



Memorandum D11-4-21

Ottawa, February 28, 2022

Procedures for Verifications of Origin Under a Free Trade Agreement with European Countries

In Brief

1. This new memorandum is created to describe the verification of origin procedures used in Canada's free trade agreements with countries in Europe. It includes the verification procedures of the following trade agreements:

Canada-European Free Trade Association Free Trade Agreement (CEFTA)

Canada-European Union Comprehensive Economic and Trade Agreement (CETA)

Canada-Ukraine Free Trade Agreement (CUFTA)

Canada-United Kingdom Trade Continuity Agreement (CUKTCA)

2. The CEFTA verification procedures were previously published in Departmental Memorandum D11-4-20, Procedures for Verifications of Origin Under a Free Trade Agreement. These procedures have been removed from that memorandum and included here with minor amendments to the Guidelines for CEFTA Verifications of Imported and Exported Goods Appendix to provide further detail regarding the verification processes.

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

4. Please note that the amendments and the new *CETA Verification of Origin of Exported Goods Regulations*, *CETA Verification of Origin of Imported Goods Regulations*, *CUFTA Verification of Origin of Exported Goods Regulations*, *CUFTA Verification of Origin of Imported Goods Regulations*, the new regulations regarding the Verification of Origin of Exported Goods under CUKTCA, and the new regulations regarding the Verification of Origin of Imported Goods under CUKTCA to support the implementation of the above FTAs, were announced via Customs Notices. These Regulations will be published in Part II of the Canada Gazette. The effective date of the 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 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 21-08](#), Proposed Regulatory Amendments and Proposed New Regulations Related to the Implementation of the Canada - United Kingdom Trade Continuity Agreement

5. 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 outlines and explains the verification procedures pursuant to sections 42 and 97.201 of the *Customs Act*, Article 24 of Annex C of the Canada-European Free Trade Association Free Trade Agreement (CEFTA), Article 29 of the Protocol on Rules of Origin and Origin Procedures in the Canada-European Union

Comprehensive Economic and Trade Agreement (CETA), Article 3.26 of the Canada-Ukraine Free Trade Agreement (CUFTA), and Article 29 of the Protocol on Rules of Origin and Origin Procedures of the CETA as incorporated by reference in the Canada-United Kingdom Trade Continuity Agreement (CUKTCA).

Legislation

Customs Act

CEFTA Verification of Origin of Imported Goods Regulations

CEFTA Verification of Origin of Exported Goods Regulations

Guidelines and general information

1. Verifications of origin determine whether goods claimed as originating under a free trade agreement satisfy the rules of origin and are entitled to a preferential tariff treatment accorded under that free trade agreement.
2. Verification procedures have been developed for each of the free trade agreements. The guidelines set out in the appendices outline and explain the procedures that customs administrations must follow when conducting a verification of origin. Appendix A outlines the procedures to be used for CEFTA verifications and Appendix B outlines the procedures for CETA, CUFTA, and CUKTCA verifications.
3. These guidelines also provide exporters, producers and suppliers in Canada with an overview of the procedures that will take place should they be subject to verification of origin.
4. Should importers, exporters, producers or suppliers in Canada require confirmation of procedures during verification, they are advised to contact the customs administration proposing to conduct the verification.
5. For purposes of the Appendices, "customs administration" means, for Canada, the Canada Border Services Agency (CBSA).
6. Where goods have been accounted for and a preferential rate of duty has been claimed under a free trade agreement, import accounting documents and exporter or producer records are reviewed during a verification to ensure that the goods do in fact qualify as originating in the corresponding territory.
7. This process requires that importers be in possession of a valid exporter's Certificate of Origin. Information concerning the proof of origin requirements for commercial importations for which a preferential tariff treatment is claimed is contained in Memorandum D11-4-2, Proof of Origin of Imported Goods.
8. Prior to initiating a verification, where a Certificate of Origin is not properly completed or additional details are needed, information may be requested from the importer, exporter, or producer to determine if the Certificate of Origin is valid. Refer to Memorandum D11-4-14, Certification of Origin Under Free Trade Agreements, for instructions on the completion of the Certificate of Origin.
9. Record-keeping requirements for importers, exporters and producers, as the case may be, in:
 - (a) Canada, are for a period of not less than six years;
 - (b) an EFTA country (Iceland, Norway, Switzerland and Liechtenstein), are for a period of not less than three years;
 - (c) an European Union country or other CETA beneficiary, are for a period of not less than three years;
 - (d) Ukraine, are for a period of not less than three years; and
 - (e) a CUKTCA beneficiary, are for a period of not less than three years.

10. Information concerning the maintenance of records and books for importers, exporters, and producers in Canada is contained in Memorandum D17-1-21, *Maintenance of Records in Canada by Importers*, and Memorandum D20-1-5, *Maintenance of Records and Books in Canada by Exporters and Producers*.

Additional Information

11. For more information, call 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): 1-204-983-3500 or 1-506-636-5064

TTY: 1-866-335-3237

Email: contact@cbsa-asfc.gc.ca

Contact Us at the CBSA website may also be accessed for information.

