



# Memorandum D11-11-1

Ottawa, August 26, 2019

## NATIONAL CUSTOMS RULINGS (NCRs)

### In Brief

This memorandum has been revised to include:

- New procedures for the processing of National Customs Ruling requests by email between the applicant or their agent and the CBSA.
- New policies for the retention and disposal period, as well as the return of the supporting literature of the request and/or sample to the applicant.
- An update on situations in which an NCR will not be issued and the request rejected.

This memorandum provides information concerning the Canada Border Services Agency's (CBSA) NCR program.

### Guidelines and General Information

1. An NCR will provide instruction concerning the CBSA's origin (Most-Favored Nation Tariff or non-Free Trade Agreement (FTA) Preferential Tariff Treatment), valuation, or marking programs. NCRs are provided as an administrative service for the convenience and guidance of importers, foreign exporters, and foreign producers.
2. Requests concerning the tariff classification of goods are to be submitted as requests for advance rulings, pursuant to [Memorandum D11-11-3, \*Advance Rulings for Tariff Classification\*](#).
3. Requests concerning the origin of goods and their entitlement to a preferential tariff treatment under Canada's FTAs or the country of origin marking of goods to be imported into Canada under the *North American Free Trade Agreement (NAFTA)*, are to be submitted as requests for advance rulings pursuant to [Memorandum D11-4-16, \*Advance Rulings for Origin Under Free Trade Agreements\*](#).

#### Definitions

4. For the purposes of this memorandum, the following definitions apply:

**National Customs Ruling (NCR)** - is a written statement by the CBSA, outlining how provisions of existing customs legislation apply to goods imported into Canada.

**Applicant** - means the person on whose behalf an NCR is requested and to whom the NCR applies and is issued.

**Person** – means 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.

#### Who may Apply

5. An importer, foreign exporter or foreign producer of a good, or agents thereof, may request a valuation, origin or marking NCR. The NCR will be issued to the applicant.
6. While an agent may apply for an NCR, the CBSA requires one of the consent statement of [Appendix D](#), to either grant or withhold publication, to be signed by the actual importer, foreign exporter, foreign producer or agents thereof of the good on behalf of whom the NCR application is being made.

7. The CBSA, may initiate and publish an NCR of general application for tariff classification, valuation, origin or marking to ensure consistency in the interpretation of legislation and trade program requirements (e.g. in response to a request by industry or to reflect the findings of a general policy review, verification activity, or court decision).

### **How to Apply**

8. An NCR request must be submitted in the form of a letter, written either in English or in French, and should contain all the information required under [Appendix A](#), [B](#), [C](#), [D](#), or [E](#) Failure to provide all the necessary information will result in a rejection of the request by the CBSA.

9. NCR requests should be delivered or sent by registered mail or by email to the [Trade Operations Divisions Office](#) in the region into which the majority of importations is expected to occur, or if this cannot be determined, in the region in which the majority of importers or potential importers to whom the NCR will apply are located.

10. An applicant should not submit an NCR request for the same goods in multiple regions, as it undermines the integrity and value of the NCR program. Upon issue, the instructions in an NCR will apply, regardless of the region in which the applicant's request was submitted and the region(s) into which goods subject to the NCR are ultimately imported. This will ensure consistent application of the NCR to imported goods.

### **Exchange of information with the CBSA by email**

11. The CBSA encourages the exchange of information by email with the applicant.

12. The applicant who chooses to exchange information by encrypted or non-encrypted email with the CBSA must indicate in the exchange of information by email request, their choice between encrypted or non-encrypted email. This request may be made at the time the NCR request is sent to the regional CBSA [Trade Operations Divisions Office](#), or at any other time during the NCR process. Additionally, the applicant may change their choice at any time during the NCR process.

13. The exchange of information by email request must meet the required conditions by the CBSA. These conditions are described in the exchange of information by email with the CBSA request template letter, available in [Appendix E](#) of this Memorandum.

14. When the exchange of information by email request does not meet the required conditions, the CBSA will proceed by default by having their request sent by regular mail procedures (registered mail).

15. An authorized agent, in accordance with [Memorandum D1-6-1, Authority to Act as an Agent](#), can present an exchange of information request with the CBSA by email request on behalf of their client.

16. An applicant who does not indicate clearly in their exchange of information by email request their choice to use encrypted or non-encrypted email, will have their NCR request processed using the regular exchange of information procedures (registered mail).

17. The CBSA does not guaranty the security of electronic communication. In consenting to communicate with the CBSA by email, the applicant accepts all the inherent risks and thus relieves the CBSA from all responsibility, present and future, related to the protection of the information exchanged by email. For more information about the consent, please see [Appendix E](#) of this Memorandum.

18. When the request meets the required conditions, the CBSA will accept the exchange of information by email request and will send to the applicant, by encrypted or unencrypted email depending on the case, all the documents related to the NCR request process.

19. The CBSA must obtain an electronic receipt and a reading acknowledgments from the applicant for every document exchanged by email during the NCR process. If it is not possible to obtain an electronic receipt and a reading acknowledgment, other forms of acknowledgment will be considered valid (email, phone call, etc.).

20. The authorization to exchange information by email is valid during the processing of a single NCR request presented by the applicant.

