

Canada-U.S. Blog

LEGAL DEVELOPMENTS AFFECTING CANADA-U.S. CROSS BORDER TRADE

Canada Releases 2016 Consolidated Customs Tariff

By Cyndee Todgham Cherniak on December 16th, 2015

Posted in Canada's Federal Government, Cross-border trade, Customs Law, origin, tariff classification, Trade Agreements, valuation



On December 16, 2015, the Canada Border Services Agency (“CBSA”) released “Customs Notice 15-037” regarding the January 1, 2016 Version of the Departmental Consolidation of the Customs Tariff. This document is used by trade lawyers, customs brokers and importers to determine the correct tariff classification of goods. In addition, the 2016 Tariff reflects the scheduled rate reductions contained within the legislation of individual free trade agreements.

When reviewing the CBSA’s Departmental Consolidation of the Customs Tariff, importers should know about a recent International Trade Tribunal decision in *Federal-Mogul Canada Limited v. The President of the Canada Border Services Agency*, AP-2012-034. In this case, an issue arose due to the apparent differences between the version of the schedule to the *Customs Tariff* (and tariff item No. 9903.00.00 in particular) on the CBSA’s Web site and the official version as published in the 1997 version of the Canada Gazette, as amended. The CITT accepted the Appellant’s oral testimony and documentary evidence, which demonstrates that it relied on the consolidated Customs Tariff (and tariff item No. 9903.00.00)—an unofficial consolidation that the CBSA publishes on its Web site several times a year. However, this version contained a mistake. The CITT stated the following as it made a finding against the Appellant:

“Nevertheless, case law is consistent that misrepresentations (oral and written) by the CBSA or other government departments are not relevant in a case such as this. Any typographical errors or spacing issues, such as those on the CBSA’s consolidated version of tariff item No. 9903.00.00, are simply clerical issues or even errors made as documents are uploaded to the Internet, and issues or errors for which the Tribunal cannot grant relief as it is not a court of equity. Any concerns about perceived unfairness do not change the fact that the Customs Tariff, as published in the Canada Gazette, is the authority upon which decisions must be made.”

The moral of the story is that persons using the CBSA’s website and consolidated Customs Tariff should be aware that typographical errors of the part of the CBSA are not a defence. Use with caution.

Tags: 2016 Customs Tariff, Canada, Canada Border Services Agency, CBSA, tariff reductions, trade agreements

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