity and coercive practices. As these new tariffs are set to enter into force, the US steel industry has recently requested that these tariffs be imposed

⁹ The New York Times, [U.S. Seeks to Join Forces With Europe to Combat Excess Chinese Goods](#), May 21, 2024.

¹⁰ US International Trade Administration Dashboard, <https://www.trade.gov/data-visualization/melt-and-pour-dashboard>

on steel products melted and poured in China (see the AISI letter in the Annexes). This would capture an additional 100,000 tonnes of Chinese steel annually under the Section 301 tariffs. The US administration has also worked in tandem with the Mexican government to further increase trade barriers to Chinese steel in the region.

Mexico

Mexico has taken significant steps to address China's excess industrial capacity. Even before the US May announcement, the Mexican President issued a decree in April of this year announcing a general increase of tariffs on imports, which includes steel¹¹. As such, import steel tariffs were raised between 25 and 35%.

Furthermore, on July 10th, the US President and the Mexican President made a joint announcement declaring their intentions to prevent the evasion of US steel and aluminum import tariffs by routing products through Mexico. It includes new requirements stating that steel and aluminum imports from Mexico must be melted and poured in the U.S., Mexico or Canada to avoid facing a 25% tariff under Section 232 of the Trade Expansion Act of 1962. This would target between 480,000 tonnes and 700,000 tonnes of steel entering the US from Mexico that wasn't melted or poured in North America. Officially, barely 84 tonnes and 330 tonnes of melted and poured Chinese steel entered the US from Mexico in 2022 and 2023 respectively¹². Given these limited volumes, this action shows how serious the US Administration is regarding transshipment.

European Union

Historically the European Commission has taken the threat of Chinese excess industrial capacity seriously, particularly relating to steelmaking. The Commission introduced a provisional safeguard measure on imports of certain Chinese steel products back in July 2018¹³. These measures “aimed to prevent economic damage to EU steel producers, given the risk of further import increases linked, inter alia, to the introduction of trade restrictions by the US on steel products (US Section 232 measure).”¹⁴ On June 25th, the EU extended steel safeguard measures until June 2026¹⁵. The EU measures take the form of Tariff-Rate-Quotas (TRQs) with a 25% duty imposed on those above the limit. Furthermore, on June 12th, the European Union announced its intention to increase its provisional duties on electric vehicles from China between 17.4% and 37.6%, on top of its 10% car duty¹⁶. Other BEV producers are subject to duties of 20.8% for cooperative producers and 37.6% for non-cooperative producers. The measure has entered into force on July 4th.

¹¹ Secretariat de Gobernacion, Diario Oficial de la Federacion, [DECRETO por el que se modifica la Tarifa de la Ley de los Impuestos Generales de Importación y de Exportación](#), 22 April 2024,

¹² US International Trade Administration Dashboard, <https://www.trade.gov/data-visualization/melt-and-pour-dashboard>

¹³ European Commission, [EU to decide on steel safeguard extension](#), 9 February 2024

¹⁴ Idem.

¹⁵ European Commission, [EU prolongs steel safeguard measure until June 2026](#), 25 June 2024

¹⁶ European Commission, [Commission imposes provisional countervailing duties on imports of battery electric vehicles from China while discussions with China continue](#), 4 July 2024

Latin America

Latin American countries have also suffered from the excess of Chinese steel capacity. It is estimated that close to US\$ 8.5B in Chinese steel has flooded Latin America in recent years¹⁷. The region “last year imported a record 10 mmt of Chinese steel, a 44% rise from the year before, according to data from the Latin American Steel Association (Alacero). Two decades ago, the figure was just 85,000 tonnes.¹⁸”

Brazil has raised its guard on steel imports lately. The Brazilian Government announced in April of this year that it will impose a new quota system on 11 types of products and that volume exceeding these quotas will face new duties of 25%, an increase from current tariffs between 9% and 12.6%¹⁹. The system will be in place for at least a year. These measures were needed after it was revealed that imports of several steel products grew by more than 30% between 2020 and 2023²⁰. While these measures are imposed on all steel imports, China is the main target. In 2000, 12,000 tonnes of Chinese steel were imported, representing barely 1.4% of the total imports. By 2023, the figure grew to 2.9 mmt, representing 57.7% of the total import market. The Brazilian annual steel production is equivalent to only 11 days of China’s production²¹.

