



# Memorandum D11-4-16

Ottawa, June 5, 2021

## Advance Rulings for Origin Under Free Trade Agreements

### In Brief

This memorandum is part of an overall revision of the D Memoranda series to reflect the implementation of the following trade agreements:

[Canada-Honduras Free Trade Agreement \(CHFTA\)](#)

[Canada-Korea Free Trade Agreement \(CKFTA\)](#)

[Canada-European Union Comprehensive Economic and Trade Agreement \(CETA\)](#)

[Canada-Ukraine Free Trade Agreement \(CUFTA\)](#)

[Comprehensive and Progressive Agreement for Trans-Pacific Partnership \(CPTPP\)](#)

[Canada-Israel Free Trade Agreement \(CIFTA\)](#)

[Canada-United States-Mexico Agreement \(CUSMA\)](#)

[Canada -United Kingdom Trade Continuity Agreement \(CUKTCA\)](#)

The “Guidelines and General Information” contained herein provide policy and procedural information related to the administration of these free trade agreements (FTAs).

Please note that the amendments to the *Free Trade Agreement Advance Rulings Regulations* to support the implementation of the above FTAs, were announced via Customs Notices. The existing *Free Trade Agreement Advance Rulings Regulations*, currently on the Justice Canada website, will reflect these amendments when published in Part II of the Canada Gazette. The effective date of the regulatory amendments and new regulations will be made retroactive to the date of coming into force of the FTA in accordance with paragraph 167.1(b) of the *Customs Act* and are as outlined in the relevant Customs Notices listed below:

[Customs Notice 14-023](#), Proposed Regulatory Amendments and Proposed New Regulations Related to the Implementation of the Canada-Honduras Free Trade Agreement

[Customs Notice 14-033](#), Proposed Regulatory Amendments and Proposed New Regulations Related to the Implementation of the Canada-Korea Free Trade Agreement

[Customs Notice 17-29](#), Proposed Regulatory Amendments and Proposed New Regulations Related to the Implementation of the Canada-European Union Comprehensive Economic and Trade Agreement (CETA)

[Customs Notice 17-25](#), Proposed Regulatory Amendments and Proposed New Regulations Related to the Implementation of the Canada-Ukraine Free Trade Agreement (CUFTA)

[Customs Notice 18-27](#), Regulatory Amendments and New Regulations Related to the Implementation of the Comprehensive and Progressive Agreement for Trans-Pacific Partnership (CPTPP)

[Customs Notice 19-18](#), Amendments to the Canada-Israel Free Trade Agreement (CIFTA) - Minor Processing Operations

[Customs Notice 20-22](#), The Canada-United States-Mexico Agreement’s (CUSMA) Regulatory Amendments and New Regulations Made Pursuant to the Customs Act

[Customs Notice 21-08](#), Proposed Regulatory Amendments and Proposed New Regulations Related to the Implementation of the Canada - United Kingdom Trade Continuity Agreement

These regulations remain subject to future decision of the Governor in Council. This memorandum will be revised to provide the link to the specific regulations once the Governor in Council has passed the proposed regulatory amendments and new regulations.

This memorandum has been revised to include updates on the policy relating to situations where an advance ruling will not be issued and the request declined or postponed.

This memorandum has been revised to include new policies on the retention and disposal period, and the returning of supporting literature and / or sample to the applicant.

This memorandum has also been revised to include new procedures for the processing of advance ruling requests by e-mail between the applicant or their authorized person and the CBSA.

This memorandum has been revised to highlight the benefits associated with applying for an advance ruling through the new CBSA Assessment Revenue Management (CARM) system.

The editing revisions made in this memorandum do not affect or change any of the existing policies or procedures.

This memorandum outlines the Canada Border Services Agency (CBSA) program for issuing advance rulings under paragraphs 43.1(1)(a) and (b) of the *Customs Act*.

## Legislation

[Customs Act](#)

[Free Trade Agreement Advance Rulings Regulations](#)

## Guidelines and General Information

### Definitions

1. For the purpose of this memorandum, the following definitions apply:

**Applicant** - the person requesting an advance ruling.

**Authorized Person** – any person who is authorized to transact business with the CBSA on behalf of another person (i.e. agents, TCP, custom brokers, trade consultants).

**CARM** – CBSA Assessment and Revenue Management System

**CARM Client Portal (CCP)** – an online interface allowing a registered user to submit and respond to an application for an advance ruling, in addition to its withdrawal, modification or revocation.

**Person** – an individual, a partnership, a corporation, a trust, the estate of a deceased individual or a body that is a society, a union, a club, an association, a commission or other organization of any kind.

