How USMCA Advance Rulings Can Help Small Businesses
U.S., Mexico and Canada
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Associate Administrator
Office of International Trade
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Minister
Head of Trade Office
Mexican Embassy to the U.S.
For more detailed information please visit

T-MEC SITE | SE |
https://www.gob.mx/t-mec

MIPYMES MX
https://mipymes.economia.gob.mx/

T-MEC SITE | SAT |
http://omawww.sat.gob.mx/tmec/Paginas/index.html
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Regulations and Rulings
Office of Trade
U.S. Customs and Border Protection
The Rulings Process Reviewed

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Regulations and Rulings
Ruling Basics

• What is a Ruling?
• Why Does U.S. Customs and Border Protection ("CBP") Issue Rulings?
• Who Issues CBP rulings?
• What is the difference between a ruling, an internal advice decision and a protest review decision?
• What is the effect of CBP Rulings?
• What is the Process for Modifying or Revoking a Ruling?
What is a Ruling?

• Written decision
• Issued by CBP’s Regulations and Rulings
• Tells the requester how CBP will treat a good when it is imported into or arrives in the United States.
  • Topics: tariff classification, country of origin, marking, valuation, compliance with entry procedures, intellectual property rights infringements....
• Binding on the specific importer and good
Who Can Request a Ruling?

• The importer, exporter, producer, or anyone who is related to the trade transaction can request an advance ruling
  • Distinct from NAFTA
• There is no fee for requesting a ruling
Who Issues Rulings?

- CBP’s Office of Trade, Regulations and Rulings (RR)
- RR has three divisions that issue rulings:
  - The National Commodity Specialist Division (NCSD) in New York
  - Commercial and Trade Facilitation Division at CBP HQ in DC
    - 3 Classification Branches
    - Entry Process and Duty Refund Branch
    - Valuation and Special Programs Branch
  - Border Security and Trade Compliance Division
    - Intellectual Property Rights, Cargo Security & Carriers, and Penalties Branch
Types of Rulings

• Prospective (Advance) Rulings
  • Prospective transactions only

• Internal Advice
  • Good has arrived at the port but has not been liquidated

• Further Review of Protests
  • The port has taken final action on the transaction at issue

• Ruling Reconsiderations
  • Revoking or modifying an existing ruling
Advance Ruling Benefits

- Predictability
- Business planning
- Facilitation of entry
- Transparency and Guidance to others (CROSS)
- Guarantee product qualifies under USMCA
USMCA Advance Rulings

• Topics:
  • Tariff classification • Customs valuation • Origin of goods • Quota

• Advance rulings are binding in the territory of the issuing government.
  • i.e., U.S. Advance Rulings do not apply to Mexico or Canada.
  • For sales of goods to Mexico and Canada, U.S. exporters need to apply directly with the destination country.

• To be issued within 120 days per USMCA
• Effective on the issuance date or a specific later date written in the ruling
• NAFTA Advance Rulings are no longer in effect.
How to Request an Advance Ruling

• National Commodity Specialist Division (NCSD) and E-rulings
  • E-rulings are submitted to CBP’s National Commodity Specialist Division in New York
  • Only issues rulings on Classification, Marking, Country of Origin, and FTAs
  • [https://erulings.cbp.gov/s/](https://erulings.cbp.gov/s/)
  • NY rulings usually issued in 30 days

• Headquarters Ruling Letters
  • HQ can issue rulings on Classification, Marking, Country of Origin, FTAs, Valuation, Entry Collection and Procedures, Vessels and Carriers, Intellectual Property, Restricted Merchandise, Duty Drawback, Foreign Trade Zones, and Merchandise Processing Fees.
  • US Customs and Border Protection
    Office of Trade
    Regulations and Rulings
    90 K St NE, 10th Floor
    Washington, DC 20229-1177
Information Required for Advance Ruling Requests

• The name, address, email address and phone number of the requesting party
• The name(s) of the port(s) in which the merchandise will be entered (if known).
• A description of the transaction
  • i.e., the specific merchandise to be imported and from which country
• A statement that there are, to the importer's knowledge, no issues on the commodity pending before CBP or any court.
• A statement as to whether advice has been sought from a CBP office; and if so, from whom, and what advice was rendered, if any.
Information Required for Advance Ruling Requests (Cont.)