In Chile, the government currently imposes provisional tariffs of 24.9% to 33.5% on steel products from China²². This action was needed to allow a Chilean steel plant to reopen, saving 2,700 direct jobs²³. The Chilean government did so despite having a free trade agreement with China. Chilean lawmakers are seeking further protection from China with a recently introduced legislation that “would set a 50% duty for a three-year period on “all imports of steel products such as wire rods, reinforcing steel for construction, bars and mineral grinding balls” of mainland Chinese origin²⁴.”

In Colombia, Chinese steel imports increased by 45%²⁵, leading the Columbian Government to “open an investigation and to increase safeguard measures from 5% to 35% to curb imports of steel wire rod from China.”²⁶

¹⁷ Bloomberg, [China’s \\$8.5 Billion in Steel Spurs Latin America Toward Tariffs](#), 21 May 2024

¹⁸ Barron’s, [Chile Steel Plant Reopens As Tariffs Imposed On Chinese Imports](#), 22 April 2024

¹⁹ Bloomberg, [Brazil Joins Protectionist Wave in Face of Cheap Steel Imports](#), 23 April 2024

²⁰ Fastmarkets, [Brazil increases import duty to 25%; quotas include HRC, CRC, HDG, Galvalume, tubes](#), 25 April 2024

²¹ Ministry of Industry, Trade and Service/Brazil Steel Institute.

²² Steel Orbis, [Chile approves temporary tariff to protect against Chinese steel imports](#), 23 April 2024

²³ Barron’s, [Chile Steel Plant Reopens As Tariffs Imposed On Chinese Imports](#), 22 April 2024

²⁴ HKTDC Research, [Chilean Lawmakers Seek 50 Percent Duty on Mainland Chinese Steel](#), 2 May 2024

²⁵ Yahoo Finance, [Latin America’s steel tariffs won’t push China away](#), May 22, 2024

²⁶ Fastmarkets, [Colombian steelmakers join Latin American pushback against long steel imports](#), 20 March 2024

India

As a net importer of steel, India reportedly “worried about a surge in shipments from China after the United States imposed tariffs on Chinese steel, industry executives and analysts said.²⁷” Talks are taking place between the Indian industry and ministries over the possibility of “raising the basic customs duty on steel to 12.5% from 7.5% due to surging imports.²⁸”

As we can see in these examples above, several countries have taken serious action to address the challenges posed by China's excess industrial capacity, particularly in the steel sector. A lack of action by Canada could lead to a declining reputation with our trading partners. The examples also illustrate the significant volumes of Chinese steel that could potentially be diverted to Canada if we do not match the actions of our trading partners.

Request by the Canadian Steel Industry

The CSPA has recognised the importance of the USTR announcement on May 14th pertaining to their enhancement of Section 301 measures on Chinese goods. On the day of the US announcement, CSPA released a public statement calling on the Government of Canada to emulate the US actions and to “consider a comparable tariff approach and evolve our trade tools”²⁹. Since then, CSPA has further solidified its position at the Standing Committee on International Trade of the House of Commons by calling on the Government to impose “at least a 25% tariff on all melted and poured Chinese steel products”³⁰. The reasoning behind the request to impose this tariff on a melted and poured basis is to protect against circumvention. Hence, it would curb direct and indirect Chinese steel imports simultaneously. The US industry has subsequently asked USTR to apply Section 301 to Chinese melted and poured steel products basis as well³¹. After a deep analysis of the USTR Section 301 tariffs list, CSPA matched the US 289 8-digits HTS steel codes list with 175 Canadian 8-digit HS codes equivalent³². It is this list that CSPA recommends matching with a Section 53 tariff.