21. The reception date of the documents is deemed to be the date when the email is sent / received. The deemed date will be the first business day following a Saturday, a Sunday or a statutory holiday, if the email has been sent / received on one of those days.

22. For more information on the exchange of information with CBSA by email procedures, please contact the [Border Information Service \(BIS\)](#) or a CBSA [Trade Operations Divisions Office](#).

### Processing of Requests

23. The CBSA has set a standard for issuing an NCR within 120 days of receiving complete information. When laboratory or other particularly complex analysis is required, the standard shall remain at 120 days.

24. At any time during the course of an evaluation of an NCR request, the CBSA may solicit additional information from the applicant. The applicant will be given a period of 30 calendar days from the date of the letter (or such longer period as the letter may provide) to supply any additional information that is requested. If no response to the letter is received within the time allotted, the NCR request will be closed administratively and considered cancelled.

25. It is the applicant's responsibility to provide complete and accurate information in support of the subject in the NCR request. The CBSA will not issue an NCR where the information provided is incomplete or inaccurate.

26. In circumstances where the CBSA deems it unreasonable to require an applicant to collect and submit the information normally included with an NCR request (for example, requests for non-commercial "one-time only" importations), the CBSA will alternatively provide written instructions to the applicant in lieu of an NCR. A written instruction is considered specific information giving reason to believe on how an imported good should be declared. Refer to [paragraph 42](#) for further information.

27. A **valuation** NCR will, based on the information provided by the applicant,

(i) address the issue in the applicant's request and

(ii) provide instruction on the specific element(s) of the valuation legislation in the [Customs Act](#) (the Act) referenced in the request. For more information and instructions on requests for valuation NCRs, refer to [Appendix A](#).

28. Separate requests for **valuation** NCRs must be submitted to address importations made in different circumstances. Examples of documents and correspondence that may be required in support of a valuation NCR request are provided for in [Appendix A](#).

29. An **origin** NCR will identify whether a good qualifies under a specific tariff treatment, aside from those established pursuant to Canada's FTAs. For more information and instructions on requests for origin NCRs, refer to [Appendix B](#) or [C](#), depending on the tariff treatment sought.

**Note:** The program described in [Appendix C](#) is administered by the CBSA to satisfy the requirements of the World Trade Organization, [Agreement on Rules of Origin](#).

30. A **marking** NCR will indicate whether a good imported to Canada is required to be marked or not, and the appropriate country to be indicated if marking is required. For more information and instructions on requests for a marking NCR, refer to [Appendix C](#).

31. Requests for **origin** or **marking** NCRs must be limited to individual goods. However, a request involving the origin or marking of a range of goods may be considered if the goods in question are so similar that a decision on one model or style of the good can be considered representative of other models or styles. The decision to accept an origin or marking NCR request for a range of goods shall be made at the discretion of the CBSA, and no request will be accepted that would result in the issuance of an NCR for more than five separate products produced by a single producer. Documents and correspondence that may be required in support of an origin or marking NCR request are provided for in Appendices [B](#) and [C](#).

32. A request for an NCR may be withdrawn by the applicant at any time before an NCR is issued. However, the CBSA later may pursue an issue(s) in respect of the request with an importer(s), foreign exporter(s) or foreign manufacturer(s).

33. The CBSA has enhanced the NCR program by publishing NCR letters in their entirety, in both official languages on the CBSA website, and with the applicant's consent; whether from the importer, foreign exporter or foreign producer. Consequently, an applicant's request must include one of the consent option statements provided

in [Appendix D](#), to either grant or withhold consent to the publication of their NCR once it has been issued by the CBSA. Failure to provide either of the option statements will result in an NCR request to be considered incomplete, and therefore, will be rejected.

34. Publishing NCRs concerning the valuation, origin or marking of goods benefits the trade community by establishing a comprehensive online repository of NCRs, by providing a valuable resource to assist importers in properly reporting and accounting for goods, and by contributing to a uniform and transparent administration of the trade programs.

35. It is important to note that NCRs are binding only between the CBSA and the applicant to whom the NCR is issued. While published NCRs are for reference purposes only, they provide meaningful guidance and help other importers, foreign exporters and foreign producers in complying with Canada's trade legislation. For the above reasons, although there is no obligation for the applicant to do so, the CBSA encourages applicants to consent to the publication of their NCR letters.

### **Confidentiality**

36. All NCR requests and any information contained therein will remain confidential unless the applicant authorizes the CBSA to disclose or release any information to a third party.

### **Situations in which an NCR will be Postponed**

37. Circumstances in which an NCR will be postponed:

- (a) the request relates to an issue that is currently under a review by the CBSA, the Canadian International Trade Tribunal (CITT), or the courts; or
- (b) the request involves an issue that is subject to legislative or regulatory amendment.

### **Situations in which an NCR will not be Issued and the Request Rejected**

38. Circumstances in which it is not appropriate for the CBSA to issue an NCR include, but are not limited to, the following:

- (a) the request is hypothetical in nature;
- (b) the request pertains to multiple goods such as the contents of commercial catalogues (except, in the case of a valuation NCR, to different goods imported in identical circumstances);
- (c) supplementary information was requested and not provided within 30 days or by a date as determined by the officer; or
- (d) the request does not meet the requirements listed within this memorandum.

