



**ARE YOU A PRIORITY
FOR CANADA
CUSTOMS?**

Canadian update January
2021



THE PAST 6 MONTHS

- De minimis changes under CUSMA:
 - Courier Shipments
 - Value under \$40.00 CAD – no duties/taxes
 - Value between \$40.01 and \$150.00 CAD – no duty
 - Values over \$150.00 – full duty and tax owing
 - Postal Shipments
 - No changes

[Customs Notice 20-18 - Implementation of the Canada-United States-Mexico Agreement \(CUSMA\) De Minimis Thresholds with Respect to Customs Duties and Taxes for Courier Imports \(cbsa-asfc.gc.ca\)](#)

THE PAST 6 MONTHS

- Introduction to CARM (CBSA Assessment and Revenue Management) project started
 - Series of webinars hosted by CBSA
 - Many questions have come up from the brokerage community
 - Spring 2021 – importers can start signing up for a portal account and assign access
 - Spring 2022 – expanded functionalities released

THE FUTURE...

- Preparing for CARM:
 - Obtain importer direct security bond
 - Payment of duties and taxes will be direct to the government or through your broker (if you are an NRI)
 - Identify who will need access
 - Compliance
 - Accounting
 - Executive
 - Service provider(s)

[CBSA Assessment and Revenue Management project \(cbsa-asfc.gc.ca\)](https://cbsa-asfc.gc.ca)

OCTOBER 1, 2020

- CERS (Canadian Export Reporting System) became mandatory
 - Exports over \$2500 CAD need to be reported through a new system
 - Are you set up?
 - BN must be activated for import/export
 - Portal access granted
 - Secret code shared with service provider(s)

[Canadian Export Reporting System Portal: Get started with electronic export declarations \(cbsa-asfc.gc.ca\)](https://cbsa-asfc.gc.ca)

THE DARK DAYS OF NOVEMBER

- CBSA had major ACI (Advanced Commercial Information) issues
 - Shipments were not showing as accepted
 - Paper entries were being submitted, but customs was not releasing
 - Many containers went on TITAN hold
 - Information supplied was not matching up
 - CBSA was unreachable because many officers are working from home and do not have phone access
 - Importers suffered with no relief on storage/demurrage

NOVEMBER 2020 - JANUARY 2021

- eManifests are now mandatory for all air, ocean, rail & ground shipments
- Electronic house bills are required for consolidated shipments as of January 4, 2021
- In-transit shipments are exempt
- Freight forwarders are an entity required to do this under Customs law
- 6 months of informed compliance
- After 6 months, penalties will be issued

[Customs Notice 20-28 - R2 Release \(cbsa-asfc.gc.ca\)](https://www.cbsa-asfc.gc.ca/customs-notice-20-28-r2-release)

JANUARY 2021

- Priority verification lists released:
 - 6403.59.20.00/6403.99.30.00 ladies leather footwear valued at \$30 or more per pair
 - Still a very high rate of non-compliance (77%)
 - Clothing classified in 39.26
 - Attracts a duty rate of 6.5% vs 18%
 - 74% - 78% rate of non-compliance
 - If there is a significant textile component, goods should be classified in Chapters 42, 61, 62 or 65.

JANUARY 2021

- Priority list continued:
 - Gloves & bags are also on the target list for classification
 - Valuation of footwear & apparel
 - Assists not being added
 - Incorrect values declared in order to avoid paying duty

[2021-01-eng.pdf \(cbsa-asfc.gc.ca\)](#)

[Memorandum D11-6-8 - Verification of Origin \(Non-free Trade Agreements\), Tariff Classification, and Value for Duty of Imported Goods \(cbsa-asfc.gc.ca\)](#)

A GRAM OF PREVENTION = A KG OF CURE

- Database review
 - Do you and your broker operate from the same database?
 - Do you use a courier? How do they determine classification?
 - If you have any items on the target list, do a deep dive to ensure that goods are being classified correctly

A GRAM OF PREVENTION = A KG OF CURE

- Valuation
 - What methodology is used to value your goods?
 - Do you sell direct to Canada, warehouse goods “in anticipation of sale”, or is it a combination of both?
 - Do you have goods drop-shipped from a vendor outside the country?
 - What value is being declared?
 - What adjustments are being made to the value?
 - Freight, fees, packaging, assists
 - Are charges to be added or are they deductions?