**Trade Chain Partner (TCP)** - person with a business number (BN9) and a program identifier (RM) (e.g. 123456789RM0001) including importers of goods in Canada, customs brokers, trade consultants, etc.

### General

2. An advance ruling is a written statement issued by the CBSA pursuant to paragraphs 43.1(1) (a) and (b) of the *Customs Act* (the Act), which reflects Canada's obligation to provide such advance rulings as provided for under Canada's free trade agreements.

3. For advance rulings pertaining to tariff classification of a good, please refer to Memorandum D11-11-3, Advance Rulings for Tariff Classification.

**Note:** If requested in writing, and if the CBSA has enough information to determine the tariff classification of the good, an advance ruling on the tariff classification will be issued (pursuant to Memorandum D11-11-3) in conjunction with an advance ruling on the origin of the good.

4. Requests concerning the CBSA's origin (Most-Favoured-Nation tariff treatment or non-Free Trade Agreement preferential tariff treatment), valuation, or marking programs are to be submitted as requests for National Customs Rulings, pursuant to Memorandum D11-11-1, National Customs Ruling.

**Note:**

- Advance rulings for origin issued under the North American Free Trade Agreement (NAFTA) will only remain valid for goods imported under NAFTA's preferential tariff treatment. Therefore, an applicant wishing to obtain an advance ruling for origin under the Canada-United States-Mexico Agreement (CUSMA), will need to submit a new application to the CBSA. Refer to the "How to Request an Advance Ruling" section for further information.
- For those who have received a NAFTA country of origin marking ruling, please note that this ruling and any modifications to the latter are only valid until June 30, 2020. For information on country of origin marking ruling requests, refer to the instructions contained in Memorandum D11-11-1.

5. An advance ruling issued by one Party to a free trade agreement will not be binding on another Party to that agreement.

6. Issuance of an advance ruling does not negate the requirement for an importer to have a valid certification of origin in their possession at the time goods are imported in order to claim a preferential tariff treatment.

7. To ensure receipt of the benefits of an advance ruling at the time of importation, importers must either attach a copy of the advance ruling or indicate the advance ruling (case) number on their import documentation (i.e. Form CI1- Canada Customs Invoice, Form B3-3 - Canada Customs Coding Form, etc.).

8. Where an importer, foreign exporter or foreign producer, as the case may be, completes and signs a free trade agreement certification of origin, and they have been issued an advance ruling for the goods listed on the certification of origin, the importer, foreign exporter or foreign producer should quote the advance ruling number on the certification of origin.

9. The CBSA has developed CARM to provide registered Trade Chain Partners (TCP) with the ability to electronically submit requests for ruling decisions to the CBSA and to view their rulings via the CARM Client Portal. CARM facilitates the rulings process by introducing information technology in submitting and receiving rulings requests, and subsequent execution, further information, modification, or revocation of a ruling decision.

**Advance Ruling Subject Matter**

10. An advance ruling on origin may only be issued with respect to those subject matters set out in the advance rulings provisions contained within a free trade agreement and any corresponding D-memoranda as follows:

Canada-Chile Free Trade Agreement (CCFTA)	Paragraph 1 of Article E-09	D11-4-24
Canada-Colombia Free Trade Agreement (CCOFTA)	Paragraph 1 of Article 419	
Canada-Costa Rica Free Trade Agreement (CCRFTA)	Paragraph 1 of Article V.9 and paragraph 10 of Article IX.2	D11-4-27, D11-4-26
Canada-European Free Trade Association Free Trade Agreement (CEFTA)	Article 28(2) of Annex C	
Canada-Israel Free Trade Agreement (CIFTA)	Paragraph 1 of Article 5.8	
Canada-Jordan Free Trade Agreement (CJFTA)	Paragraph 1 of Article 5-9	
Canada-Peru Free Trade Agreement (CPFTA)	Paragraph 1 of Article 419	
Canada-Panama Free Trade Agreement (CPAFTA)	Paragraph 1 of Article 4.10	D11-4-29
Canada-Honduras Free Trade Agreement (CHFTA)	Paragraph 1 of Article 5.10	D11-4-30

Canada-Korea Free Trade Agreement (CKFTA)	Paragraph 1 of Article 4.10	D11-4-31
Comprehensive Economic and Trade Agreement (CETA)	Paragraph 1 of Article 33 of the Protocol on rules of origin and origin procedures	
Canada-Ukraine Free Trade Agreement (CUFTA)	Paragraph 4 of Article 3.30	
Comprehensive and Progressive Trans-Pacific Partnership Agreement (CPTPP)	Paragraph 1(c) of Article 5.3	
Canada-United States-Mexico Agreement (CUSMA)	Paragraphs 4(c) of Article 7.5	D11-4-34
Canada-United Kingdom Trade Continuity Agreement (CUKTCa)	Paragraph 1 of Article 33 of the Protocol on rules of origin and origin procedures	