Appendix A – Guidelines for CEFTA Verifications of Imported and Exported Goods

1. Under the CEFTA, a verification of origin is conducted by the customs administration of the exporting country upon request and on behalf of the customs administration of the importing country. (*Customs Act* 42.1(1.1) and 97.201(1))

2. As part of the verification process, documentation collected during the course of verification may be shared between the customs administration requesting the verification and the customs administration conducting the verification. (*Customs Act* 42.1 (1.1), 97.201(1) and 107.(8))

Verification of Origin of Goods Imported Into Canada

Initiating a Verification

3. Initiation of the verification of goods imported into Canada is the responsibility of the CBSA (*Customs Act* 42.1(1.1)).

Scope of Verification

4. The purpose of a CEFTA verification of imported goods is to determine whether goods imported into Canada from an EFTA country are entitled to the preferential rate of duty accorded under the free trade agreement.

Method of Verification

5. The CBSA shall conduct a verification of origin by requesting, by any method that produces confirmation of receipt, the customs administration of the EFTA country of export to conduct the verification on CBSA's behalf and provide an opinion as to whether the goods are originating (*Customs Act* 42.1(1.1)).

Detrimental Reliance under CEFTA

6. In accordance with 42.3(5) of the *Customs Act*, where the origin is re-determined and the EFTA exporter demonstrates that it relied in good faith and to its detriment on a ruling made by a CEFTA customs administration concerning the tariff classification or value of non-originating material used in the production of the goods, the re-determination shall apply only to importations of the goods made after the date of the re-determination.

Origin Opinion and Decision

7. Upon receipt of the opinion that contains the verification information and the results of the verification from the EFTA customs administration, the CBSA will review the verification findings and make a decision as to whether the good originates. The importer will be notified of the CBSA's decision (*Customs Act* 59.(1)).

Denial or Withdrawal of Preferential Tariff Treatment

8. In accordance with 42.1(3) of the *Customs Act*, the CBSA may deny or withdraw the preferential tariff treatment from the goods that are the subject of the verification where:

- (a) the customs administration of the EFTA country of export fails to conduct a verification or provide an opinion as to whether the goods are originating; or
- (b) the verification information received from the EFTA country of export is not sufficient to allow the CBSA to determine whether the goods are originating.

Review and Appeal

9. A decision resulting in the re-determination of the origin of the goods and withdrawal of preferential tariff treatment is appealable by the importer (*Customs Act* 60.(1)).

10. Information concerning appeals is contained in 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 Canada Border Services Agency.

Verification of Origin of Goods Exported From Canada

Initiating a Verification

11. Initiation of the verification of goods exported from Canada is the responsibility of the customs administration of the EFTA country of import (*Customs Act* 97.201(1)).

Scope of Verification

12. The purpose of a CEFTA verification of exported goods is to determine whether goods exported from Canada to an EFTA country meet the rules of origin.

Manner of Conducting a Verification of Origin (*Customs Act* 97.201(2))

13. Upon receipt of a request from the EFTA country of import to verify the originating status of a good, the CBSA will conduct the verification on their behalf by communicating with the exporter or producer in Canada by way of:

- (a) visits to the premises;
- (b) verification questionnaires;
- (c) verification letters; or
- (d) a review of any other information received by the exporter or producer of the good.

Conditions for Conducting a Verification Visit

14. The officer conducting a verification visit shall send a written notice of the intent to conduct a verification to the exporter or producer whose premises are the subject of the verification visit.

Observers

15. If requested by the customs administration of the EFTA country of import, the exporter whose premises are the subject of the verification visit may permit the participation of an observer from that EFTA customs administration by providing consent to the CBSA.

Audit Report

16. As part of the origin verification, the exporter will be provided with a report outlining the verification officers' preliminary findings.

Origin Opinion and Decision

17. Upon completion of the origin verification:

(a) the EFTA customs administration requesting the verification will be provided an opinion by the CBSA, by any method that produces confirmation of receipt, regarding whether or not the good originates, including any supporting documents that may be requested by that customs administration (*Customs Act* 97.201(3) and 107.(8)); and

(b) the exporter or producer of the goods, who was subject to the verification of origin, will be provided a decision as to whether the good originates (*Customs Act* 97.201(4) and 97.201(5)).

Review and Appeal

18. The origin decision is appealable under section 60 of the *Customs Act* by the exporter or producer who received a notice under subsection 59 (2) of the *Customs Act*.

Evidence of Fraud

19. Fraudulent certification by a Canadian exporter or producer is subject to prosecution under the laws of Canada.

Appendix B – Guidelines for CETA, CUFTA, and CUKTCA Verifications of Imported and Exported Goods

1. Under the CETA, CUFTA, and CUKTCA a verification of origin is conducted by the customs administration of the exporting country upon request and on behalf of the customs administration of the importing country. (*Customs Act* 42.1(1.1) and 97.201(1))

2. As part of the verification process, documentation collected during the course of the verification may be shared between the customs administration requesting the verification and the customs administration conducting the verification. (*Customs Act* 42.1 (1.1), 97.201(1) and 107.(8))

Verification of Origin of Goods Imported Into Canada

Initiating a Verification

3. Initiation of the verification of goods imported into Canada is the responsibility of the CBSA (*Customs Act* 42.1(1.1)).