Addressing Chinese Steel Excess Capacity Is Crucial for Canada

First and foremost, it is essential for Ottawa to send a strong signal to Washington that it is serious about addressing China’s industrial excess capacity. Only by matching Washington’s actions can Ottawa signal its commitment to the White House. Exporters have noticed the attention Americans are giving to the trade remedy systems of their neighbours. In fact, for most of 2024, USTR has publicly and repeatedly criticized Mexico for its lack, real or perceived, of trade enforcement and poor devotion to addressing

²⁷Reuters, [Indian steel mills fear surge in Chinese imports after U.S. tariffs](#), May 16, 2024

²⁸ The Economic Times, [India steel, trade ministries in talks over rising Chinese imports](#), June 29, 2024

²⁹ Canadian Steel Producers Association, [CANADIAN STEEL PRODUCERS CALL FOR MORE ACTION FROM CANADA AFTER US ISSUES TARIFFS ON CHINA](#), Media Release, May 14th, 2024

³⁰ Standing Committee on International Trade, Meeting 108, May 30th, 2024

³¹ See Letter by AISI President and CEO Kevin Dempsey in annexes.

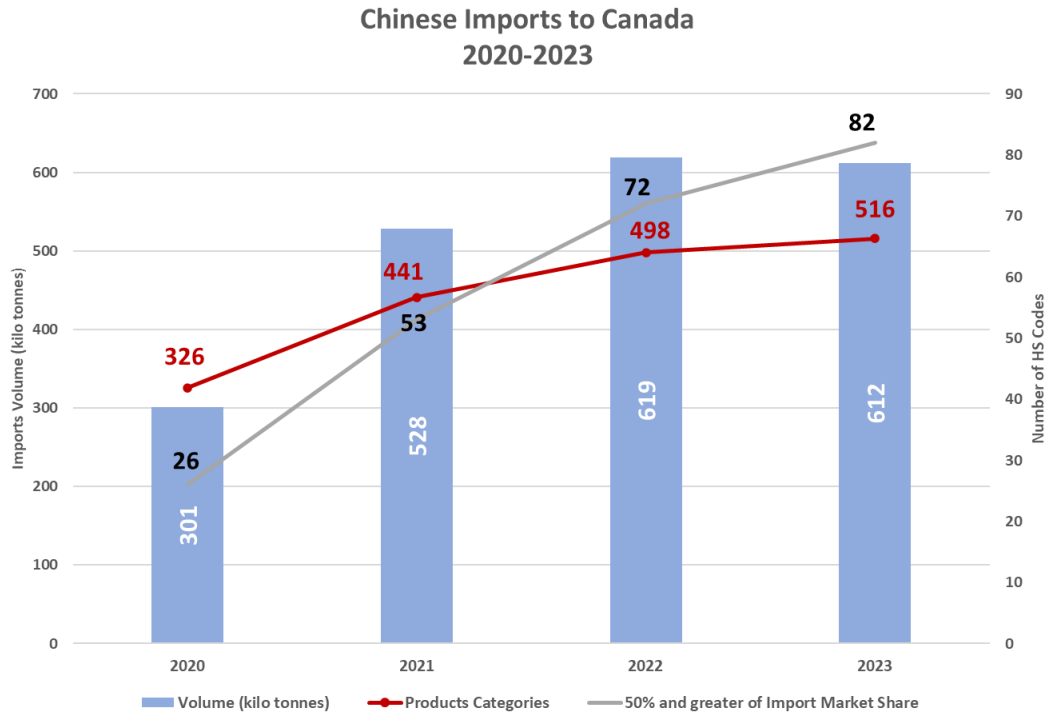
³² See list in Annexes.

transshipment issues; which the Mexican government is now addressing. CSPA believes that preserving access to the US market is critical. Our Canadian producers have exported, on average, over the last 3 years for more than 6 mmt of steel annually to the US, which represents revenues of US\$ 8.4B³³. As mentioned previously regarding the bilateral agreement between the US and Mexico, trade flows through Mexico to the US are taken seriously by Washington. Canada has a greater exposure on a volume basis. While Mexico shipped only 330 tonnes of melted and poured Chinese steel to the US, Canada shipped 18,000 tonnes³⁴. This represents an increase of roughly 30% from the 12,000 tonnes of steel of the previous year. Fortunately, only approximately 5.8% of Canada's exports to the US were non-North American melted and poured steel in 2023, which is less than half of the 12.6% figure for Mexico. In the heightened context of the US Presidential election and the upcoming 2026 CUSMA review, aligning trade actions with the US is critical. It is also imperative that Canada is not standing alone within CUSMA by not having taken direct aim at China through a tariff regime. Therefore, addressing China's excess industrial capacity is in our national interest to protect our relationship with our key trading partners. Again, steel products equal to 75% of the targeted products of the US' May announcement.