39. A request will be rejected when a consent statement is not signed, no importer's business number was provided, there is no signed authorization for agent representation, or the additional requested information is not provided within 30 days.

40. An NCR will not be issued where necessary information is not provided in support of an applicant's request. Refer to Appendices [A](#), [B](#) and [C](#) of this memorandum for information that may be required to support an NCR request.

41. The CBSA will inform the applicant in writing of the reason(s) why an NCR will not be issued.

### **Reason to Believe**

42. An NCR issued to an importer or its representative is considered to be specific information giving the importer "reason to believe" in accordance with paragraph 1(e) of [Memorandum D11-6-6, "Reason to Believe" and Self-adjustments to Declarations of Origin, Tariff Classification, and Value for Duty](#).

## Effective Date

43. Typically, an NCR is in effect from the date of issue of the NCR letter. Alternatively, the NCR letter may indicate a specific date that the NCR becomes effective, or may instruct that an NCR is effective for only a limited duration.

44. An NCR is binding on both the CBSA and the applicant, and is effective until:

- (a) a change occurs in the information that was provided in support of the NCR request;
- (b) an NCR applicant is notified in writing that the NCR has been modified or revoked as a result of a dispute or a determination, redetermination, or change to the legislation upon which the NCR is based;
- (c) relevant CBSA legislation is amended;
- (d) a successful appeal of an importation accounted for to the CBSA based on information included in an NCR is made, as addressed in paragraphs [61](#) and [62](#); or
- (e) the duration of its applicability indicated in the NCR letter expires.

45. Where a legislative or regulatory reference in an NCR occurs, the NCR ceases to be valid from the effective date of the legislative or regulatory amendment. In such cases, the applicant is encouraged to apply for a new NCR.

46. Where a decision of the CITT is further appealed to the judiciary and the judicial decision rendered runs contrary to the instruction provided in the NCR, the NCR ceases to be valid from the date on which the subject good was accounted for.

## Validity of an NCR

47. An NCR will apply only to the future importation of good(s) to which the ruling applies. As such, the information provided in support of the NCR request must relate to the anticipated future importation. For example, a request for an NCR on whether a good is entitled to MFN will not be considered if the information provided in support of the request relates only to a discontinued model of the good, or to a current model with requisite materials or production methods that differ from those to be represented in future importations.

**Note:** It is the applicant's responsibility to advise the CBSA of any changes to the information upon which an NCR was based.

48. At the time of customs accounting, importers should indicate that they are in possession of a valid NCR by either attaching a copy of the NCR letter to [Form B3-3, Canada Customs Coding Form](#), or by inscribing the TRS number in the "Description" field of the Form B3-3, or in the KI60 ("input TRS reference number") field for CADEX participants.

## Circumstances in which an NCR may be Modified or Revoked

49. At any time, the CBSA may review an NCR to confirm its continued validity. As a result of the review, the CBSA may retroactively modify or revoke an invalid or incorrect NCR. If, subsequent to an NCR being issued, the CBSA is notified or becomes aware that there is a change or omission to the material facts or circumstances on which the NCR was based, the CBSA may retroactively modify or revoke the NCR to reflect these changes or omissions. In these instances, the modified or revoked NCR would be considered in effect from the date of the initial importation of the good, as specified in the modified NCR or revocation letter. Should the CBSA believe it is necessary to modify or revoke an NCR, the applicant will be advised of the review and invited to present additional information.

50. In a similar fashion, should the CBSA discover that the NCR issued is incorrect due to a CBSA interpretive or administrative error, the NCR will be modified or revoked. In such instances, the CBSA will consider and treat the original incorrect NCR as being valid from the effective date of the original NCR, to the day before the effective date of the modified NCR or revocation letter.

51. In cases of an NCR modification or revocation, the CBSA may, under its own initiative or upon receipt of a request from the applicant, delay the effective date of the modification or revocation for a period of up to 90 calendar days from the date of issue.

52. An importer may be obliged to self-correct any incorrect declarations, retroactive from the revocation date of an NCR to a maximum of four years.

53. In the event an applicant or their agent has inadvertently submitted multiple NCR requests for the same good or circumstances and has received corresponding NCRs from within the same CBSA regional office or from different regional offices, the applicant or their agent must notify one of the CBSA [Trade Operations Divisions Offices](#) from which any one of the NCRs was received. Particularly in cases of conflicting decisions, the CBSA will immediately undertake a review of the NCRs and, as appropriate, modify or revoke the existing NCRs. Any modified NCR will indicate its effective date and will be valid from that date forward.

54. In the event an agent has submitted multiple NCR requests for the same good on behalf of multiple applicants and the agent receives conflicting NCRs, the agent must notify one of the CBSA [Trade Operations Divisions Offices](#) from which an NCR was received. The CBSA will immediately undertake a review of the NCRs and, as appropriate, modify or revoke the existing NCRs. Any modified NCR will indicate its effective date and will be valid from that date forward.

55. If a CBSA decision that conflicts with an NCR is reported to the CBSA in an appeal made under section 60 of the [Act](#), and the subsequent appeal decision supports the CBSA decision and not the NCR, a modified NCR will be issued that reflects the appeal decision.