• Classification:
  • A full and complete description of the article, principal use, commercial or technical designation, relative quantity by weight of each component, illustrative literature, photographs…

• Country of Origin:
  • Countries where each of the source materials were made or harvested;
  • Countries where each of the various production steps took place.

• Trade Program or Agreement:
  • Countries where each of the source materials were made or harvested;
  • Countries where each of the various production steps took place.
  • Costs incurred in each of the production countries.

• Marking:
  • How the article and its container will be marked.
  • Illustrations that show clearly how the goods are labeled and packaged.
    • Illustrations should show all other labeling and packaging details, besides the actual country of origin marking.
  • Detailed description of how the goods will be used or sold upon importation.
Confidential Information

• Trade secrets and other privileged commercial information will be protected from disclosure by CBP if identified by the requestor
  • The standard for determining whether information will be granted confidential treatment:
    • If disclosed, such information would cause substantial harm to the competitive position of the person making the request
E-Rulings

- Online filing of a binding ruling request directly to the National Commodity Specialist Division (NCSD) of Regulations and Rulings.
- Only for Classification, Marking, Country of Origin, and FTAs
  - Questions on regional value content requirements the appropriate basis or method for reasonably allocating costs for calculating the net cost of the good or the value of an intermediate material must be requested from the HQ office
- Prospective Shipments only
  - If the merchandise has already been entered and liquidated, you can either protest the liquidation or seek internal advice
- https://erulings.cbp.gov/s/
Request Type

*Select Request Type (check all that apply)

Please select at least one request type

- Classification
- Marking
- Country of Origin
- Application of Trade Program or Trade Agreement

OR

- Drawback Classification
Request Type

*Select Request Type (check all that apply)

Please select at least one request type

- Classification
- Marking
- Country of Origin
- Application of Trade Program or Trade Agreement

OR

- Drawback Classification
N314233

September 4, 2020


CATEGORY: Marking, Country of Origin

Aria Wu
Etherwan Systems, Inc.
33F, No. 93, Sec. 1, Xintai 5th Rd., Xizhi Dist.,
New Taipei City, 221
Taiwan

RE: The country of origin and marking of an Ethernet extender

Dear Ms. Wu:

In your letter dated August 27, 2020, you requested a country of origin ruling.

The item concerned is referred to as an Ethernet extender (model # ED3575-622). It is a hardened managed Ethernet switch and extender combo. This device is equipped with Ethernet, SFP, copper extender ports, and it is used to bridge the gap between modern and legacy infrastructure networks.

The Ethernet extender is designed and assembled in Taiwan. It consists of a Main printed circuit board assembly (PCBA), a CPU PCBA, a Relay/Power PCBA and various housing/mounting/electrical components. A bill of materials listing all sub-assemblies and components with their countries of origin has been submitted.

The manufacturing process that takes place within Taiwan involves the manufacturing of the printed circuit board assemblies (PCBA) using surface mount technology (SMT) and dual in-line processing (DIP). During this process electrical elements (i.e. diodes, transistors, capacitors, etc.) are placed on a printed circuit board and soldered into the circuitry. When complete each PCBA is tested. A manufacturing narrative and various flow charts depicting the manufacturing process have been submitted.

Next, the competed PCBAs and other housing/support/electrical components from various countries of origin, are assembled into the finished device.

Finally, firmware is installed into the device, and the finished products are inspected.

The marking statute, Section 304, Tariff Act of 1930, as amended (19 U.S.C. 1304), provides that, unless excepted, every article of foreign origin (or its container) imported into the U.S. shall be marked in a conspicuous place as legibly, indelibly and permanently as is the nature of the article (or its container) will permit, in such a manner as to indicate to the ultimate purchaser in the U.S. the English name of the country of origin of the article.