### Who May Request an Advance Ruling

11. A request for an advance ruling may be filed by:

- (a) importers in Canada or persons authorized to account for the imported goods in question pursuant to subsection 10(1), paragraph 32(6)(a) or subsection 32(7) of the Act;
- (b) **foreign exporters** or **foreign producers** of the goods in question in a free trade country;
- (c) **producers** in a CCFTA, CCRFTA, CPFTA, CCOFTA, CJFTA, CPAFTA, CHFTA, CKFTA, CPTPP, and CUSMA country other than Canada, of a material used in the production of goods which are subsequently exported to Canada;
- (d) **producers** in Israel or another CIFTA beneficiary or producers in the United States, the Member States of the European Free Trade Association, the Member States of the European Union, the Hashemite Kingdom of Jordan, or Mexico of a material that is used in the production of goods exported from Israel or another CIFTA beneficiary to Canada; and
- (e) authorized person thereof.

**Note:** Any authorized person who wishes to transact business with the CBSA on behalf of another person is responsible for ensuring that the proper authority has been delegated to them as per the requirements referenced in Memorandum D1-6-1, Authority to Act as an Agent or Memorandum D1-8-1, Licensing of Customs Brokers. If submitting the request for delegated authority through CARM, refer to the applicable document in the CARM Client Portal. If further assistance or information is required, contact the CARM Client Support Help Desk.

12. A request for a ruling can be submitted through the CARM Client Portal by an existing registered TCP.

**Note:** For ease of reference, the links to the CARM Client Portal and the CARM Client Support Help Desk can be found in the “Additional Information” section at the end of this memorandum.

### How to Request an Advance Ruling

13. An advance ruling may only be requested for a future importation of goods and at least 120 days prior to the importation of those goods into Canada.

**Note:** All correspondence throughout the advance ruling process will be via mail, e-mail, or through the CARM Client Portal, depending on the method chosen by the applicant to communicate with the CBSA

14. If submitting through CARM, for information on the registration, and account setup, refer to the applicable document in the CARM Client Portal. If further assistance or information is required, contact the CARM Client Support Help Desk.

15. Once the TCP has registered and created an account in CARM, they must follow the Completing Portal Setup steps to gain access to the CARM Client Portal, the interface used to submit an application for an advance ruling

and where the application is processed. For more information, refer to the applicable documents in the CARM Client Portal. If further assistance or information is required, contact the CARM Client Support Help Desk.

16. The information requirements detailed below are set out so that an applicant is aware of the extent of the specific information required, in addition to those contained in the corresponding D-Memoranda listed in the “Advance Ruling Subject Matter” section and the “How to Request an Advance Ruling” section.

17. Requests for an advance ruling must be restricted to an individual product or issue. The CBSA will not accept or process a request that relates to more than five separate products produced by a single producer at any one time. However, a request involving the origin of a range of goods will be considered if it can be shown that the goods in question are so similar that a decision on one model or style of the good can be considered a representative decision for the other models or styles of the good. The decision to permit this type of advance ruling request will be at the discretion of the CBSA.

**Example:** Goods are simple variations of each other and are produced from materials that are identical and sourced from the same suppliers and the goods are produced in the same plant during the same period using the same production methods.

18. All requests for an advance ruling must be submitted in the form of a letter or e-mail, in English or French, and must be signed by the applicant or a person authorized by the applicant to make the request. The person who signs the request must have knowledge of the issues raised in the request. The CBSA retains the right to decline the request if these conditions are not fulfilled.

19. A request must include a statement that indicates that, to the applicant’s knowledge, the issue in the request is not currently the subject of another/separate request for an advance ruling, a re-determination, a verification, an administrative review or appeal, a judicial or quasi-judicial review, or a request for an advance ruling in the territory of any Party, and if so, a brief statement setting forth the status or disposition of the matter.

20. A request must include a statement as to whether an advance ruling or other instruction on the issue had been requested previously from the CBSA and, if so, the result of any previous request.

21. The advance ruling request must be accompanied by one of the two consent to publish statements provided in Appendix A of this memorandum, either granting or refusing to give consent to publish the advance ruling in its entirety on the CBSA website. The consent to publish statement must be signed by the importer of goods in Canada, the exporter or producer of those goods outside of Canada, or by their authorized person. Failure to provide either consent statement will result in the request for an advance ruling to be considered incomplete and declined.