Second, Canada has to prepare for further excess Chinese steel being dumped in international markets come August when the new US 25% tariff is applied. While the current 7.5% tariff on Chinese steel and the 25% Section 232 duties limit the volume reaching the US market, it remains that over 760,000 tonnes of melted and poured Chinese steel entered the American market in 2023 and over 750,000 tonnes the year prior in 2022. These annual volumes are 20% higher than the total annual volume of Chinese steel exported to Canada. The additional Section 301 duties threaten to divert Chinese steel to the Canadian market, possibly doubling Chinese exports to Canada, which is a significant threat in addition to further excess capacity being built and subsidized by the Chinese government. And this has to be coupled with other countries' implementation of additional tariffs on Chinese steel. These potential risks are already visible in Canada. In the last 4 years, Chinese imports in Canada have doubled, going from barely 300,000 tonnes to well over 600,000 tonnes, despite broad trade remedy coverage. This considerable surge is also perceived through the market shares Chinese producers have been able to seize in the country. CSPA has listed 326 HS codes of steel products that entered Canada in 2020. This has broadened to 516 HS codes, which represents an increase of 58.2% in the product categories arriving in Canada in 4 years. Even more alarming, in 2020, there were only 26 HS codes of steel products from China that had 50% or greater share of the import market in Canada. In 4 years, this has surged to 82 HS codes of steel products from China, seizing 50% or greater of the import market.

³³ See table in Annexes.

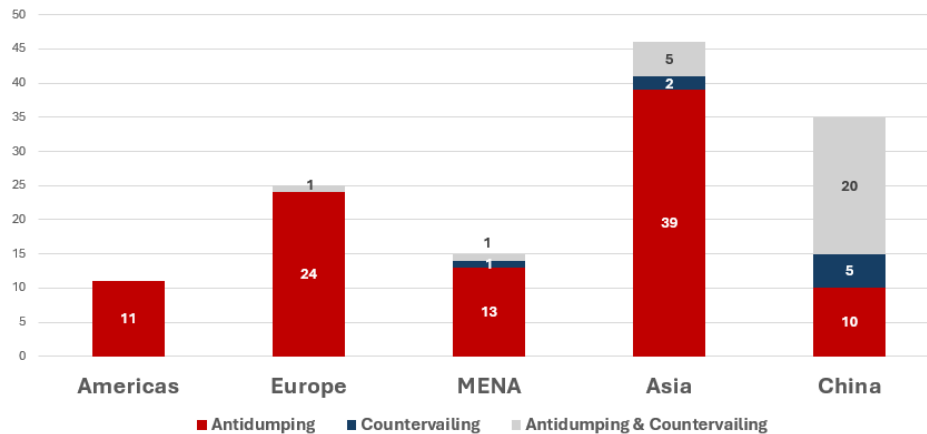
³⁴ US International Trade Administration Dashboard, <https://www.trade.gov/data-visualization/melt-and-pour-dashboard>



Last but not least, due to the build-up of China’s excess steel capacity following its accession to the WTO, the steel industry in Canada became the largest user of the trade remedy system. The Canada Border Services Agency (CBSA) has currently 53 antidumping and countervailing duty cases with measures in force³⁵. 37 cases, or 69% of the total number of trade cases, pertain to steel-containing goods. Unsurprisingly, China is the most notable culprit. There are currently 30 findings on Chinese products, which represent 56% of all trade remedies. Despite this, over 600,000 tonnes (\$1.3B) of Chinese steel entered Canada in 2023, making it the third largest exporter to the country after only the United States and South Korea. Canada’s trade remedy system is overwhelmed by China’s trade behaviour.

³⁵ This includes Concrete reinforcing bar 5 for which an investigation has been launched but is not yet completed.

