

# Commercial law in Canada



## Trade Regulations of Canada

### Trade Policy

Canada maintains a liberal trade regime. There are no foreign exchange restrictions, and import licenses are only required for a limited number of goods. Imports are generally subject to import duties.

Import licenses are required for items regulated under the Export and Import Permits Act. The Act lists various agricultural products (poultry, eggs, and dairy products), a number of textile and clothing items, and certain steel products.

The importation of certain commodities is however tightly controlled. Examples of regulated goods include: food products, drugs and medical devices, hazardous products, some offensive weapons and firearms, endangered species and motor vehicles.

Duties are assessed on the transaction value (the price actually paid or payable for the goods), including commission, brokerage, packing, royalties and transportation to the Canada point. Hong Kong and China origin goods were no longer eligible for the preferential tariffs under the Canadian General Preferential Tariff (GPT) Scheme, effective since 1 January 2015.

To enhance the productivity and boost the overall competitiveness of local businesses, Canada has become the first G-20 economy to eliminate all remaining tariffs on manufacturing inputs, of which about 76% are textiles items and the remainder includes chemicals, plastics and articles, and certain articles of wood, glass, aluminum and graphite, and machinery and equipment. Duties on 1,541 tariff lines were eliminated on 5 March 2010, while duties on an additional 381 tariff lines were phased out over a five-year period and removed altogether by 2015.

### Import Controls and Licensing

Most goods can enter the Canada market without import restrictions. However, certain commodities are prohibited from importation under the provisions of the Canadian Customs Tariff regulations, while others are regulated under the Export and Import Permits Act. Regulated categories cover various agricultural products (poultry, eggs and dairy products), a number of textiles and clothing items, and certain steel goods.

The Export and Import Controls Bureau is responsible for administering the Export and Import Permits Act. The Import Controls List comprises textiles and clothing, agricultural products, steel products and weapons; whereas the Export Controls List contains agricultural products, refined sugar, peanut butter, textiles and clothing, weapons and nuclear energy materials and technology, dangerous goods, etc.

All foods imported into Canada are subject to the Food and Drugs Act, which prescribes constituents and quality standards of each constituent, and quality standards of each constituent, as well as labelling requirement.

Food that is labelled or advertised to the public as a treatment for any diseases or physical disorders may not be imported or sold in Canada. Food additives are strictly controlled.

Many alcoholic beverages have minimum age requirements and subject to provincial regulations and must be imported through the liquor commissions in the province where they will be consumed.

Cosmetics Notification Form must be submitted to the Health Protection Branch of Health Canada within 10 days of the first sale of a new cosmetic product to ensure that the new product complies with all regulatory requirements.

Canada has detailed drug regulations on pharmaceuticals, veterinary products, pesticides and disinfectants which are restricted or controlled under import permits.

The import, manufacture and use of potentially toxic substances, including new chemicals, polymers and biotechnology products are regulated by the Canadian Environment Protection Act and New Substances Notification Regulations.

Any claims about a product (or its packaging materials) being 'environmentally-friendly' must be accurate and in compliance with relevant laws. Claims that are ambiguous, misleading or irrelevant, or that cannot be substantiated should not be used.

### Product Standards and Requirements

The National Standards System is the system for developing, promoting, and implementing standards in Canada. If certification of a product is required, it should be obtained before the goods are imported into Canada. Additional standards and requirements may be imposed at the provincial level.

### Marking and Labelling

Canada requires bilingual labelling (English and French) for most products. Bilingual designation of the generic name on most pre-packaged consumer products is required under the federal Consumer Packaging and Labelling Act. Under this Act, the product identity declaration, net quantity declaration and dealer's name and principal place of business must appear on the package/label of a consumer goods sold in Canada.

The agency responsible for inspection of imports, Canada Customs and Revenue Agency, also requires an indication of the country of origin on several classes of imported goods. Goods not properly marked will not be released from Canada Customs until suitably marked. In general, environmental claims that are ambiguous, misleading or irrelevant, or that cannot be substantiated, should not be used.

### Customs Tariff and Tax

Canada adopts the Harmonized System (HS) of the Tariff Schedules. All commercial imports are subject to customs duty and the goods and services tax (GST) unless exempted. Depending on the goods or their value, some other taxes may apply, e.g. excise tax on luxury items like jewelry and alcohol. Duties are assessed on the transaction value (the price actually paid or payable for the goods), including commission, brokerage, packing, royalties and transportation to the Canada point.

A provincial sales tax (PST) is assessed on all imports to Saskatchewan (6%), British Columbia (7%), Manitoba (8%) and Quebec (9.975%), on top of a broad-based value-added sales tax, known as the goods and services tax or harmonized sales tax (GST/HST). The latest GST/HST rates can be found [here](#). In addition, excise duties and taxes are charged on goods such as spirits, wine, beer, tobacco products, fuel-inefficient vehicles, automobile air conditioners and certain petroleum products.