22. For the purposes of efficiency, the CBSA encourages the exchange of information by e-mail with the applicant. If an applicant chooses to exchange information by e-mail with the CBSA, they must provide a valid e-mail address as well as the consent statement to exchange information by e-mail with the CBSA found in Appendix B of this memorandum.

23. If the applicant is aware of any request for a re-determination, a further re-determination or a review or an appeal of an advance ruling on an identical or similar good on which the CBSA has not yet ruled, the applicant must disclose this information in the application for an advance ruling.

24. The request for an advance ruling should be marked “Attention: “Origin Advance Ruling Request” and be sent by registered (traceable) mail or by e-mail to the responsible office of the Trade Operations Divisions. If the applicant has an office in Canada, the request should be sent to the office responsible for the region in which the applicant’s office is located; this also applies to non-resident importers who have an office in Canada. If the applicant does not have an office in Canada, the request for an advance ruling should be sent to the office responsible for the region that serves the area where the majority of importations are expected to occur. The regional CBSA office will redirect the application for an advance ruling, if required. A list of the regional offices for Trade Operations Divisions is available on the CBSA web site.

25. In addition to the information required as identified above, the Uniform Regulations contained in the D-Memoranda for CCFTA, CCRFTA, CPAFTA, CHFTA, and CKFTA contain specific information required when applying for an advance ruling under any of those Free Trade Agreements (FTA). For all other FTAs (e.g. CUFTA,

CPTPP, or CUKTCA), no specific criteria is set out within the agreements. However, the criteria contained within the Uniform Regulations identified above may be used as a reference guide for determining the required information to be submitted in order to enable the CBSA to issue an advance ruling. For example, to request an advance ruling under CUFTA (which does not contain specific criteria), an applicant could use the criteria contained within the CKFTA Uniform Regulations as a guide for determining the information required by the CBSA to process an advance ruling under CUFTA.

**Note: For ease of reference, the links to the specific FTAs can be found in the “References” section at the end of the document.**

26. If information is missing from the request, the CBSA may, at any time during the course of the processing, request supplementary information from the applicant. Failure to provide all the necessary information will result in a delay or declining of the issuance of the advance ruling.

27. The applicant will be given a period of 30 calendar days from the date of the notice (or such longer period as the notice may provide) to supply any supplementary information that is requested or, otherwise, to comply with the requirements referred to in the notice. If no response to the notice is received within the time allotted, the advance ruling request will be closed administratively and considered withdrawn. If submitting through CARM, refer to the information on how to provide supplementary information in the CARM Client Portal. If further assistance or information is required, contact the CARM Client Support Help Desk.

28. If an applicant has difficulty obtaining proprietary information from the exporter or producer of those goods outside of Canada, they can ask for a laboratory analysis report from a private laboratory or they may request the exporter or producer of those goods outside of Canada to send the information directly to the CBSA. All information provided to the CBSA is protected from disclosure under section 107 of the Act. The CBSA reserves the right to validate the accuracy of the information contained in a private laboratory analysis report provided by the applicant within the 120-day service standard.

29. An application for an advance ruling may be withdrawn by the applicant at any time before the ruling is issued either by mail, e-mail, or through the CARM Client Portal. If submitting by mail or e-mail, the applicant must inform the CBSA office responsible for processing the advance ruling. Should the CBSA identify any issues in cases where an advance ruling request is withdrawn, the CBSA may later pursue the matter with the importer, foreign exporter or foreign producer, in respect of the advance ruling request.

30. If the request is for a review or an appeal of an advance ruling, state “This is a request for a review or an appeal of advance ruling (insert applicable case number).”

### **Circumstances Where an Advance Ruling Will be Postponed**

31. An advance ruling will be postponed in the following circumstances:

- (a) where a verification of origin is being conducted on similar goods under sections 42.1 and 97.201 of the Act, and the outcome of the verification may affect the advance ruling request;
- (b) where a request for a re-determination of the origin of identical goods has been made, and the re-determination decision is outstanding;
- (c) where the request involves a matter that is before the Canadian International Trade Tribunal, the courts, the Free Trade Commission or any group or sub-group established thereunder;
- (d) the CBSA authorizes an officer to postpone the issuance of an advance ruling in cases where policy interpretation is under review as a result of a legislative or regulatory change, or the implementation of a free trade agreement.

32. In cases of postponement of an advance ruling, the CBSA will advise the applicant via the method chosen by the applicant to communicate with the CBSA, of the reasoning for the postponement, and when the process will resume.