The “country of origin” is defined in 19 CFR 134.1(b) as “the country of manufacture, production, or growth of any article of foreign origin entering the United States. Further work or material added to an article in another country must effect a substantial transformation in order to render such other country the ‘country of origin’ within the meaning of this part; however, for a good of a NAFTA country, the NAFTA Marking Rules will determine the country of origin.”
Revolving or Modifying a Ruling

1. A person who has received a ruling and disagrees with it has the right to appeal that ruling.
2. Write to CBP HQ and explain the reason you believe the ruling is incorrect.
3. If CBP agrees that the previously issued ruling is incorrect, it will publish a proposed ruling revoking or modifying the earlier ruling.
   • The noticed of proposed revocation is published in the Customs Bulletin (https://www.cbp.gov/trade/rulings/bulletin-decisions).
4. The public has 30 days to comment on the proposed action.
5. The final revocation or modification will be effective 60 days after publication in the Customs Bulletin.
   • This will not affect duties already paid; the effect will be prospective only for the same or substantially similar merchandise.
This is in further response to your letter dated April 3, 1990, requesting the classification of a hair bow, and  socks in infant, toddler and children’s socks from Korea under the Harmonized Tariff Schedule of the United States Annotated (HTSUSA). The children’s socks were classified under subheading 6115.90.00, HTSUSA, in New York Ruling Letter NYM 951317, dated May 4, 1990. We have had occasion to review the portion of that ruling which concerns the tariff classification of the children’s socks and determined that it is in error.

**FACTS:**
The merchandise at issue consists of children’s socks made of 65 percent cotton, 25 percent nylon, and 10 percent spandex knit fabric. **NYV 951317**, issued on May 4, 1990, classified the socks under subheading 6115.90.00, Harmonized Tariff Schedule of the United States Annotated (HTSUSA), which provides for panty hose, tights, stockings, socks, and other hosiery.

**ISSUE:**
Whether the socks of issue are classifiable under subheading 6115.90.00, HTSUSA or subheading 6115.92.2000, HTSUSA.

**LAW AND ANALYSIS:**
Classification of merchandise under the HTSUSA is in accordance with the General Rules of Interpretation (GRI), taken in order. GRI 1 provides that classification shall be determined according to the terms of the headings and any relative section or chapter notes. The socks in question are provided for under heading 6115, which provides for panty hose, tights, stockings, socks and other hosiery, e.g., knitted or crocheted. Subheading 6115.90.00, HTSUSA, provides for panty hose and tights of cotton. The
Other Resources

USMCA-SPECIFIC:
• USMCA@CBP.DHS.gov.
  • Contact info for specific inquiries, USMCA text, implementation instructions

INFORMED COMPLIANCE PUBLICATIONS:
• Guides to broader Customs topics—classification, Valuation, Origin, Entry...
• https://www.cbp.gov/trade/rulings/informed-compliance-publications

DIRECTIVES AND HANDBOOKS:
• More specific guidance on questions such as NAFTA procedures, section 232 steel and aluminum tariffs, textile quotas...
• https://www.cbp.gov/trade/rulings/directives-handbooks
Summary

• CBP has the a very open and transparent ruling system
• An advance ruling is the best vehicle for predictability: it is quick and inexpensive and will not be changed without notice to the importer
• Most rulings are never modified or revoked
• If the good has already been imported, the internal advice procedure and perhaps the protest review procedure are available.
US Customs and Border Protection
Office of Trade
Regulations and Rulings
90 K St. NE
Washington, D.C. 20229-1177
(202) 325-0100
https://www.cbp.gov/trade
ADVANCE RULINGS
FOR THE IMPORTATION OF GOODS INTO CANADA
OCTOBER 20, 2020
PRESENTATION BY STEPHEN DESROCHES
TRADE POLICY DIVISION
ABOUT THE CANADA BORDER SERVICES AGENCY (CBSA)

- CBSA ensures Canada's security and prosperity by facilitating and overseeing international travel and trade across Canada's borders.