56. Where the CBSA determines that the information submitted in support of an NCR request differs from the facts in respect of importations subject to the NCR, the NCR will be revoked retroactive to its issue date and the CBSA will consider re-determination or enforcement measures provided for in the [Act](#).

### **Informal Review**

57. There is no legislated review process for NCRs in the [Act](#). An importer, foreign exporter or foreign producer who disagrees with an NCR instruction may request an informal review of the NCR as outlined in paragraphs [58 to 60](#). To dispute an NCR under the Act, goods must be imported in accordance with the NCR instruction before a request for re-determination is submitted. If the request is for an informal review of an NCR, the request letter should read “This is a request for an informal review of NCR (state the NCR number).” The applicant should attach a copy of the NCR letter being disputed and provide arguments to support the dispute.

58. An applicant that disagrees with an NCR instruction may, before the importation of a good(s) subject to the NCR, request that the CBSA review the NCR. A request for informal review of an NCR should be made to the CBSA office that issued the NCR. The following information, as appropriate, must be provided in such a request:

- (a) the number of the NCR that is the subject of the request (a copy of the NCR is acceptable); and
- (b) the reason(s) for the request, including:
  - (i) corrections to factual information about the goods (i.e., description, composition), including proof or substantiation, or in the case of a valuation NCR, to the factual information in respect of the legislated element(s) at issue ;
  - (ii) arguments to contest the rationale provided by the CBSA in the NCR;
  - (iii) the number(s) of other similar or relevant NCRs; and
  - (iv) a statement that the goods, or in the case of a valuation NCR, the legislated element(s) at issue, are not the subject of a review or verification under the [Act](#).

59. It is important to note that time standards for the submission of requests for self-correction or refund made under the [Act](#) are not protected during an informal review of an NCR for importations that have occurred since the NCR was issued.

60. If the importation becomes the subject of a re-determination or verification under the [Act](#) before the informal review is completed, the CBSA will cancel the informal review. The applicability of the NCR on a going forward basis will be assessed as part of the re-determination or verification process.

## **Disputes**

61. An NCR may be disputed after the goods have been imported by submitting a [Form B2, Canada Customs – Adjustment Request](#) under either section 32.2 or 74 of the [Act](#) and referencing the NCR number. Once the decision on the B2 has been made, a request under section 60 of the Act may be submitted as outlined in [Memorandum D11-6-7, Importers’ Dispute Resolution Process for Origin, Tariff Classification, and Value for Duty of Imported Goods](#).

62. Where an importation accounted for in accordance with the instruction provided in an existing NCR is disputed under the re-determination, further re-determination, or appeal provisions of [the Act](#), and the subsequent decision made by the CBSA, the CITT, or any court, runs contrary to the instruction provided in the NCR, that NCR will be modified or revoked, effective from the date on which the subject good was accounted for.

## **Disposal and Retention Period**

63. The NCR request is subject to record retention and disposal procedures. The CBSA will retain the NCR for a period of five years at which time it will be disposed of in the appropriate manner. Should clients wish to have their NCR request, and/or supporting literature returned to them, appropriate packaging, labelling, and postage must be provided to the CBSA. The cost of returning the request to the client is at their expense.

64. The rejection of the request does not preclude an applicant from submitting a new request which is in accordance with the requirements of this memorandum.

## **Additional Information**

65. For more information, within Canada call the Border Information Service at **1-800-461-9999**. From outside Canada call 204-983-3500 or 506-636-5064. Long distance charges will apply. Agents are available Monday to Friday (08:00 – 16:00 local time / except holidays). TTY is also available within Canada: **1-866-335-3237**.

## APPENDIX A

### Content of a Valuation National Customs Ruling (NCR) Requests

1. This appendix outlines the requirements for obtaining a NCR relating to the valuation of imported goods. A NCR will provide information concerning the issue in the applicant's request and instruction on the specific element(s) of the valuation legislation in the [Customs Act](#) (the Act) referenced in the request.
2. A request for a valuation NCR can be made by an importer, foreign exporter or foreign producer of a good, or agents thereof, and must contain a complete statement of all relevant information related to the request.
3. A request is to be submitted in writing by registered mail or by email, either in English or in French, and supported by all relevant information related to the request. Refer to the "[Exchange of Information with the CBSA by email](#)" section for more information.
4. If the applicant is aware of any request(s) for re-determination (dispute) to address the subject of its NCR request, or another NCR request to address that subject that the CBSA has not yet resolved, the applicant must disclose this information in their NCR request.
5. A request for an NCR must be accompanied by one of the consent statements provided for in [Appendix D](#), either providing or withholding consent for publication of the NCR in its entirety.
6. The consent statement must be signed by the applicant (i.e. the importer, foreign exporter or foreign producer of the subject good) and not by agents thereof.
7. The information requirements detailed below are set out so that an applicant is aware of the extent of the specific information required. The CBSA retains the right to request any additional information required before issuing an NCR, or to reject the request as incomplete.
8. If the request is for an informal review of an NCR, the request letter should read "This is a request for an informal review of an NCR number (state the NCR number)." The applicant should attach a copy of the NCR letter being disputed and provide written arguments in support of the dispute.
9. The request is to be delivered or sent by registered mail to the CBSA [Trade Operations Divisions Office](#) in the region into which the majority of importations is expected to occur. The CBSA will redirect the request if required and inform the applicant of the office that will be handling the request. The request letter should be marked "Attention: Valuation National Customs Ruling Request".
10. A valuation NCR request must include the following information:
  - (a) Name and address of the applicant. If the applicant is an importer, the importer's business number must be indicated. If an agent is submitting an NCR request on behalf of an importer, the full name, address and business number of the importer must be indicated, as well as a written statement from the importer, indicating that the agent is duly authorized to submit the request to the CBSA, on their behalf. The NCR will be issued in the name of the client.
  - (b) Name and telephone number of a contact person. This person must be someone with full knowledge of the issue that is the subject of the NCR request.
  - (c) A narrative explaining the commercial circumstances in respect of the legislated valuation element(s) at issue.
  - (d) Principal ports of entry through which it is anticipated the good(s) to which the NCR will apply will be imported.
  - (e) A statement that indicates that, to the applicant's knowledge, the issue in the request is not currently also the subject of a re-determination or verification under the [Act](#).
  - (f) A statement as to whether an NCR or other instruction on the issue had been requested previously from the CBSA and, if so, the result of any previous request.
11. Documents identified in the following list may be required to be submitted in support of a valuation NCR request:

- (a) commercial invoices;
- (b) credit notes;
- (c) purchase order confirmations;
- (d) sale agreements, contracts or bills of sale;
- (e) letters of credit;
- (f) evidence of proof of payment;
- (g) quota or licensing agreements;
- (h) warranty agreements;
- (i) conditions of sale, for example, information relating to trade-ins;
- (j) agreements or written contracts (for example, CBSA agreements);
- (k) Information identifying the Purchaser in Canada of the good in accordance with section 2.1 of the [Valuation for Duty Regulations](#), agreements to provide assists and agreements between third parties with information supporting the value and/or apportionment of the assist;
- (l) royalty agreements;
- (m) trade mark agreements;
- (n) licence fee agreements;
- (o) copyright agreements;
- (p) evidence of freight costs;
- (q) details of rebates;
- (r) information relating to the proposed point of direct shipment;
- (s) information which substantiates the value of identical/similar goods; and
- (t) detailed calculations indicating the applicability of the transaction value of identical goods method, transaction value of similar goods method, deductive, computed, or residual value methods, as appropriate.

## APPENDIX B

### Content of Origin (Non-Free Trade Agreement (FTA) Preferential Tariff Treatment) National Customs Ruling (NCR) Request

1. This appendix outlines the requirements for obtaining a NCR relating to the origin of a good to be accorded the General Preferential Tariff (GPT), the Least Developed Country Tariff (LDCT), the Commonwealth Caribbean Countries Tariff (CCCT), the Australia Tariff (AUT) or the New Zealand Tariff (NZT) treatment (i.e. non-free trade agreement (FTA) preferential tariff treatment).
2. This program is **distinct** from the Advance Rulings Program addressed in [Memorandum D11-4-16, \*Advance Rulings for Origin Under Free Trade Agreements\*](#).
3. A request for an origin (non-FTA preferential tariff treatment) NCR can be made by an importer, a foreign exporter or foreign producer of a good, or agents thereof. A request made by a foreign exporter or foreign producer must contain a complete statement of all relevant information related to the request.
4. The information requirements detailed below are set out so that an applicant is aware of the extent of the specific information required. The CBSA retains the right to request any additional information required before issuing an NCR, or to reject the request as incomplete.
5. A request must be limited to a single product. However, the CBSA will consider issuing an NCR covering a product line containing different models of the same generic goods, if an NCR on one model will clearly apply to all other models. The CBSA reserves the right to allow for such applications or to split such requests into separate NCRs.
6. The request is to be delivered or sent by registered mail or by email to the CBSA [Trade Operations Divisions Office](#) in the region into which the majority of importations is expected to occur. Refer to the “[Exchange of Information with the CBSA by Email](#)” section for more information. The CBSA will redirect the request if required and inform the applicant of the office that will be handling the request. The request letter should be marked “Attention: Origin (non-FTA preferential tariff treatment) National Customs Ruling Request”.

### Content of Request

7. An Origin (non-FTA preferential tariff treatment) NCR request must include the name and address of the applicant. Where the applicant is:
  - (a) the **importer** of the good, also include the importer’s business number, the name and address of the foreign exporter and, if known, the foreign producer of the good;
  - (b) the foreign **exporter** of the good, also include the name and address of the foreign producer and importer of the good, if known; or
  - (c) the foreign **producer** of the good, also include the name and address of the foreign exporter and importer of the good, if known.
8. Include if an agent is submitting an NCR request on behalf of an applicant (i.e. an importer, a foreign exporter or foreign producer of the subject good), the information required in [paragraph 17](#) of this Appendix must be indicated, along with a written statement from the applicant, confirming that the agent is duly authorized in submitting the NCR request to the CBSA on their behalf. The NCR will be issued in the name of the applicant.
9. Include the name and telephone number of a contact person. The contact person must be someone with full knowledge of the subject good and the circumstances of the importation under consideration.
10. Indicate the principal port(s) of entry through which it is anticipated the good, that is the subject of the NCR request, will be imported.
11. 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 NCR, a re-determination, a verification, an administrative review or appeal, a judicial or quasi-judicial review.