### **Circumstances Where an Advance Ruling Will Not be Issued and the Request Declined**

33. Advance rulings will not be issued in the following circumstances:
- (a) where it is not possible to determine all the material facts;
  - (b) where the acceptance of the request would result in requests relating to more than five separate products produced by a single producer being processed by the CBSA at any one time;
  - (c) where the request only relates to an importation or importations that have already occurred;
  - (d) where any of the circumstances listed in section 14 of the *Free Trade Agreement Advance Rulings Regulations* occur;
  - (e) where supplementary information was requested and not provided within 30 days or by a date as determined by the officer; **or**
  - (f) where the request does not meet the requirements listed within this memorandum.
34. If any of these situations apply, the CBSA will inform the applicant in writing, via the applicant's chosen method of communication, of the reason(s) why an advance ruling will not be issued. This does not preclude an applicant from submitting a new request which meets the conditions described in this memorandum.

### **Modification or Revocation of an Advance Ruling**

35. An advance ruling is effective on the date on which it is issued, or on such a later date as may be specified in the advance ruling and will remain valid until it is either modified or revoked as per the circumstances listed in section 14 of the *Free Trade Agreement Advance Rulings Regulations*.
36. In accordance with section 16 of the *Free Trade Agreement Advance Rulings Regulations*, the notice of a modification or revocation of an advance ruling shall only be issued to the applicant.
- Note:** If a modification is requested through the CARM Client Portal by the applicant, refer to the applicable document in the CARM Client Portal. If further assistance or information is required, contact the CARM Client Support Help Desk.
37. A modification or revocation of an advance ruling will be effective on the date it is issued. However, the CBSA may, upon request by the applicant or on its own initiative, delay the effective date of such a modification or revocation for a period of up to 90 calendar days from the date of issuance pursuant to section 19 of the *Free Trade Agreement Advance Rulings Regulations*. Such a delay shall be granted to the applicant, provided they can demonstrate to the satisfaction of the CBSA that they relied in good faith and to their detriment on the advance ruling. The delay shall apply with respect to goods covered by the advance ruling that are imported by the applicant or any other person importing those goods directly from that applicant.
38. The evidence of reliance shall include contracts, purchase orders, past importations, or other documentation tending to establish that contracts for, and production of goods to be imported after the modification or revocation, were arranged prior to the modification or revocation and shall specifically identify the advance ruling on which reliance is claimed.
39. An applicant requesting a delay of the effective date of an advance ruling, pursuant to section 19 of the *Free Trade Agreement Advance Rulings Regulations*, will be issued a separate ruling setting forth the delay period, if any. In appropriate circumstances, the CBSA may decide to make its decision, with respect to a delay, applicable to all persons, irrespective of demonstrated reliance. In such a case, the CBSA will not reassess any importations of the goods in question that are imported during the period of the delay.
40. An application for postponement of the effective date of the modification or revocation should be made in writing, to the office that issued the modification or revocation, within 90 days from the issuance of the modification or revocation, or within 90 days of receipt of a reassessment of goods imported in the 90-day period after the issuance of a modification or revocation.
41. The decision to postpone the effective date of a modification or revocation of an advance ruling, when such modification or revocation is to the person's detriment, will be based on the evidence provided by the person to

whom the advance ruling was issued. Such evidence may include contracts, purchase orders, or other documentation which demonstrates that the production of the imported goods was arranged prior to the modification or revocation and that the person to whom the advance ruling was issued had relied on the advance ruling in good faith. The person to whom the advance ruling was issued must identify the specific advance ruling on which reliance is claimed.

42. A modification or revocation of an advance ruling issued may be applied retroactively to goods imported before the modification or revocation is issued in the following circumstances:

- (a) there was a failure to act in accordance with the terms and conditions of the ruling, which might include, *inter alia*:
  - (i) a request for an advance ruling containing a misstatement or omission of material facts,
  - (ii) the ruling, although correct when issued, ceased to be correct at a later date because there was a change in the material facts or circumstances upon which the ruling was based and the CBSA was not notified. In such a case, the advance ruling may be retroactively revoked or modified to the date of the change in the material facts or circumstances;
- (b) the modification or revocation being to the benefit of the applicant who requested the ruling.

43. It is the responsibility of the applicant to notify the CBSA of changes in the material facts and circumstances surrounding the advance ruling. Where there is a change in the material facts and circumstances, the CBSA is not required to honour the advance ruling with respect to goods produced after that change. In these circumstances, the CBSA may retroactively modify or revoke the advance ruling to reflect the change in material facts and circumstances.

