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Tax Alert – Canada

Trade compliance verification list update - January 2024

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The Canada Border Services Agency (CBSA) published its semi-annual list of trade compliance verification priorities in January 2024.¹ The list is designed to update the importing community on ongoing verification priorities and set the stage for new priorities for the upcoming calendar year.

The CBSA continues to focus on tariff classification, with the introduction of two new product categories to the list of tariff classification priorities and one new round to the list of origin verification priorities.

Background

The CBSA requires the importing community to meet all the requirements governing the accounting of commercial goods imported into Canada, including but not limited to:

- ▶ Classifying commercial goods under the appropriate tariff classification;
- ▶ Accurately declaring the origin and value of goods (in accordance with legislative requirements); and
- ▶ Paying the appropriate amount of duties and taxes on the imported goods.

¹ [Trade compliance verifications \(cbsa-asfc.gc.ca\)](https://www.cbsa-asfc.gc.ca)

The CBSA uses trade compliance verifications to ensure that importers comply with customs legal requirements and programs. The CBSA's main objectives when conducting verifications are to:

- ▶ Assess an importer's compliance with CBSA-administered legislation;
- ▶ Determine compliance within industry sectors;
- ▶ Conduct a review of an importer's liabilities and entitlements; and
- ▶ Assess the integrity of trade data received from importers.

Trade compliance verifications - target verification priorities

The CBSA manages a significant portion of import trade compliance within three program categories – tariff classification, valuation and origin – by conducting targeted verifications and by issuing verification priorities.

Targeted verification priorities are established using a risk-based, evergreen process, which means that new targets are added throughout the year. Verification priorities may also be carried over from previous years. It is important to note, however, that importers that deal in products or industries that are outside the targeted verification priorities should not presume they will not potentially be subject to a verification.

Verification priority: tariff classification

The January 2024 update of the CBSA's verification priorities encompasses 14 tariff classification verification priorities, including two new product categories (bags and spent fowl).

The CBSA's continued focus on tariff classification may be due to the relative ease of verifying whether goods have been classified correctly for customs purposes. Increased audit activity in this trade program may also lead to higher revenues for the CBSA.

The following chart lists all current tariff classification priority items:

Verification priority: tariff classification		
Bags (Round 3) - New	Spent fowl (Round 3) - New	Freezers and other freezing equipment
Washers and dryers	LED lamps (Round 2)	Furniture for non-domestic purposes (Round 4)
Parts of lamps (Round 4)	Cell phone cases (Round 3)	Parts of machines and mechanical appliances
Bicycle parts (Round 3)	Parts for use with machinery of Chapter 84 (Round 3)	Indicator panels and light-emitting diodes (LED)
Safety headgear (Round 5)	Disposable and protective gloves (Round 5)	

Verification priority: valuation

The CBSA's valuation verification priority continues to be focused solely on apparel (Round 4). Apparel importers should continue to assess whether they are prepared for a valuation verification audit. CBSA valuation audits targeting these imports have revealed that importers are omitting additions to the price paid or payable of goods mandated by statute, such as design "assists," not taking into account transfer price adjustments made for tax purposes, or not putting proper documentation in place to account for non-dutiable agent commissions, where applicable.

In addition, importers that purchase goods from related parties and use transfer pricing as the basis for customs values should consider their record-keeping obligations and whether the documentary support on record is sufficient to defend the use of a transfer price as the basis for customs value.

Verification priority: origin

A new round of verification for bedding and drapery (Round 3) has been added as an origin verification priority and relates to compliance under the North American Free Trade Agreement (NAFTA). The purpose of a NAFTA origin verification is to determine whether goods imported into Canada are entitled to the NAFTA preferential rate of duty according to the NAFTA rules of origin. The results of the first two rounds of verification confirmed to the CBSA that some of the products verified did not qualify under NAFTA because of the inputs used in their production.

In addition, the CBSA is monitoring imports of goods originating in Russia or Belarus to enforce Canada's withdrawal of the Most-Favoured-Nation tariff treatment from goods originating in these two countries. Effective 2 March 2022, goods originating in Russia and Belarus are subject to the General Tariff customs duty rate of 35%.²

The list of goods currently being monitored and risk assessed by the CBSA includes, but is not limited to:

- ▶ Products of iron or steel;
- ▶ Fertilizer;
- ▶ Petroleum;
- ▶ Non-ferrous metals; and
- ▶ Tires.

Compliance intervention tools

Although trade compliance verifications are the CBSA's most comprehensive compliance tool, it is not always efficient for trade chain partners and the CBSA to identify and address instances of non-compliance. The verification process is lengthy, labour-intensive and generally conducted well after importations have occurred.

As part of its Trade Compliance Strategy and in tandem with trade compliance verifications, as of January 2022, the CBSA uses three compliance intervention tools to enhance the overall efficiency and effectiveness of its trade compliance regime:

- ▶ Trade advisory notice
 - ▶ A letter to the importer asking them to review a declaration (the letter includes public resources for guidance)
 - ▶ Intended as a nudge to assist the importing community when there is a potential for non-compliance
 - ▶ No monetary assessment issued as a result of a trade advisory notice
- ▶ Compliance validation letter
 - ▶ A letter to the importer requesting more information, which must be provided to the CBSA within 30 days
 - ▶ Intended to address instances of *suspected* non-compliance

² SOR / 2022-0035. For more information, see [EY Tax Alert 2022 Issue No. 44](#).

- ▶ Directed compliance letter
 - ▶ A letter to the importer, which includes a monetary assessment
 - ▶ Intended to address instances of *known* non-compliance

These trade compliance intervention tools are designed to target specific import transactions, promote voluntary compliance, enable early correction of errors and mitigate future costs of non-compliance in cases where recurring importations repeat undetected errors. Similar to trade compliance verifications, recourse provisions of the *Customs Act* apply to any resulting assessments.

Takeaways for importers

CBSA verifications can be time-consuming and costly for importers. Companies must be proactive and adopt an informed compliance mindset. Best practices for companies include implementing programs, frameworks and methodologies to help maintain and continuously improve their customs and trade compliance management profile.

Learn more

For more information, please contact one of the following EY Global Trade professionals.

Sylvain Golsse

+1 416 932 5165 | sylvain.golsse@ca.ey.com

Denis Chrissikos

+1 514 879 8153 | denis.chrissikos@ca.ey.com

Camilla da Matta

+1 416 943 2647 | camilla.damatta1@ca.ey.com

Kristian Kot

+1 250 294 8384 | kristian.kot@ca.ey.com

Jocelyn Mao

+1 416 943 2212 | jocelyn.mao@ca.ey.com

Traci Tohn

+1 514 714 3352 | traci.tohn@ca.ey.com

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