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Tax Alert – Canada

Government of Canada announces withdrawal of Most-Favoured-Nation tariff benefit on goods originating in Russia and Belarus

EY Tax Alerts cover significant tax news, developments and changes in legislation that affect Canadian businesses. They act as technical summaries to keep you on top of the latest tax issues. For more information, please contact your EY advisor or EY Law advisor.

Effective 8 October 2022, the *Most-Favoured-Nation Tariff Withdrawal Order (2022-2)*¹ (the Withdrawal Order) was established to withdraw the entitlement to the Most-Favoured-Nation (MFN) tariff for goods that originate in Russia and in Belarus. On 12 October 2022, the Canada Border Services Agency (CBSA) published Customs Notice 22-20, [Withdrawal of benefit of the Most-Favoured-Nation Tariff in respect of goods that originate in Belarus and goods that originate in Russia](#), announcing the details of the Withdrawal Order.

The Withdrawal Order is effectively an update to the *Most-Favoured-Nation Tariff Withdrawal Order (2022-1)*,² which withdrew entitlement to the MFN tariff effective 2 March 2022, from goods that originate in Russia or Belarus.³

The Withdrawal Order of October 2022 introduces an exemption to the MFN tariff withdrawal for goods of tariff item No. 2844.43.00 and specifies on what regulatory basis goods are determined to originate from Russia or Belarus.

Regulatory background

For the purposes of the Withdrawal Order, goods originating in Russia or Belarus are goods that are eligible to be marked as goods of Russia or Belarus pursuant to the *Determination of Country of Origin for the Purpose of Marking Goods (Non-CUSMA Countries) Regulations*.⁴

¹ SOR/2022-209. See CBSA [Customs Notice 22-20, Withdrawal of benefit of the Most-Favoured-Nation Tariff in respect of goods that originate in Belarus and goods that originate in Russia](#).

² SOR/2022-0035.

³ Refer to [EY Tax Alert 2022 Issue No. 14](#). The *Most-Favoured-Nation Tariff Withdrawal Order (2022-1)* has been repealed as of 7 October 2022.

⁴ SOR/94-16, [Determination of Country of Origin for the Purpose of Marking Goods \(Non-CUSMA Countries\) Regulations](#).

Removal of MFN tariff entitlement makes virtually all goods originating from Russia or Belarus subject to the General Tariff customs duty rate of 35%. This change results in a material duty increase on such goods, as the MFN customs duty rate range for most goods imported into Canada is generally between 0% and 18%.

In accordance with subsection 29(2) of the *Customs Tariff*, goods covered by the Withdrawal Order are subject to the MFN rate of customs duty if the MFN duty rate is equal to, or greater than, 35%, or a Note or Supplementary Note to a Chapter of the List of Tariff Provisions or a tariff item so provides.⁵

The Withdrawal Order does not apply to goods released in Canada before 8 October 2022. In addition, the Withdrawal Order does not apply to goods of tariff item No. 2844.43.00 of the Schedule to the *Customs Tariff*, specifically:

- ▶ 28.44 - Radioactive chemical elements and radioactive isotopes (including the fissile or fertile chemical elements and isotopes) and their compounds; mixtures and residues containing these products.
- ▶ 2844.43.00 - Other radioactive elements and isotopes and compounds; other alloys, dispersions (including cermets), ceramic products and mixtures containing these elements, isotopes or compounds.⁶

Customs accounting requirements for goods subject to the Withdrawal Order

Goods subject to the Withdrawal Order must be accounted for on Form B3-3, *Canada Customs Coding Form* (Form B3), by citing tariff treatment code "03" in Field 14 – "Tariff Treatment" of Form B3.

To claim the MFN tariff rate of customs duty for goods of tariff item No. 2844.43.00 released on or after 8 October 2022, importers must complete and submit a Form B3 as follows:

- ▶ Field 14 – "Tariff Treatment": enter code 03 ("General Tariff");
- ▶ Field 26 – "Special Authority": enter "22-1089";
- ▶ Field 27 – "Classification No.": enter tariff item No. 2844.43.00
- ▶ Field 33 – "Rate of Customs Duty": enter the General Tariff rate of customs duty;
- ▶ Field 35 – "Rate of GST": enter the applicable GST rate;

⁵ CBSA [Customs Notice 22-20, Withdrawal of benefit of the Most-Favoured-Nation Tariff in respect of goods that originate in Belarus and goods that originate in Russia.](#)

⁶ Schedule to the *Customs Tariff* (S.C. 1997, c. 36).

- ▶ Field 38 – “Customs Duties”: enter the customs duties owing (calculated based on the MFN rate in effect on the day of the release); and
- ▶ Field 42 – “GST”: enter the GST owing.

Shipments released under the Courier Low Value Shipments (CLVS) program that are accounted for using a special authority number – specifically Orders in Council (OICs) and duty deferral – must be accounted for separately (either individually on a transaction-by-transaction basis or consolidated by importer). An importer may combine multiple transactions that use the same special authority into one line if the following information is the same for each transaction:

- ▶ Business Number, import/export account
- ▶ Special Authority (OIC number)
- ▶ Classification Number
- ▶ Tariff Treatment
- ▶ Customs Duty Rate Input
- ▶ Excise Tax Rate
- ▶ Rate of GST

Information may be consolidated into one entry with each special authority reported on a separate line on the entry if one importer uses more than one special authority.

Impact

The intention of the Withdrawal Order is to discourage the importation of goods originating in Russia and Belarus by significantly increasing the cost of importing these products into the Canadian market. Businesses who wish to import products potentially incorporating a portion of Russian or Belarusian origin inputs should consider conducting an origin analysis against the *Determination of Country of Origin for the Purpose of Marking Goods (Non-CUSMA Countries) Regulations* to determine if their imports would qualify as Russian or Belarusian for origination marking purposes.

Furthermore, businesses can consider submitting a request to the CBSA for a National Customs Ruling (NCR) on origin. An importer, foreign exporter or foreign producer of a good, or an authorized person thereof, may request an origin NCR.⁷

⁷ For more information on submitting an NCR request, see [Memorandum D11-11-1, National Customs Rulings](#).

Learn more

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