44. Should the CBSA discover that the advance ruling issued is incorrect due to a CBSA interpretive or administrative error, the original ruling will be honoured and modifications will apply going forward only. In such instances, the CBSA will consider and treat the original incorrect ruling as being valid for the period beginning on the effective date of the original ruling, to the effective date of a modified ruling.

45. The importer may have to make corrections to incorrect declarations or may ask for refunds of duties when the modification or revocation also applies to goods imported before the effective date of the modification or revocation. For more information on corrections, refer to Memorandum D11-6-6, “Reason to Believe” and Self-adjustments to Declarations of Origin, Tariff Classification, and Value for Duty.

46. For more information on refunds, refer to Memorandum D6-2-3, Refund of Duties.

### **Reason to Believe**

47. With respect to section 32.2 of the Act, as indicated in paragraph 1(e) of Memorandum D11-6-6, an advance ruling is considered to be a document providing specific information giving the importer “reason to believe” that a declaration is incorrect. For the purposes of the obligation to make corrections to incorrect declarations, the advance ruling also applies to goods that are similar to the goods that are the subject of the advance ruling (e.g., different size, colour, capacity), where the differences between the goods do not affect the origin of the goods at the tariff item level.

48. Importers should not, with respect to their own goods, rely on the applicability of advance rulings issued to another person for the reasons outlined in the following “Third Party Reliance on an Advance Ruling” section.

### **Third Party Reliance on an Advance Ruling**

49. The benefits of an advance ruling apply only to the applicant or the persons importing the goods in question from that applicant (i.e. where the applicant is a foreign exporter or foreign producer). However, any importer may quote the advance ruling number on an importation, as long as that ruling specifically covers the goods being imported. It is the responsibility of an importer who is quoting the advance ruling number to ascertain that the goods being imported are covered by that advance ruling. Furthermore, it is not binding on the CBSA to follow the ruling in cases where the advance ruling number is quoted by someone other than the applicant.



50. If an advance ruling issued to a foreign exporter or foreign producer of goods is not specifically limited to goods imported by a specific importer, then the goods covered by that advance ruling imported by any importer from that foreign exporter or foreign producer will be considered covered by the advance ruling. However, in these circumstances, the importer is not considered to have been issued an advance ruling and is therefore not entitled to request a review of the advance ruling or to be given notice of a modification or revocation of the advance ruling.

51. Only the applicant may request a review of the advance ruling or a review of any subsequent modification or revocation of that ruling, and only the applicant will be notified if the advance ruling is modified or revoked by the CBSA. In addition, only the applicant may request a delay of up to 90 days of the effective date of the modification or revocation of that advance ruling, as described in the “Circumstances Where an Advance Ruling Will be Postponed” section. For these reasons it is recommended that individuals request their own advance ruling rather than rely on rulings issued to others.

### **Conflicting Rulings, Re-determination, and Further Re-determination**

52. An advance ruling will take precedence over any advice, opinion, etc., provided by the CBSA before or after the issuance of the advance ruling.

53. If a person has been issued conflicting rulings under section 43.1 or conflicting decisions under sections 59, 60 or 61 of the Act for the same goods, the most recent decision will take precedence.

54. In instances where the CBSA becomes aware of conflicting rulings, re-determination or further redetermination, the Agency will immediately undertake a review of the issue and will, upon conclusion of that review, modify or revoke the incorrect ruling to resolve the matter.

### **Record Retention and Disposal**

55. The application for an advance ruling is subject to record retention and disposal procedures. The CBSA will retain the application for an advance ruling for a minimum period of 10 years at which time it may be disposed of in the appropriate manner. The applicant who chooses to have their application for an advance ruling, supporting literature or sample returned to them, is responsible for providing the appropriate packaging, labelling, and postage at the time the application is made. The cost of returning the application package is at the applicant’s expense.

### **Requesting a Review of the Advance Ruling Under Section 60 of the *Customs Act***

56. If the request is for a review or an appeal of an advance ruling, state “This is a request for a review or an appeal of advance ruling (insert applicable case number).”

**Note:** The review process is not accessible through the CARM Client Portal. The request will need to be submitted in writing by mail or e-mail.

57. An applicant may request a review of an advance ruling within 90 days of its issuance. For more information on how to request a review of an advance ruling, please consult Memorandum D11-6-7, Request under Section 60 of the Customs Act for a Re-determination, a further Re-determination or a Review by the President of the CBSA.

58. After reviewing all the relevant information, the CBSA shall, with all due dispatch, make a decision on the review of the advance ruling. The notice of the decision under paragraph 60(4)(b) of the Act shall be in the form of a further advance ruling issued to the party who requested the review. The advance ruling, issued as a notice of the decision under paragraph 60(4)(b) of the Act, will either confirm the original advance ruling or will render a retroactive revision or reversal favourable to the person requesting the review. Such a retroactive revision or reversal will be retroactive to the date of the issuance of the original advance ruling, unless otherwise noted.