**IN CASE YOU MISSED
IT...**

January 2020 presentation
made to Customs Working
Group



IMPORTER OBLIGATIONS

- Importers are ultimately responsible for the accuracy and completeness of their imports as well as any AMPS penalties that may be issued for non-compliance

Step 1	Know and understand the requirements pertaining to your import and export transactions
Step 2	Verify that your import and export transactions are fully compliant with requirements
Step 3	Develop and implement a compliance plan

CUSTOMS US/CANADA

Makes the importer responsible for:

- Correct declarations of tariff classification, value, origin and tariff treatment
- Providing a complete “*cradle to grave*” audit trail of all Customs related documentation



COMPLIANCE PROBLEM AREAS

Accounting
Classification
Valuation
Tariff Treatment



ACCOUNTING

- Control and Adjustments
 - Overages or shortages?
 - No charge items?
 - Consignment?
 - Warranty?
- Ability to retrieve documents via common reference
- Records maintained for 6 years plus current year
 - Do you have authorization to maintain outside of Canada?
 - Also pertains to electronic record storage as well

CLASSIFICATION

- Do the Customs invoices properly and completely describe the goods?
- Have any Rulings been issued?
- Has tariff been verified with broker?
- How is tariff determined on new products?
 - If you provide, are you making sure your broker is using it?

WHY IS CLASSIFICATION IMPORTANT?

- Effects the amount of duty paid
- Free trade tariff treatment eligibility
- Conditional duty relief opportunities
- Anti-dumping/countervailing measure applicability
- Tariff rate quota applicability

VALUATION

- Are you related to the buyer/seller?
- Are any deducted freight charges verifiable?
- Consignment Goods?
- Are Assists, Royalty Payments, Subsequent Proceeds applicable but not included in the Value?

TARIFF TREATMENT

- Do you have Certificates or Statements of Origin on file?
- Do the Certificates or Statements of Origin specifically identify the goods imported?
- Can you or your vendor support the origin declaration? Is there a complete audit trail?
- Who certifies your goods?
- Does the finished good meet the rules of origin?
- Do you trust the declaration of origin from the exporter/producer and have evidence that the country of origin/tariff treatment should be declared?

PGA'S UNDER SWI

- 39 government agencies are going on-line
- More information is required up front
 - Clearance delays can be experienced if not provided
- Licenses are required where they were not before
 - Some PGA's also require process, safety or recall program to be implemented as well
- PGA's are now starting to audit



WHY COMPLIANCE IS IMPORTANT



AUDITOR GENERAL REPORT

2019 Auditor General noted significant areas of concern

- CBSA unable to assess all customs duties owing:
 - Descriptions of goods on the import forms were often incomplete or incorrect about 20% of the time
 - HS classifications were incorrect or misrepresented the actual import
- CBSA unable to manage Controlled Goods:
 - The CBSA and Global Affairs Canada did not work together to manage the limits on quota-controlled goods coming into Canada
 - dairy, chicken, turkey, beef, and eggs, and goods imported under the Duties Relief Program – CBSA did not ensure that diverted goods were reported and the applicable duties paid as required.
- CBSA unable to analyze and review accurate duties owing
 - Importers were found submitting changes to their import form information up to four years after their goods were imported because the CBSA did not examine or sample all shipments before

AUDITOR GENERAL REPORT

2019 Auditor General noted significant areas of concern

- CBSA poor data management of low-value shipments imported into Canada by courier companies
 - Even though the Agency had indications that courier companies did not declare the full taxes owing to the government, officials did nothing to resolve the issue
 - The Agency was unable to easily validate information on shipments, such as value, quantity, and type of product, because it did not require invoices for each transaction
 - **The CBSA will review processes within the Courier Low Value Shipment Program to improve the validation of taxes collected



ENFORCEMENT



COMPLIANCE AND ENFORCEMENT

- The CBSA manages trade compliance with the Tariff Classification, Valuation, and Origin programs using two post-release verification processes:
 - 1. Random verifications
 - 2. Verification priorities
- **Random verifications**
 - designed to measure compliance rates and revenue loss
- **Targeted Verification priorities:**
 - determined through risk based priorities - may also be carried over from previous years. An example of a current verification priority is:
 - **Import Permits** -results show that some TRQ goods have been imported without the required import permit number and have been re-classified under “over access commitment” tariff items of the Customs Tariff.