Countries under Canadian Border Services Agency Anti-Dumping and Countervailing Duties Measures
Measures in force on July 29th, 2024



Americas	Argentina, Brazil, Mexico, and United States
Europe	Austria, Belarus, Belgium, Bulgaria, Czechia, Denmark, European Union, France, Germany, Greece, Italy, Lithuania, Netherlands, Portugal, Romania, Russia, Spain, Ukraine, and United Kingdom
MENA	Algeria, Egypt, Oman, Pakistan, Türkiye, and United Arab Emirates
Asia	Australia, India, Indonesia, Japan, Malaysia, Philippines, Singapore, South Korea, Taiwan, Thailand, and Vietnam

*China includes Hong Kong

Canada and the Automotive Sector

Industrial excess capacity from China has been worrying the steel sector for a long time, including product segments that are essential in other sectors like oil country tubular goods and line pipes for the energy supply market. The strategic market of energy has also seen in recent years Chinese surges spreading to renewable energy sources such as wind and solar. Additionally, these products incorporate a higher carbon embodied steel, contradicting the overarching goal of the energy transition.

The trends in the steel sector are now fully immersed in the steel-containing goods sector. We are also witnessing more and more finished products containing foreign steel entering Canada made from steel melted and poured in countries like China. The auto sector is revealing example. Canada has a vibrant and dynamic auto sector, contributing \$14B annually to Canada’s GDP³⁶. To comply with Chapter 4 of CUSMA rules of origin, vehicles must be made with 70% of North American steel to benefit from the agreement. This has enabled Canadian steel to remain a component of choice in the North American automotive supply chain. Steel represents approximately 54% of the weight of an average vehicle³⁷, which amounts to a tonne of steel per vehicle³⁸. Therefore, in the last 4 years, the 82,046 Chinese EVs that entered Canada contained the equivalent of 82,000 tonnes of Chinese steel. Considering 2023 alone, 44,500 tonnes of steel entered Canada by way of Chinese

³⁶ Canadian Vehicle Manufacturers’ Association, [State of the Industry 2023](#)

³⁷ AISI, [Steel Offers Durable, Cost-Effective Solutions for Automotive Vehicles](#)

³⁸ Statista, [Average weight of metal content in U.S. and Canadian-built light vehicles between 2007 and 2017, by type](#)

EVs, meaning that the quantity of equivalent steel primary forms entering Canada from China is actually 7% higher than the 612,000 tonnes tracked by Statistics Canada. This is only considering the automotive sector. If we include other steel-intensive sectors, China's steel exports to Canada are much higher. Therefore, addressing finished goods containing steel entering the country should also be a priority.

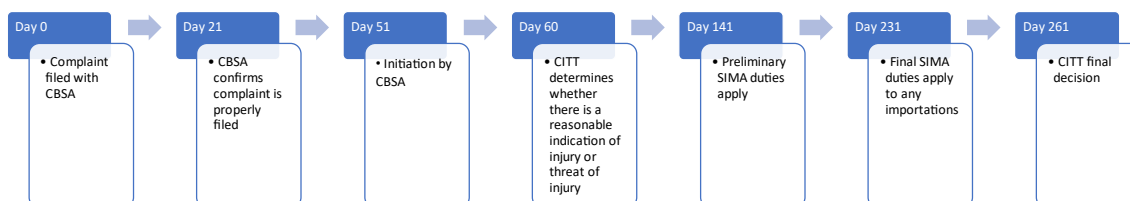
Section 53 is the Right Tool

Section 53 of Canada's *Customs Tariff Act* includes the power for Cabinet to impose border measures on imports, in circumstances relating to measures causing adverse impact on Canada's trade in goods or services. Canada may use this provision to address damage from the impact of any country's excess capacity on Canada's trade interests. It is recommended to leverage the recently created Country of Melt tool to make the order to impose, similar to the US administration, a tariff of at least 25% on all melted and poured Chinese steel coming to Canada; which aligns with the current approach of US administration.