Scope of Verification

4. The purpose of a CETA, CUFTA, and CUKTCA verification of imported goods is to determine whether goods imported into Canada from an EU country or other CETA beneficiary country, Ukraine, or a CUKTCA beneficiary are entitled to the preferential rate of duty accorded under the free trade agreement.

Method of Verification

5. The CBSA shall conduct a verification of origin by requesting, by any method that produces confirmation of receipt, the customs administration of the EU country of export or other CETA beneficiary, Ukraine, or the CUKTCA beneficiary, as the case may be, to conduct the verification on CBSA's behalf and provide a written report as to whether the goods are originating (*Customs Act* 42.1(1.1)).

Origin Written Report and Decision

6. Upon receipt of the written report that contains the verification information and the results of the verification from the EU country or other CETA beneficiary customs administration, the customs administration of Ukraine, or the CUKTCA beneficiary customs administration, as the case may be, the CBSA will review the verification findings and make a decision as to whether the good originates. The importer will be notified of the CBSA's decision (*Customs Act* 59.(1)).

Denial or Withdrawal of Preferential Tariff Treatment

7. In accordance with 42.1(3) of the *Customs Act*, the CBSA may deny or withdraw the preferential tariff treatment from the goods that are the subject of the verification where:

- (a) the customs administration of the EU country of export or other CETA beneficiary, Ukraine, or the CUKTCA beneficiary fails to conduct a verification or provide a written report as to whether the goods are originating; or
- (b) the verification information received from the EU country of export or other CETA beneficiary, Ukraine, or the CUKTCA beneficiary is not sufficient to allow the CBSA to determine whether the goods are originating.

Review and Appeal

8. A decision resulting in the re-determination of the origin of the goods and withdrawal of preferential tariff treatment is appealable by the importer (*Customs Act* 60.(1)).

9. Information concerning appeals is contained in 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 Canada Border Services Agency.

Verification of Origin of Goods Exported From Canada

Initiating a Verification

10. Initiation of the verification of goods exported from Canada is the responsibility of the customs administration of the EU country of import or other CETA beneficiary, Ukraine, or a CUKTCA beneficiary. (*Customs Act* 97.201(1)).

Scope of Verification

11. The purpose of a CETA, CUFTA, or CUKTCA verification of exported goods is to determine whether goods exported from Canada to an EU country or other CETA beneficiary, Ukraine, or a CUKTCA beneficiary, as the case may be, meet the rules of origin.

Manner of Conducting a Verification of Origin (*Customs Act* 97.201(2))

12. Upon receipt of a request from the EU country of import or other CETA beneficiary, Ukraine, or the CUKTCA beneficiary, as the case may be, to verify the originating status of a good, the CBSA will conduct the verification on their behalf, by communicating with the exporter or producer of the good in Canada by way of:

- (a) visits to the premises;
- (b) verification questionnaires;
- (c) verification letters; or
- (d) a review of any other information received by the exporter or producer of the good, or the producer or supplier of a material.

Conditions for Conducting a Verification Visit

13. The officer conducting a verification visit shall send a written notice of the intent to conduct a verification to the exporter or producer whose premises are the subject of the verification visit.

Audit Report

14. As part of the origin verification, the exporter will be provided with a report outlining the verification officers' preliminary findings.

Origin Written Report and Decision

15. Upon completion of the origin verification:

- (a) the EU country's or other CETA beneficiary customs administration, Ukraine's customs administration, or the CUKTCA beneficiary customs administration requesting the verification will be provided a written report by the CBSA, by any method that produces confirmation of receipt, regarding whether or not the good originates, including any supporting documents that may be requested by that customs administration (*Customs Act* 97.201(3) and 107.(8)); and
- (b) the exporter or producer of the goods, who was subject to the verification of origin, will be provided a decision as to whether the good originates (*Customs Act* 97.201(4) and 97.201(5)).

Review and Appeal

16. The origin decision is appealable under section 60 of the *Customs Act* by the exporter or producer who received a notice under subsection 59 (2) of the *Customs Act*.

Evidence of Fraud

17. Fraudulent certification by a Canadian exporter or producer is subject to prosecution under the laws of Canada.

References	
Issuing Office	Trade and Anti-dumping Programs Directorate
Headquarters File	
Legislative References	<u>Customs Act</u> <u>CEFTA Verification of Origin of Imported Goods Regulations</u> <u>CEFTA Verification of Origin of Exported Goods Regulations</u>
Other References	<u>Canada-EFTA Free Trade Agreement</u> <u>Canada-European Union Comprehensive Economic and Trade Agreement</u> <u>Canada-Ukraine Free Trade Agreement</u> <u>Canada-United Kingdom Trade Continuity Agreement</u> <hr/> <u>D11-4-2, D11-4-14, D11-6-7, D17-1-21 and D20-1-5</u> <u>Customs Notice 17-25</u> <u>Customs Notice 17-29</u> <u>Customs Notice 21-08</u>