Targeted Companies (Round 1)	Cases Closed	Cases in Error	% Non-Compliance	DAS Issued (\$)	Self-Adjustments by Importers (\$)	Penalties (\$)	Total (\$)
174	174	60	34%	\$631,843	\$4,103	\$56,050	\$691,996

SELF-ENFORCEMENT

- ❑ Determine the country of origin for the goods you are importing
- ❑ Verify whether the goods are controlled, regulated or prohibited by the CBSA or any other government department or agency.
- ❑ Ensure that the goods are marked and labelled as required.
- ❑ Validate the 10-digit tariff classification number
- ❑ Determine whether the goods are subject to any other duties or taxes including the goods and services tax (GST).
- ❑ Obtain invoices, certificates of origin and any other required documents
- ❑ Determine the value for duty of the goods you are importing.
- ❑ Select the method of shipping and communicate with the transportation company on cross-border requirements.
- ❑ Review internal processes
- ❑ Trade Compliance Team should include
 - Purchasing
 - Supply Chain
 - Logistics
 - Legal



CANADIAN COMPLIANCE VERIFICATIONS



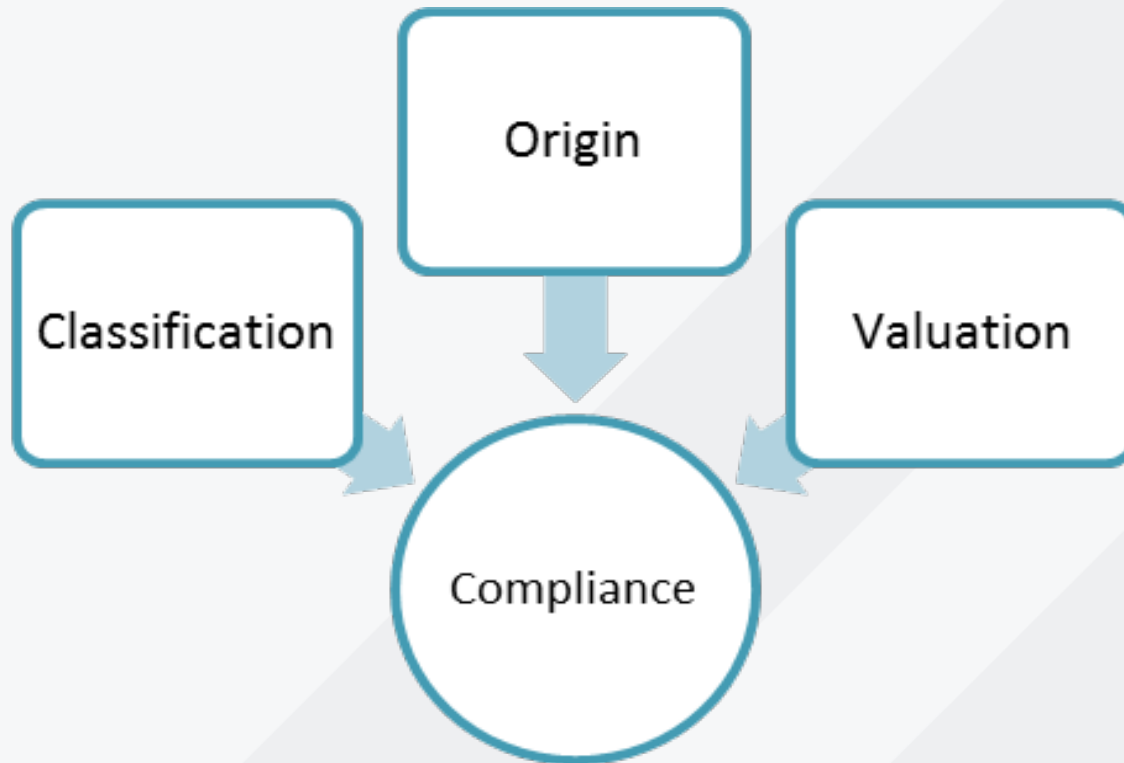
THE MILLION DOLLAR QUESTION!



