No taxation without presentations: Canada to launch public consultations on possible tariff hikes on Chinese EVs

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On June 24, 2024, the Deputy Prime Minister and Finance Minister Chrystia Freeland announced the government's intention to deliver a policy response to electric vehicle (EV) imports from China currently flooding global markets. This move is in response to a growing concern in Canada regarding China's "state-directed policy of overcapacity that is undermining Canada's EV sector's ability to compete in domestic and global markets." The announcement follows similar policy moves in the United States and European Union, both of which have announced plans to significantly increase tariffs on Chinese EVs.

The United States and the European Union have each announced measures to address Chinese state support for EV production, resulting in overcapacity and oversupply. On May 14, 2024, the Biden administration announced that the tariff rate on EVs will increase from 25 per cent to 100 per cent. The European Union, following suit, also proposed to introduce additional tariffs of up to 38 per cent.

Consultations as first step to a policy response

The federal government will launch a 30-day public consultation, starting on July 2, 2024. These consultations are an opportunity for stakeholders to voice their views on **policy options** to address both the oversupply of Chinese EVs in global markets as well as the cyber and data security threats associated the EVs.

The options include:

- A surtax on Chinese-origin EVs under section 53 of the *Customs Tariff*;
- Adjustments to the federal Incentives for Zero-Emission Vehicles (iZEV) program, which offers point-of-sale incentives for consumers who buy or lease eligible zero-emission vehicles; and
- Increased foreign investment restrictions.

Responding to acts of other governments that adversely affect Canada

The decision to pursue a possible surtax under section 53 of the *Customs Tariff* marks a departure from the typical mechanism for assessing duties on unfairly traded goods.

Ordinarily, Canada imposes additional duties to level the playing field or to protect Canadian industries against a surge of imports in three circumstances:

- Where the import price of a product is less than its sales price in its domestic market under similar conditions, *and* the imports cause or threaten to cause material injury to the domestic industry;
- Where the imported products benefit from specific subsidies and cause or threaten to cause material injury to the domestic industry; and
- Where there is a surge in imports (whether or not they are unfairly traded) resulting in serious injury to the domestic industry.

The duties are imposed after an investigation and after findings of material or serious injury by the Canadian International Trade Tribunal.

Section 53 of the *Customs Tariff* is different. It empowers the Government, on the recommendation of the Minister of Finance and the Minister of Foreign Affairs, to subject goods or a class of goods originating in a country to a **surtax** to respond to "to acts, policies or practices of the government of [that] country that adversely affect, or lead directly or indirectly to adverse effects on, trade in goods or services of Canada." This surtax would be imposed in addition to any duties already applied to such goods. Under section 53, the Government may also increase customs duties attached to such goods for a specified period of time.

Have your say!

Affected businesses should seriously consider participating in the upcoming consultations. The timeline to submit is tight, but not impossible. Automobile companies and retailers, auto parts businesses, consumer groups, trade law and policy specialists, climate change activists and organizations concerned about cyber security all have an interest in an orderly treatment of the Chinese EV issue.

BLG's deep bench in trade, subsidies and government relations can help interested parties develop and advance an effective submission and policy proposals.

By

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Expertise

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