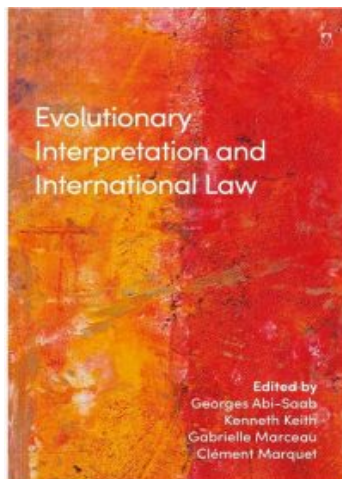


# JANUARY-IN-REVIEW

## International Trade

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1. [Canadian International Trade Tribunal Commences Second Steel Safeguard Exclusions Inquiry](#) (15 January 2020)
2. [Support for the WTO Interim Appeal Arbitration Agreement Grows to 16 Countries in Parallel with the Formal U.S. Engagement in WTO Reform](#) (24 January 2020)
3. [The United Kingdom's Withdrawal Agreement with the European Union Enters into Force](#) (31 January 2020)



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## International Trade

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### 1. CANADIAN INTERNATIONAL TRADE TRIBUNAL COMMENCES SECOND STEEL SAFEGUARD EXCLUSIONS INQUIRY

On 15th January 2020, the Canadian International Trade Tribunal commenced a second exclusions inquiry ([Inquiry No. GC-2018-001-E2](#)) regarding exclusion requests concerning imports of certain heavy steel plate and stainless steel wire products that are currently subject to Canada's steel safeguard measures (see "[Canada Announces Provisional Steel Safeguard Measures](#)" and "[New Notice to Importers published concerning the Administration of the Safeguard Measures on Certain Imports of Heavy Steel Plate and Stainless Steel Wire](#)").

The [Notice of Commencement](#) for the exclusions inquiry provides that the Tribunal's mandate is to determine (i) whether or not there is at least one domestic source of supply for goods that are the subject of an exclusion request, or (ii) whether there is a Canadian manufacturer with a commercially viable plan to produce such goods in Canada. Where specific products are not made in Canada and must therefore be sourced from other countries, imports of such goods cannot be said to be causing or threatening to cause injury to Canadian steel producers. Under these circumstances, the protection afforded to the Canadian steel industry by a safeguard measure would not be warranted for the product in question. It is on this basis that the Tribunal is authorized to grant an exclusion from the safeguard measures for imports of such products.

The Schedule for the exclusions inquiry has been posted on the Tribunal's website as part of the above-referenced Notice of Commencement. Interested parties, such as importers of specialty heavy steel plate or stainless steel wire products that are not produced in Canada, may complete [exclusion request forms](#) that must be filed with the Tribunal no later than 31st January 2020. The Tribunal's online [Guideline to Making Requests for Product Exclusions](#) should be consulted for more information on completing a form.

Responses from parties who oppose exclusion requests (i.e., Canadian producers) must then be filed no later than 11th February 2020. The parties requesting exclusions then have an opportunity to file reply submissions to address any arguments or evidence filed against them, and this must be done no later than 18th February 2020. It is expected that the Tribunal's decision and its report to the Department of Finance will be issued on or about 13th March 2020.

Tereposky & DeRose regularly provides advice on Canadian trade matters, including safeguard measures. Should you have any questions regarding these matters or any other trade-related issues, we are at your disposal.

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## 2. SUPPORT FOR THE WTO INTERIM APPEAL ARBITRATION ARRANGEMENT GROWS TO 16 COUNTRIES IN PARALLEL WITH FORMAL U.S. ENGAGEMENT IN WTO REFORM

On 24th January 2020 at Davos, Switzerland, the Ministers of 16 WTO Member countries **agreed to develop a multi-party interim appeal arrangement** based on Article 25 of the WTO Dispute Settlement Understanding. The countries are Australia, Brazil, Canada, China, Chile, Colombia, Costa Rica, the European Union, Guatemala, Republic of Korea, Mexico, New Zealand, Norway, Panama, Singapore, Switzerland, and Uruguay.

The arrangement will allow the participating WTO members to preserve a functioning, two-step, binding dispute settlement system at the WTO for the purpose of resolving disputes among them. It is intended to be a temporary measure, in place only until a reformed WTO Appellate Body becomes fully operational. The joint **statement issued by the Ministers of the 16 WTO Member countries** provides that participation in the arrangement will be open to any WTO Member willing to join it.

The arrangement will be based on the **July 2019 arrangement between the EU and Canada**, which was **joined by Norway in October 2019**.

This move corresponds with the announcement this week by U.S. President Donald Trump that he has begun talks with WTO Director-General Roberto Azevêdo on WTO reforms.

Considering the growing interest in the interim appeal arrangement, the anticipated reform of the Appellate Body, and potential updates with respect to the WTO Agreements, it looks to be an interesting year ahead for the heavily used WTO dispute settlement mechanism.

Tereposky & DeRose has extensive experience in WTO dispute settlement. Should you have any questions regarding this subject matter, we are at your disposal.

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### 3. THE UNITED KINGDOM'S WITHDRAWAL AGREEMENT WITH THE EUROPEAN UNION ENTERS INTO FORCE

At midnight Central European Time on Friday 31st January 2020, the United Kingdom will formally withdraw from the European Union. At the same time, the UK-EU Withdrawal Agreement, which was passed into UK law as the [European Union \(Withdrawal Agreement\) Act 2020](#) on Thursday 23rd January and [approved by the European Union](#) on Wednesday 29th January, will enter into force.

A key feature of the Withdrawal Agreement is the transitional “implementation period” that will initially run until 31st December 2020, but may be extended for a further one-year or two-year period. During this transitional period, the UK will continue to be bound by its prior obligations under international agreements as if it were still an EU member state, and the *status quo* between the UK and the EU will generally be preserved. This will provide stability, allowing business to continue more or less as usual, while the UK and the EU continue to negotiate the terms of their new relationship.

While these steps are essential for an orderly “Brexit” process, the cooperation of third countries like Canada will also be required. With respect to international agreements between the EU and other countries around the world, it is not enough for the EU, the member states of the EU-27, and the UK to continue to observe their rights and obligations as the EU-28. It is also necessary for the other countries with whom those rights and obligations were established to agree to recognize and abide by this arrangement.

To this end, Global Affairs Canada has [issued a notice](#) in today’s publication of the [Canada Gazette, Part I](#) (Vol. 154, No. 5, dated 1st February 2020) of Canada’s agreement, by way of a decision taken by the Minister of Foreign Affairs, “to continue to interpret its agreements with the European Union as applying to the United Kingdom as though the United Kingdom were still a member state of the European Union for the duration of the transition period as defined in the Withdrawal Agreement”. This means that, for the duration of the transition period, [Canada will maintain its relationship with the UK as if it were an EU member state](#) for the purposes of the WTO agreements, the Canada-EU *Comprehensive Economic and Trade Agreement* (CETA), and the other bilateral, regional, and multilateral agreements involving both Canada and the EU.

Tereposky & DeRose regularly provides advice on the interpretation, application and implementation of international agreements. Should you have any questions regarding this matter, we are at your disposal.

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