What do you do when Canada Border Services Agency comes calling?

- Customs verifications are serious matters not to be taken lightly.
- That letter or call from the Canada Border Services Agency may seem innocent enough, but every CBSA communication has a purpose, and the impacts on your business can be huge.

PROGRAM AREAS



VERIFICATION TYPES

- You may be selected for an audit by either of the two post-release verification processes:
 - Random verifications
 - Verification priorities

RANDOM VERIFICATIONS

- Are completely random and can occur at any time.
- Designed to measure compliance rates and revenue loss and the results may be used for many purposes, including:
 - Risk assessment;
 - Revenue assessment; and
 - Promoting voluntary compliance

TARGETED VERIFICATIONS

- Priorities are determined through a risk-based process, and new targets can be added throughout the year.
- Verification priorities may also be carried over from previous years.
- <https://www.cbsa-asfc.gc.ca/import/verification/2020-01-eng.pdf>

HOW DOES IT WORK?

- Notification Letter will identify the following:
 - Program Area
 - Commodity
 - Review Period
 - Request for Documents
 - Deadline

FIRST STEPS

- Customs may require information such as
 - Details of HS classification
 - Certificates of Origin re FTA's used
 - Books and Records – procurement to payment
 - Purchase Orders and invoice pricing
 - Transfer pricing agreements for related parties
 - General Agency Agreement
 - Books and records maintenance agreements
 - Authorization to share

YOU'RE GETTING AUDITED

- Interim Report
 - Summarizes findings
 - Outlines additional requirements
 - Identifies corrective action required
 - Opportunity to make comments on findings
 - Deadline to submit a response

YOU'RE GETTING AUDITED

- Final Report
 - Summarizes the final decision of the CBSA
 - Identifies corrective action required
 - Establishes Reassessment Period
 - Provides “Reason to Believe”
 - Outlines Penalties
 - Appeal and Redress
 - Monitoring Compliance

NOW WHAT

- Corrections are required whether or not there is financial impact.
- Must be submitted within 90 days of the Final Report, otherwise penalties will be issued.

PENALTIES/COST OF AN AUDIT

- Can be costly to your bottom line
- Importer profile is damaged
- Penalties are maintained in your profile for 3 years
- Even if you leave unscathed, man hours and consultants/trade lawyers' bills add up fast!

APPEALS AND REDRESS

- In order to appeal the decision:
 - CBSA requires that all adjustments be completed
 - Payment of duties and taxes
 - Payment of issued penalties
 - Submitted within 90 days of Final Report



**REAL LIFE
EXPERIENCE**



WHAT ARE WE SEEING LATELY?

- It is taking a very long time from start to finish
 - 1-2 dozen requests for distinct information
 - Scope creep was significant
- More detailed information is being required
 - Information for 16 G/L accounts was required along with tax returns and proofs of payment
- Information was requested that KEEN didn't have
 - No allowance made for their business practices
- Vendor name change caused confusion and delay
- CSA testing fees caused confusion



FINAL THOUGHTS



CONSIDERATION

- The submission of a B3 import entry is the same as submitting a tax return
 - Ensure the accuracy of the information provided to your service provider
 - You the Importer of Record are ultimately responsible
 - Review documents prior to sending them to the CBSA

CONSIDERATION

- The CBSA will start its audit by reviewing a small sample of your customs transactions.
- Depending on their findings, the data they are interested in could expand to include all transactions over the past four years including the same or similar goods.

CONSIDERATION

- Seemingly simple requests for information – even for a single transaction may lead to a major audit with potentially huge liabilities.
- Trying to go it alone, without full knowledge of potential consequences, may have a very expensive outcome.

FREQUENTLY ASKED QUESTIONS

- How will I be notified of an audit by CBSA?
 - How much notice will I get?
- Is it possible to ask for a delay to a proposed audit?
- How many transactions will they want to review?

CONTACT ME

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