- The CBSA carries out its responsibilities with a workforce of approximately 14,000 employees, including over 6,500 uniformed CBSA officers who provide services at approximately 1,200 points across Canada and at 39 international locations.

- The Agency is a federal institution that is part of the Public Safety portfolio.
ADVANCE RULINGS PROVIDED BY CBSA

- To help importers and foreign exporters or producers of goods determine the proper tariff classification, or the origin of goods under Free Trade Agreements, CBSA publishes advance rulings.

- The CBSA will issue an advance ruling that will include the following:
  - the tariff classification number and the reasons why it was selected
  - whether the goods qualify as originating goods and are entitled to the benefit of preferential tariff treatment under a free trade agreement
  - an advance ruling number

- These rulings, issued under paragraph 43.1(1) of the Customs Act, provide information on the importation of particular goods, including their 10-digit tariff classification number under the Canadian Customs Tariff.
TYPES OF ADVANCE RULINGS PROVIDED BY CBSA

- Advance Rulings for Origin Under Free Trade Agreements
  - D11-4-16 – Advance Rulings for Origin Under Free Trade Agreements

- Advance Rulings for Tariff Classification
  - D11-11-3 – Advance Rulings for Tariff Classification
WHY GET AN ADVANCE RULING?

- The advance ruling ensures that the tariff classification number and/or the origin used on Customs declarations is deemed correct by the CBSA. The ruling is binding until it is revoked or modified.

- Provides certainty to the importer, foreign exporter or producer, as to how goods are to be classified and/or if the goods are entitled to be claimed under a free trade agreement.

- Reduces the risk of an importer receiving Administrative Monetary Penalties (AMP), for non-compliance.

- There is no service fee for an advance ruling.
WHO CAN REQUEST AN ADVANCE RULING?

- Importers of goods in Canada

- Persons who are authorized to account for goods under paragraph 32(6)(a) or subsection 32(7) of the Act

- Exporters or producers of those goods outside of Canada

- Any person who is authorized to do so may transact business under the Act as the agent of another person, upon a written authority, in a form approved by the Minister, from the person on whose behalf he is acting
HOW TO REQUEST AN ADVANCE RULING

Request can be sent by mail or email, in English or French, and must include the following information:

- name, address, and business number of the applicant (if applicable)
- a statement indicating if the request is made by the importer, foreign exporter or producer, or authorized agent
- the principal ports of entry which the goods will be imported
- a statement that there are no issues on the goods pending before CBSA or a judicial or quasi-judicial review
- whether the goods have previously been imported into Canada
- a complete description, including composition and anticipated use of the goods

A full list of requirements is provided in Memorandum D11-11-3, Advance Rulings for Tariff Classification and Memorandum D11-4-16, Advance Rulings for Origin Under Free Trade Agreements
SUBMITTING THE REQUEST

Once the request has been drafted, it must meet these requirements:

- signed by the applicant or an authorized agent

- marked “Attention: Tariff Classification Advance Ruling Request and/or for Origin Under Free Trade Agreements”

- sent by mail or by email to the appropriate regional CBSA Trade Operations Divisions - Mail and Email Addresses

- limited to a single product; however, more than one request may be sent to the CBSA at a time

See D11-11-3, for more information on the exchange of information by email with the CBSA
CBSA SERVICE STANDARD

- Once the CBSA has received the request and all the required information, the standard processing time is within 120 calendar days. The CBSA aims to issue rulings within a shorter period.

- If supplementary information is required, the CBSA will notify the applicant in writing, and will be given a period of 30 calendar days to provide the required information.

  - If the request is not accepted, the CBSA will give its reasons in writing. For example, the request is hypothetical or an advance ruling had been previously issued for the same good and importer.
CONFIDENTIALITY

- Any confidential business information contained in a request for an advance ruling will remain confidential pursuant Section 107 of the Act.