59. When an advance ruling is issued to an exporter or producer of goods outside of Canada, the importer of the goods in Canada cannot request a review of the advance ruling, nor will they be notified if the advance ruling is modified or revoked.

### **Confidentiality**

60. Any confidential business information contained in an application for an advance ruling or in a request for the review of an advance ruling will remain confidential. All information provided to the CBSA is protected from disclosure by section 107 of the Act. The only specific information with respect to an advance ruling that will be

released to a party, other than to the person to whom the ruling was issued, is whether a particular advance ruling number remains in effect or has been revoked or modified. Further information on the ruling must be obtained from the person to whom the ruling was issued. Alternately, if entitled to do so, a person may request that the CBSA issue them their own ruling on the subject. The CBSA will issue an advance ruling that contains confidential business information obtained by the CBSA from someone other than the applicant only with the permission of the owner of the confidential business information. However, if consent has been given to the CBSA to publish the advance ruling in its entirety, such information would be included.

### **Additional Information**

61. For more information, call contact the [CBSA Border Information Service](#) (BIS):

Calls within Canada & the United States (toll free): **1-800-461-9999**

Calls outside Canada & the United States (long distance charges apply):

1-204-983-3550 or 1-506-636-5064

TTY: **1-866-335-3237**

[Contact Us online](#) (webform)

[Contact Us](#) at the CBSA website

62. For more information on CARM:

Call toll free: **1-800-461-9999 (Option 2)**

For the CARM Client portal login and the Onboarding documentation for managing rulings, refer to the website:

<https://cp-pcc.cbsa-asfc.cloud-nuage.canada.ca/en/homepage>

If further assistance or information is required, contact the CARM Client Support Help Desk by completing the web form at:

<https://www.cbsa-asfc.gc.ca/contact/csform-formulairesc-eng.html>

## APPENDIX A

### Publication of the Advance Ruling

1. The CBSA has enhanced the advance ruling program by publishing rulings in both official languages on the CBSA web site, and as well through CARM in their entirety, with the applicant's consent. The consent statement must be signed by the importer, foreign exporter, foreign producer, or an authorized person thereof. Failure to provide either consent statement will result in the request for an advance ruling to be considered incomplete and declined.
2. Publishing rulings benefits the trade community by establishing an easily accessible online repository of rulings, providing a valuable resource to assist importers in properly reporting and accounting for goods, and contributing to a uniform and transparent administration of the corresponding trade programs.
3. It is important to note that rulings are binding only between the CBSA and the applicant to whom the ruling is issued. While published rulings are for reference purposes only, they provide meaningful guidance to the trade community, including foreign exporters and foreign producers, in complying with Canada's trade legislation. For the above reasons, although there is no obligation to do so, the CBSA encourages applicants to consent to the publication of their ruling.

#### Disclaimer

4. There is no obligation on the applicant to consent to the publication of its advance ruling. A decision to not authorize its release to the public will neither have any bearing on any CBSA decision with respect to the ruling(s), nor any other adverse consequences in terms of the CBSA's processing of the request.

#### 1) Consent to the Publication of an Advance Ruling

I, **(Name of Individual)** of **(Importer/Foreign Exporter/Foreign Producer/Authorized Person)** hereby give my consent to allow the Canada Border Services Agency (CBSA) to publish, on the CBSA website, the entirety of the advance ruling issued to me by the CBSA in respect of **(Subject of the request)**, in both official languages.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

#### 2) Do not consent to the Publication of an Advance Ruling

I, **(Name of Individual)** of **(Importer/Foreign Exporter/Foreign Producer/Authorized Person)** hereby do not give my consent to allow the Canada Border Services Agency (CBSA) to publish the advance ruling issued to me by the CBSA in respect of **(Subject of the request)**.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