Canada needs an exceptional response to the exceptional situation posed by Chinese excess industrial capacity. Canada's trade remedy system is ill-suited to address the systematic attack on its strategic sectors from China. Indeed, the usual process to address trade injury through CBSA and the Canadian International Trade Tribunal (CITT) is only one tool with its limitations. One shortcoming of AD/CVD cases is the time and resources-intensive nature of the process. An antidumping and subsidy complaint is limited to an individual product and takes at least 10-12 months to prepare and execute successfully. A safeguard case requires a recent surge in imports on a product-by-product basis, carries an even higher evidentiary threshold and is imposed for only a three-year period. While these cases are prepared and prosecuted, domestic producers suffer and sustain injury they might not recover from.

Further, Canada's antidumping regime suffers from effectiveness gaps associated with fluctuating world prices, which can allow exporters that are subject to a remedy to resume dumping in Canada until CBSA initiates an enforcement proceeding. This is what we call in the steel industry a "dumping holiday". Using Section 53 would avoid not only the costs borne by companies for building cases, but it would also accelerate the process of imposing duties and would fully eliminate the possibility of a dumping holiday period.

Timeline of a Trade Case



The Purpose of Section 53

The predecessor to Section 53 was first incorporated into Canadian law in 1958 in *An Act to Amend the Customs Act* and was later amended and included in the *Customs Tariff Act* in 1968. In 1985, the provision was further amended to reach what is effectively its current form. This provision was enacted in 1958 to address circumstances where goods were being exported to Canada and sold in their home market at prices below their cost of production. At the time, this was not addressed by Canada's dumping legislation, so the Government adopted this tool to protect Canadian producers in circumstances where traditional trade tools like trade remedies are not able to efficiently and effectively address the issue.

The challenges posed by Chinese excess capacity cannot be effectively addressed by a litany of ad hoc trade remedy cases. Canada's steel industry is once again requiring exceptional measures to respond to the threat posed by Chinese excess steel capacity. Section 53 would not only be effective in this regard; its use would be consistent with its original purpose when it was first enacted nearly 65 years ago.

WTO Compliance

We understand that the protection of Canada's auto workers and its growing EV industry and its supply chain from China's unfair trade policies and practices is a central focus of this consultation. Canada is considering exceptional trade action to achieve this primary goal. When China joined the WTO the understanding of other Members was that the Chinese Government would transition its economy to a market-based system. Over 20 years later, China has not fulfilled this promise and governments in China continue to tightly control the economy and build out state-sponsored excess capacity. In these circumstances, the use of Section 53 is defensible under Articles XX and XXI of the General Agreement on Tariffs and Trade.

As described above, the policies, practices and diversion that Canada is seeking to address in the context of EVs and its supply chain are equally pressing in the context of CSPA's request for tariffs of at least 25% on all melted and poured Chinese steel products. China's steel overcapacity poses an existential threat to Canada's steel industry. Canada is justified in responding to this threat by imposing a surtax under Section 53 of the *Customs Tariff Act* and invoking the available exceptions under Articles XX and XXI of the GATT to justify the measure.

Concluding Remarks

The CSPA wishes to express its gratitude to the Government of Canada for launching this consultation process on the unfair Chinese trade practices in electric vehicles and its supply chain. We would like to remind the Government that Chinese excess industrial capacity is broader than just the EV sector and the response should encompass sectors already facing excess capacity, like the steel industry. Since trade policy alignment on our main trading partner is crucial, we should too, act on the same 75% of the measures targeted by USTR, which are placed on primary forms of steel.

The Canadian Steel Producers Association (CSPA)

The Canadian Steel Producers Association (CSPA) is the national voice of Canada's \$15B steel industry. Our member companies annually produce approximately 13 mmt of primary steel and pipe and tube products in facilities located across Canada. Domestic steel operations directly employ some 23,000 Canadians while supporting an additional 100,000 indirect jobs.

Canadian steel producers are a critical component of Canada's economy, serving the needs of North American customers with high quality, competitive, and innovative products. Key market segments for member companies include: automotive; energy discovery, extraction, and transport; major infrastructure projects; commercial/residential construction; renewable energy creation; and many general manufacturing applications.

CSPA is committed to fostering a strong and sustainable future for Canada's vital steel producers and enabling our members to prosper in both domestic and international markets.