Canada may impose anti-dumping (AD) duties on imports considered to be priced less than the “normal” price charged in the exporter’s domestic market and caused material injury to the concerned industry in Canada. Furthermore, if a country is found to be unfairly subsidizing its exporters, Canada is authorized to impose a countervailing (CV) duty equal to the amount of the subsidy expressed as a percentage of the export price of the goods. These duties remain in place for five years and can be renewed for additional terms of five years.

Currently, Canada imposes AD and/or CV duties on several imports from the Chinese mainland, including flat hot-rolled carbon and alloy steel sheet and strips; steel plate; seamless casing; oil country tubular goods; large line pipe, carbon and alloy steel line pipe; carbon steel welded pipe; steel grating; fasteners; stainless steel sinks; copper pipe fittings; aluminum extrusions; photovoltaic modules and laminates; piling pipe; unitized wall modules; thermoelectric coolers and warmers; silicon metal; copper tubes; concrete reinforcing bar; fabricated industrial steel components; polyethylene terephthalate resin and pipe joints. Meanwhile, Canada initiated on 19 August 2016 an AD investigation on certain concrete reinforcing bar from Hong Kong.

### Documentary Requirements

A complete documentary package should be presented to the Customs when the imported goods arrive at the country’s border. The package includes:

- 1) Cargo Control Document prepared by the carrier based on the shipper’s information;
- 2) Commercial Invoice indicating the buyer, seller, country of origin, price and detailed description of the goods with quantity and unit price;
- 3) Import permits, health certificates and examinations as required by other Federal government departments: e.g. the Canadian Food Inspection Agency examines and gives permits for some meat products, and all restricted or controlled drugs require an import permit from Health Canada; the Department of Foreign Affairs and International Trade requires import permits for textiles and clothing;
- 4) Certificates of Origin for claiming lower customs duty rates for goods from USA and Mexico (under North American Free Trade Agreement), Israel (under Canada-Israel Free Trade Agreement) or Chile (under Canada-Chile Free Trade Agreement) or Form A Certificate of Origin applies to goods covered by the Generalized System of Preferences;
- 5) Bill of Lading to satisfy the direct shipment condition of preferential tariff treatment – goods must be shipped on a through bill of lading from the country of origin to a consignee in Canada;
- 6) Other documents include Insurance Certificate, Packing List, Pre-shipment Inspection and pro-forma Invoice as requested.

### Consumer Protection

The safety Bill C-36, known as the Canada Consumer Product Safety Act (CCPSA), received Royal Assent in late 2010 and came into force on 20 June 2011. The Act establishes a broad prohibition against manufacturing, importing, advertising or selling consumer products that pose an unreasonable hazard to human health or safety by requiring industry members to report when they become aware of a serious incident or death related to their products, and manufacturers or importers to provide test/study results on products when asked. It also empowers Health Canada to recall dangerous consumer products. It applies to a wide variety of consumer products

including children's toys, household products and sporting goods, but excludes products like motor vehicles and their integral parts, food, drugs (including natural health products) and animals as these are regulated by other Canadian laws.

### **Hong Kong's Trade with Canada**

Hong Kong's total exports to Canada decreased by 4% to US\$2.3 billion in 2017, after a slide of 12% to US\$2.4 billion in 2016. Major export items in 2017 included telecommunications equipment & parts (shared 19% of the total), articles of apparel, of textile fabrics (8%), computers (8%), toys, games & sporting goods (5%), women's or girls' wear of textile fabrics, not knitted (5%), electrical apparatus for electrical circuits (4%), jewelry (4%), footwear (3%) and electrical machinery & apparatus (3%).

Hong Kong's total imports from Canada fell by 8% to US\$1.4 billion in 2017, after decreasing by 9% to US\$1.5 billion in 2016. Leading import items in 2017 included crude vegetable materials (shared 10% of the total), telecommunications equipment & parts (9%), fresh, chilled or frozen meat of bovine animals (7%), crustaceans, mollusks & aquatic invertebrates, chilled, frozen, dried, salted or in brine (6%), medicaments (including veterinary medicaments (4%), fresh, chilled or frozen meat & edible meat offal (3%), jewelry (3%), fixed vegetable fats and oils, soft, crude, refined or fractionated (3%), measuring, checking, analyzing & controlling instruments & apparatus (3%), non-electric engines & motors & parts (3%), parts & accessories of office machines/computers (3%) and optical goods (3%).

Sources: Hong-kong-economy-research.hktdc.com