- The only information with respect to an advance ruling that will be released, is if an advance ruling number remains in effect or has been revoked or modified.

- If consent has been given to the CBSA to publish the advance ruling in its entirety, such information would be included.
MODIFICATION OR REVOCATION OF AN ADVANCE RULING

The CBSA may review an advance ruling at any time to confirm its continued validity. As a result of the review, an officer may modify or revoke an advance ruling for the following reasons:

- if the advance ruling is based on an error of fact or in the tariff classification/origin of the goods
- to conform with a decision of a Canadian court or tribunal or a change in the laws of Canada
- if there is a change in the material facts or material circumstances on which the advance ruling is based
- if the President revises an advance ruling
REQUEST FOR A REVIEW

- If the recipient of the advance ruling disagrees with the classification number or the origin of the goods, a request for a review can be made.

- A request for review of the advance ruling must be filed within 90 days of the date of issuance of the ruling letter.
ADVANCE RULINGS SEARCH

- Information on Advance Rulings and Published Rulings* can be found on CBSA website:

- Non-published rulings cannot be viewed by the public

*Decisions rendered in published rulings can help guide for the accounting of goods on classification/origin. However, the classification/origin decision is only legally binding to the specific goods and the recipient to which the ruling was issued.
Questions?

For more information, call the Border Information Service (BIS) at 1-800-461-9999 (accessible within Canada and the United States). If calling outside Canada and the United States, call 204-983-3500 or 506-636-5064. Long distance charges will apply. Live agents are also available to assist you from 6 am to 10 pm (eastern daylight time), 7 days a week. Alternatively, you may send your enquiries to the following address: contact@cbsa.gc.ca.

Visit our Website:

www.cbsa-asfc.gc.ca
Víctor Almiray
Customs Expert
Mexico City

Zaknikte Carbajal
Coordinator, Certificates of Origin
Ministry of Economy
Webinar: Small Businesses Under USMCA/T-MEC/CUSMA

ADVANCE RULINGS AS A TRADE-TOOL FOR SME’S

October 20, 2020
Why request an advance ruling?

Attainments
- Predictability
- Transparency
- Accessibility
- Binding rule
- Legal certainty
- Cross border transactions

Purpose
- Facilitate clearance of goods
- Promote goods in international market

Other customs matters
- Tariff classification
- Tariff valuation method
- Origin
- Tariff rate quotas
13 FTA’s signed by Mexico, and each one has its own advance ruling procedure.

Since 1st of July there is a uniform and single format. Free-format. FTA’s including WTO-TFA.

**Requester:** an importer in its territory, an exporter, producer (including the producer of materials) or any other person with a justifiable cause, or a representative thereof.
How to apply

Information is available in the Tax Administration Service web page, including laws and procedures.
main page: https://www.sat.gob.mx/home option “normatividad”.

Or for a quick reference go directly to the Tax Administration Service T-MEC microsite:
http://omawww.sat.gob.mx/tmec/Paginas/index.html
Advance Ruling Format E/13. Available in Spanish but designed in a very easy way to fill out.

- General information to identify the requester.
- Questionnaire (Yes/Not) to confirm eligibility.
- Brief explanation by the requester.
- Supporting documents.
Redacted versions available to the public.

Advance Rulings are published in the Tax Administration Service web page: [https://www.sat.gob.mx/home](https://www.sat.gob.mx/home) option “otros trámites y servicios” or directly in the next link: [http://www2.sat.gob.mx/sitio_internet/sitio_aplicaciones/Resoluciones_Favorables/](http://www2.sat.gob.mx/sitio_internet/sitio_aplicaciones/Resoluciones_Favorables/)
Win / Win relation between traders and authorities. Advance Rulings

Authorities:
✓ Increase cooperation between importers, exporters, and customs agency.
✓ Simplification of procedures in advance rulings requests.
✓ Reduction in complains and avoidance of appeals.
✓ Uniformity in application of law and procedures.
✓ Assertiveness in customs verifications and feed back in risk management.