12. Include a statement as to whether an NCR or other instruction on the issue had been requested previously from the CBSA and, if so, the result of any previous request.

13. A request for an NCR must be accompanied by one of the consent statements provided for in [Appendix D](#), either providing or withholding consent for publication of the NCR in its entirety.

14. The consent statement must be signed by the applicant (i.e. the importer, foreign exporter or foreign producer of the subject good) and not by agents thereof.

15. NCR requests concerning eligibility of a good under the GPT, LDCT, CCCT, AUT or NZT (i.e. non-FTA preferential tariff treatment), must contain information demonstrating that the rules of origin, proof of origin, and shipping conditions necessary to qualify for preferential tariff treatment provided for in the [General Preferential Tariff and Least Developed Countries Tariff Rules of Origin Regulations](#), the [Commonwealth Caribbean Countries Tariff Rules of Origin Regulations](#) or the [Australia Tariff and New Zealand Tariff Rules of Origin Regulations](#), respectively have been met.

16. An Origin (non-FTA preferential tariff treatment) NCR may only be issued to determine the originating status of a good in accordance with the rules of origin applicable to the tariff treatment to be claimed upon importation. If requested in writing, and should the CBSA have enough information to determine the tariff classification of the good, an advance ruling on the tariff classification may be issued (pursuant to [Memorandum D11-11-3, Advance Rulings for Tariff Classification](#)) in conjunction with an NCR for non-FTA preferential tariff treatment.

17. For Origin (non-FTA preferential tariff treatment) NCR requests, the applicant must submit the following information:

- (a) the tariff classification the applicant believes to be correct and the reasons for this belief, including, if available, a copy of a CBSA tariff classification ruling, or information indicating the following:
  - (i) a full description of the good including, where applicable, trade names (**Note:** Submission of only a trade name, part number, etc. is unsatisfactory and would result in the CBSA's rejection of the NCR request);
  - (ii) the composition of the good;
  - (iii) a description of the manufacturing process for the good;
  - (iv) a description of the packaging in which the good is ordinarily sold for consumption and of the packing required for the transportation of the good;
  - (v) the anticipated use of the good; and
  - (vi) the manufacturer's literature, drawings, photographs, schematics for the good.

**Note:** A sample of a good is not to be submitted with an NCR request. If a sample of a good is required, the applicant will be notified subsequent to the CBSA's receipt of the NCR request.

- (b) the country where the good is finished in the form in which it is imported into Canada;
- (c) how the good will be shipped to Canada;
- (d) the identification of a consignee in Canada, if known;
- (e) whether the good will be transshipped, and if so, through what countries, and what operations (if any) the good will undergo during transshipment; and
- (f) the tariff treatment the applicant believes to be correct, and the reason(s) for this belief.

18. The [General Preferential Tariff and Least Developed Country Tariff Rules of Origin Regulations](#) (the Regulations) identify the requirements for a good to be deemed originating in a beneficiary country. If a good includes materials, parts or products that originate outside of the beneficiary country, a request must also contain a statement, completed and signed by the exporter of the good, that no more than 40% of the ex-factory price of the good is for costs incurred outside of one or more beneficiary countries or Canada, and must be accompanied by:

- (a) the information required under [paragraph 17](#) of this Appendix;

- (b) a list of all materials including their tariff classification, origin, value and description;
- (c) a list indicating the value of all costs included in the ex-factory price, as per [Memorandum D11-4-4, Rules of Origin Respecting the General Preferential Tariff and Least Developed Country Tariff](#), and a calculation of these costs expressed as a percentage of the ex-factory price; and
- (d) proof of origin of materials originating in the country where the good is manufactured or produced, or originating in any other beneficiary country.

19. The [Regulations](#) also identify the requirements for a good to be deemed originating in a Least Developed Country (LDC). If a good other than those set out in Parts A1 and B of Schedule 1 to the Regulations includes materials, parts or products that originate outside the LDC, an NCR request must also contain information showing that no more than 60% of the ex-factory price of the good is for costs incurred outside one or more LDCs or Canada, and must be accompanied by:

- (a) the information required under paragraphs 17 (a) – (f) of this Appendix;
- (b) a list of all materials including their tariff classification, origin, value and description;
- (c) a list indicating the value of all costs included in the ex-factory price (as per [Memorandum D11-4-4](#)), and a calculation of these costs expressed as a percentage of the ex-factory price;
- (d) proof of origin of materials originating in the country where the good is manufactured or produced, or originating in any other LDC or Canada; and
- (e) calculations demonstrating that materials originating in a country set out in Schedule 2 of the Regulations that is not an LDC, do not have a combined value in excess of 20% of the ex-factory price of the good.