## APPENDIX B

### Request for Exchange of Information with the Canada Border Services Agency by E-mail

1. The applicant must provide a valid e-mail address as well as their consent to the exchange of information with the CBSA by e-mail.
2. An authorized person can present an exchange of information request to the CBSA by e-mail request on behalf of their client.
3. The applicant who elects to use encrypted e-mail for processing their application is responsible to ensure the use of compatible software (Winzip and others).
4. The applicant has the responsibility to inform the CBSA of any contact information changes (phone number, e-mail address, etc.).
5. The request for exchange of information with the CBSA by e-mail, if granted, is valid for a single request for an advance ruling (including all communications relevant to the request).
6. An applicant who does not clearly indicate their choice between encrypted or non-encrypted e-mail, or does not meet the required conditions, will have their request for advance ruling processed using the regular exchange of information procedures (registered mail).
7. The CBSA does not guarantee the security of electronic communication. By consenting to communicate by e-mail with the CBSA, the applicant accepts all inherent risks with this mode of communication and thus relieves the CBSA from all responsibility, present and future, related to the protection of the information exchanged by e-mail.
8. The CBSA must obtain an electronic delivery/read receipt from the applicant for every document exchanged by e-mail during the advance ruling process. If it is not possible to obtain an electronic delivery/read receipt, other forms of acknowledgment will be considered valid (e-mail, phone call, etc.).
9. The reception date of the documents is deemed to be the date when the e-mail is sent.
10. For more information on the procedures relating to the exchange of information with the CBSA by e-mail, please contact the Border Information Service (BIS) or a CBSA Trade Operations Divisions office.

#### Consent Statement

« I choose to communicate by {**Non-Encrypted / Encrypted**}\*\*Please indicate your choice\*\* e-mail with the CBSA during processing of the advance ruling request. This includes the sending and receiving of documents, as well as any other correspondence required during the processing of the advance ruling request. I authorize the communication by e-mail for all exchanges and I accept all inherent risks. I hereby relieve the CBSA from any responsibility, present and future, in relation to the protection of the information exchanged by e-mail. I have read and I accept the conditions of this agreement».

**Case number (if already given by the CBSA) :**

**Name of the product subject to the advance ruling:**

**Name of the applicant/authorized person:**

**Business Name :**

**Occupation/Title :**

**Business Number (BN) :**

**Telephone number :**

**E-mail address:**

**Signature :**

**Date :**

<b>References</b>	
<b>Issuing Office</b>	Trade and Anti-dumping Programs Directorate
<b>Headquarters File</b>	
<b>Legislative References</b>	<u><a href="#">Customs Act</a></u> <u><a href="#">Free Trade Agreement Advance Rulings Regulations</a></u>
<b>Other References</b>	<p><u><a href="#">North American Free Trade Agreement (NAFTA)</a></u>  <u><a href="#">Canada-Israel Free Trade Agreement (CIFTA)</a></u>  <u><a href="#">Canada-Chile Free Trade Agreement (CCFTA)</a></u>  <u><a href="#">Canada-Colombia Free Trade Agreement (CCOFTA)</a></u>  <u><a href="#">Canada-Costa Rica Free Trade Agreement (CCRFTA)</a></u>  <u><a href="#">Canada-European Free Trade Association Free Trade Agreement (CEFTA)</a></u>  <u><a href="#">Canada-Jordan Free Trade Agreement (CJFTA)</a></u>  <u><a href="#">Canada - Peru Free Trade Agreement (CPFTA)</a></u>  <u><a href="#">Canada-Panama Free Trade Agreement (CPAFTA)</a></u>  <u><a href="#">Canada-Honduras Free Trade Agreement (CHFTA)</a></u>  <u><a href="#">Canada-Korea Free Trade Agreement (CKFTA)</a></u>  <u><a href="#">Comprehensive Economic and Trade Agreement (CETA)</a></u>  <u><a href="#">Canada-Ukraine Free Trade Agreement (CUFTA)</a></u>  <u><a href="#">Comprehensive and Progressive Trans-Pacific Partnership Agreement (CPTPP)</a></u>  <u><a href="#">Canada-United States-Mexico Agreement (CUSMA)</a></u>  <u><a href="#">Canada -United Kingdom Trade Continuity Agreement (CUKTCA)</a></u></p> <p><u><a href="#">D11-6-1, D11-4-24, D11-4-26, D11-4-27, D11-4-29, D11-4-30, D11-4-31, D11-4-33, D11-4-34, D11-4-35, D11-5-3, D11-5-4, D11-5-6, D11-5-7, D11-5-8, D11-5-9, D11-5-10, D11-5-11, D11-5-12, D11-5-13, D11-5-14, D11-5-15, D11-5-16, D11-5-17, D11-6-3, D11-6-6, D11-6-7, D11-11-1, D11-11-3</a></u></p> <p><u><a href="#">B3-3- Canada Customs Coding Form</a></u>  <u><a href="#">CII – Canada Customs Invoice</a></u>  <u><a href="#">CARM Client Portal</a></u>  <u><a href="#">CARM Client Support Help Desk</a></u>  <u><a href="#">CBSA Trade Operations Divisions offices</a></u></p>
<b>Superseded Memorandum D</b>	D11-4-16 dated February 26, 2016