Traders:
✓ Predictability prior imports.
✓ Transparency on the application of procedures.
✓ Facilitate clearance of goods.
✓ Promote goods in international market.
✓ Inclusive commerce for SME’s.

For any inquiry about this mechanism, the Tax Administration Service also provides an inquiry point for customs matters at facilitacion@sat.gob.mx
Thank You!

LinkedIn Victor Almiray
Trade Facilitation Tools

Ministry of Economy
4 out of 100 SMEs participate in global value chains.

87% of the SMEs that do not participate in GVCs, is due to lack of information.

30% Small and medium-sized enterprises do not grow due to excessive paperwork and high taxes.

92% SMEs do not have access to financing programs.

Source: National Survey on Productivity and Competitiveness of SMEs 2018 (ENAPROCE), INEGI, SE, AMSDE.
+12 regulatory and operational agencies

SHCP, SAT, SE, SSA, SEMARNAT, SADER, SEDENA, SEGOB, SRE, SCT, PGR, PF

Complex tariff:
• 12,500 classifications:
• 40% with low trade
• 70% with 'Ex' duty

40% of the tariff codes register low trade (below one million dollars per year).

Lack of methodology
Each agency acts according to its understanding, disjointed, duplicating, refusing to make improvements. No instance of supervision and monitoring. No dialogue with individuals.

Scattered and outdated information
Numerous portals with information: duplicated, outdated, incomplete, erroneous and difficult for users to understand.
SNICE: National Service of Foreign Trade Information

Single Portal

Common language

Enquiry points

Compliance Trade Facilitation Agreement / USMCA
Our first microsite completely in English

MEXICAN IMPORT LABELING REGULATION

If you are importing to Mexico, you should be aware of the following information as of October 1st, 2020:

1. Food and non alcoholic beverages will have to display the new frontal labeling:

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[Images of labels with various symbols and text]
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Everything will have to be in Spanish!

2. Other goods subject to commercial and sanitary information standards.

Goods which are subject to complying with labeling standards contained in the following list, will no longer be able to use these exemptions to enter the country:
With the purpose of making easier the entrance of SMEs, to foreign trade, we have developed:

- **Calculator of Origin**
- **My Tariff Code**
Calculator of Origin

- **Free tool**
- Answer a **short questionnaire**
- **Determine** whether or not the goods qualify as **originating**
- **Avoids** technical language
All the information you need can be found on the microsite

¡Te presentamos la Calculadora de Origen!

Consulta de forma sencilla y gratuita si tu mercancía cumple con las Reglas de origen del T-MEC y si está o no sujeta al pago de aranceles al importarse a los EE.UU o Canadá.
Approach to the tariff code

Additional information about regulations, restrictions and duties

Search by name or common word

Historical and current information
Video
Thank you!

Zaknikte Carbajal Borjas
zaknikte.carbajal@economia.gob.mx

SNICE
snice@economia.gob.mx
@SNICEmx

Calculator of Origin
calculadora.origen@economia.gob.mx
Resources & Contact

Canada:
• CBSA: contact@cbsa.gc.ca; www.cbsa-asfc.gc.ca; or 1-800-461-9999 (accessible within Canada and the United States) or 204-983-3500 or 506-636-5064;

Mexico:
• Contacts: Customs matters at facilitacion@sat.gob.mx and Calculator of Origin: calculadora.origen@economia.gob.mx
• SNICE: https://www.snice.gob.mx/
• USMCA Information Sharing: https://www.gob.mx/t-mec

U.S.:
• U.S. SBA: SBA Office of International Trade Hotline available at (855) 722-4877 or international@sba.gov or visit: www.sba.gov/tradetools
• CBP: https://www.cbp.gov/trade/rulings
• USMCA Information Sharing: www.trade.gov/usmca