20. Schedule 1 to the [Regulations](#) groups certain textile and apparel goods into categories, with each category subject to a specific rule of origin. These rules delineate the manufacturing activities and where they must occur for a good to qualify under the LDCT. An NCR request must contain sufficient information demonstrating that the good satisfies its specific rule of origin. According to the specific rule of origin and Schedule 1 to the Regulations, the following information must be submitted:

- (a) For seeking eligibility of a good under an LDCT specific rule for Apparel;
  - (i) identify the specific rule under which LDCT eligibility is being sought (for example, pursuant to paragraph 2(4)(a) of the Regulations);
  - (ii) the information required under [paragraph 17](#) of this Appendix;
  - (iii) a list of all materials including their tariff classification, origin, value and description;
  - (iv) a list indicating the value of all costs included in the ex-factory price (as per [Memorandum D11-4-4](#));
  - (v) proof of origin of materials originating in the country where the good is manufactured or produced;
  - (vi) the proof of origin of yarns used in the production of the fabric; and
  - (vii) the proof of origin of the fabric, or parts knit to shape.
- (b) For seeking eligibility of a good under the LDCT specific rule for Made-up Textile Articles:
  - (i) identify the specific rule under which LDCT eligibility is being sought (for example, pursuant to subsection 2(6) of the Regulations);
  - (ii) the information required under [paragraph 17](#) of this Appendix;
  - (iii) a list of all materials including their tariff classification, origin, value and description;
  - (iv) a list indicating the value of all costs included in the ex-factory price (as per [Memorandum D11-4-4](#));
  - (v) proof of origin of materials originating in the country where the good is manufactured or produced;
  - (vi) the proof of origin of yarns used in the production of the fabric; and

(vii) the proof of origin of the fabric, or parts knit to shape.

21. For further guidance on the LDCT textile and apparel specific rules of origin, refer to [Memorandum D11-4-4](#).

## APPENDIX C

### Content of Origin (Most-Favored Nation Tariff Treatment) or Country of Origin Marking (Non-NAFTA) National Customs Ruling (NCR) Requests

1. This appendix outlines the requirements for obtaining an NCR relating to the origin of a good imported from countries accorded the Most-Favoured Nation Tariff (MFN) treatment, and also for obtaining an NCR relating to the country of origin marking of a good, other than for a good imported under the North American Free Trade Agreement ([NAFTA](#)). Requests concerning the NAFTA country of origin marking of goods are to be submitted as requests for advance rulings (refer to [Memorandum D11-4-16, Advance Rulings for Origin Under Free Trade Agreements](#)).
2. This program is **distinct** from the Advance Rulings Program addressed in [Memorandum D11-4-16](#). NCRs issued for MFN tariff treatment or marking of non-NAFTA goods, are a component of the NCR program.
3. An NCR request for origin (MFN tariff treatment) or for non-NAFTA country of origin marking can be made by an importer, a foreign exporter or foreign producer of a good, or agents thereof.
4. The information requirements detailed below are set out so that an applicant is aware of the extent of the specific information required. The CBSA retains the right to request any additional information required before issuing an NCR, or to reject the request as incomplete.
5. Requests must be limited to a single product. However, the CBSA will consider issuing an NCR covering a product line containing different models of the same generic goods, if a NCR on one model will clearly apply to all other models. The CBSA reserves the right to allow for such applications or to split such requests into separate NCRs.
6. The request is to be delivered or sent by registered mail or by email to the CBSA [Trade Operations Divisions Office](#) in the region into which the majority of importations is expected to occur. Refer to the “[Exchange of Information with the CBSA by email](#)” section for more information. The CBSA will redirect the request if required and inform the applicant of the office that will be handling the request. The request letter should be marked “Attention: Origin (MFN tariff treatment) National Customs Ruling Request” or “Attention: Country of Origin Marking (non-NAFTA) National Customs Ruling Request”, as the case may be.

### Content of Request

7. An origin (MFN tariff treatment) or a country of origin marking (non-NAFTA) NCR request must include the name and address of the applicant. Where the applicant is:
  - (a) the **importer** of the good, also include the importer’s business number, the name and address of the foreign exporter and, if known, the foreign producer of the good;
  - (b) the foreign **exporter** of the good, also include the name and address of the foreign producer and importer of the good, if known; or
  - (c) the foreign **producer** of the good, also include the name and address of the foreign exporter and importer of the good, if known.
8. Include if an agent is submitting an NCR request on behalf of an applicant (i.e. an importer, a foreign exporter or foreign producer of the subject good), the information required in [paragraph 9](#) of this Appendix must be indicated, along with a written statement from the applicant, confirming that the agent is duly authorized in submitting the NCR request to the CBSA on their behalf. The NCR will be issued in the name of the applicant.
9. Include the name and telephone number of a contact person. The contact person must be someone with full knowledge of the subject good and the circumstances of the importation under consideration.
10. Indicate the principal port(s) of entry through which it is anticipated the good, that is the subject of the NCR request, will be imported.
11. 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 NCR, a re-determination, a verification, an administrative review or appeal, a judicial or quasi-judicial review.

