Country of origin for customs purposes

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Determining country of origin

From a customs perspective, determining the country of origin of imported goods are crucial for several reasons, including:

- determining whether imported goods are entitled to most-favoured-nation (MFN) or preferential tariff treatment;
- determining whether imported goods are subject to tariffs or safeguard measures (*e.g.*, anti-dumping or countervailing duties);
- determining whether imported goods are subject to discriminatory quantitative restrictions or tariff rate quotas; and
- fulfilling any product labelling and marking requirements for imported goods.

Canadian exporters to the U.S. typically seek to affirm the Canadian origin of their exported goods, as such goods would benefit from preferential tariff treatment (that is lower customs duty rates) under Canada-United States-Mexico Agreement (CUSMA). The same is typically true of American goods coming into Canada.

However, Trump's latest tariff threats against Canadian imports into the U.S. (and any retaliatory measures by Canada) are forcing businesses on both sides of the border to carefully consider how the origin of their products may affect their bottom lines.

In some cases, it is easy to determine whether good originates in a given country. For instance, goods that are wholly obtained or produced in Canada (*e.g.* crops, lumber, dairy) are easy to classify as Canadian-origin goods. However, when different stages of production occur in different countries or when a good is made (entirely or in part) of foreign components, origin determinations become more difficult. Thus, understanding the CUSMA rules of origin is more important than ever for businesses to mitigate the effect of such tariff measures.

Country of origin marking

Country of origin markings for customs purposes are different from the product labelling requirements enforced by other government departments. The purpose of the marking requirement is to inform the ultimate purchaser of the country of origin of the goods.

The applicable rules for origin marking are those enacted by the country of import. For foreign goods being imported into Canada, origin marking is required for goods that fall under these categories:

- goods for personal or household use;
- hardware;
- novelties and sporting goods;
- paper products;
- apparel;
- horticultural products; and
- goods of steel or aluminum.

For U.S.-origin goods entering Canada, the rules for marking are set out in the *Determination of Country of Origin for the Purpose of Marking Goods (CUSMA Countries) Regulations*. Failure to mark goods in accordance with the marking requirements may result in the application of penalties. Criminal penalties pursuant to section 159.1 of the *Customs Act* may be assessed by the CBSA where a person:

a. fails to mark goods in the prescribed manner;
b. marks the goods in a deceptive manner so as to mislead another person as to the country of origin or geographic origin of the goods; or
c. with intent to conceal the information given by or contained in the mark, alters, defaces, removes or destroys a mark on imported goods made as required by regulations.

For more information on navigating these issues, please reach out to any member of our International Trade team. Our deep bench of experts is well equipped to advise on tariff mitigation and origin determination.

By

Rambod Behboodi

Expertise

Corporate Commercial, International Trade & Investment, Advertising & Marketing

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BLG Offices

Calgary

Centennial Place, East Tower
520 3rd Avenue S.W.
Calgary, AB, Canada
T2P 0R3

T 403.232.9500
F 403.266.1395

Ottawa

World Exchange Plaza
100 Queen Street
Ottawa, ON, Canada
K1P 1J9

T 613.237.5160
F 613.230.8842

Vancouver

1200 Waterfront Centre
200 Burrard Street
Vancouver, BC, Canada
V7X 1T2

T 604.687.5744
F 604.687.1415

Montréal

1000 De La Gauchetière Street West
Suite 900
Montréal, QC, Canada
H3B 5H4

T 514.954.2555
F 514.879.9015

Toronto

Bay Adelaide Centre, East Tower
22 Adelaide Street West
Toronto, ON, Canada
M5H 4E3

T 416.367.6000
F 416.367.6749

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