12. Include a statement as to whether an NCR or other instruction on the issue had been requested previously from the CBSA and, if so, the result of any previous request.
13. A request for an NCR must be accompanied by one of the consent statements provided for in [Appendix D](#), either providing or withholding consent for publication of the NCR in its entirety.
14. The consent statement must be signed by the applicant (i.e. the importer, foreign exporter or foreign producer of the subject good) and not by agents thereof.
15. A request for an origin (MFN tariff treatment) NCR will be guided by the rules of origin contained in the [Most-Favoured-Nation Tariff Rules of Origin Regulations](#).
16. A request for an origin (MFN tariff treatment) NCR should include the tariff classification number of the goods to be imported into Canada, as well as the classification of all sub-assemblies and materials sourced outside of Canada. In the absence of information pertaining to the location and total cost of production, the cost of production incurred in one or more MFN beneficiary countries or in Canada, an NCR will not be issued and the CBSA will notify the applicant of the information required.
- Note:** Cost of production for origin purposes, includes materials (exclusive of duties and taxes), labour and factory overhead.
17. For non-NAFTA country of origin marking purposes, an NCR request should also include the information outlined in Appendix D of [Memorandum D11-4-16](#). For information on the list of goods that are required to be marked, refer to [Memorandum D11-3-1, Marking of Imported Goods](#).
18. Origin (MFN tariff treatment) or country of origin marking (non-NAFTA) NCRs will remain valid for three years from the date of issuance, provided that the facts and conditions, including the rules of origin under which the NCRs have been issued, remain unchanged.

**APPENDIX D**

**Consent to the Public Release of National Customs Rulings**

Disclaimer

There is no obligation on the applicant to consent to the publication of its National Customs Ruling letter. A decision to not authorize its public release will neither have any bearing on any Canada Border Services Agency (CBSA) decision with respect to the NCR(s), nor any other adverse consequences in terms of the CBSA's processing of the applicant's request.

1) To consent to the Publication of a National Customs Ruling:

I, **(Name of Individual)** of **(Importer/Foreign Exporter/Foreign Producer)** hereby give my consent to allow the CBSA to release to the public the entirety of the National Customs Ruling letter issued to me by the CBSA in respect of **(Subject of the Request)**, in both official languages.

\_\_\_\_\_  
**Signature**

\_\_\_\_\_  
**Date**

2) To deny the CBSA permission to publish a National Customs Ruling:

I, **(Name of Individual)** of **(Importer/Foreign Exporter/Foreign Producer)** hereby do not give my consent to allow the CBSA to release to the public the entirety of the National Customs Ruling letter issued to me by the CBSA in respect of **(Subject of the Request)**.

\_\_\_\_\_  
**Signature**

\_\_\_\_\_  
**Date**

## APPENDIX E

### Request for exchange of information by email with the Canada Border Services Agency (CBSA)

The applicant must provide a valid email address as well as their consent to exchange information with the CBSA by email. An authorized agent, in accordance with [Memorandum D1-6-1, Authority to Act as an Agent](#), can present an Exchange of information with CBSA by email request on behalf of their client.

The applicant has the responsibility to inform the CBSA of any contact information changes (phone number, email address and others).

The applicant who elects to use encrypted email for processing their application, is responsible to ensure the use of compatible software (WinZip and others).

The request for exchange of Information by email, if granted, is valid for a single National Customs Ruling (NCR) request.

The reception date of the documents is deemed to be the date where the email is sent/received. The deemed date will be the first business day following a Saturday, Sunday or statutory holiday, if the request has been received on one of those days.

The CBSA does not guarantee the security of electronic communications. In consenting to communicate with the CBSA by email, the applicant accepts all the inherent risks and relieves the CBSA from any responsibility, present and future, in relation to the protection of the information exchanged by email.

#### **Consent Statement**

« I choose to communicate by {Non-Encrypted / Encrypted}\*\*Please indicate your choice\*\* email with the CBSA during the National Customs Ruling (NCR) request process. This does include the sending and the reception of documents as well as any other correspondence required during the NCR request process. I authorize the communication by email for all exchanges and I accept all the inherent risks. I hereby relieve the CBSA from any responsibility, present and future, in relation to the protection of the information exchanged by email. I have read and I accept the conditions of this agreement».

Signature :

Date :

Case number (if already given by the CBSA) :

Relevant valuation method or element(s) :

Name of the applicant / authorized agent :

Business Name :

Occupation/Title :

Business Number (BN) :

Telephone number :

Email :

<b>References</b>	
<b>Issuing Office</b>	Trade and Anti-dumping Programs Directorate
<b>Headquarters File</b>	
<b>Legislative References</b>	<a href="#"><u>Customs Act</u></a> <a href="#"><u>Valuation for Duty Regulations</u></a> <a href="#"><u>General Preferential Tariff and Least Developed Countries Tariff Rules of Origin Regulations</u></a> <a href="#"><u>Commonwealth Caribbean Countries Tariff Rules of Origin Regulations</u></a> <a href="#"><u>Australia Tariff and New Zealand Tariff Rules of Origin Regulations</u></a> <a href="#"><u>Most-Favoured-Nation Tariff Rules of Origin Regulations</u></a> <a href="#"><u>North American Free Trade Agreement Agreement on Rules of Origin.</u></a>
<b>Other References</b>	<a href="#"><u>D11-3-1, D11-4-4, D11-4-16, D11-6-6, D11-6-7, D11-11-3, Form B2, Form B3-3</u></a> <a href="#"><u>Trade Operations Divisions Offices</u></a>
<b>Superseded Memorandum D</b>	D11-11-1 dated July 30, 2019