



July 25, 2023

Valerie Dinis
Acting Director
Commercial and Trade Policy Division
Traveller, Commercial, and Trade Policy Directorate
Strategic Policy Branch
Canada Border Services Agency

VIA Email: CBSA.OCT/CECO.ASFC@cbsa-asfc.gc.ca

Dear Ms. Dinis,

Re: Canada Gazette 1 Consultation – Amending the Valuation for Duty Regulations

On behalf of the Canadian Toy Association and the U.S. Toy Association we are writing in response to the Canada Border Services Agency (CBSA) consultation notice on its proposed amendments to the *Valuation for Duty Regulations*, issued on May 27, 2023. We appreciate the opportunity to comment and for CBSA extending its consultation period from thirty to sixty days. This has allowed for us to properly assess the proposal and to engage our member companies. Please note, the new CG1 online commenting platform does not enable a joint submission to be registered to two organizations. We would suggest Treasury Board consider amending its online platform to allow for multiple organizations to be identified with a single consultation submission.

The Canadian Toy Association (CTA) supports over 100 members consisting of manufacturers, importers, and distributors of toys. Many CTA members are small and medium enterprises operating across Canada; however, the bulk of Canadian sales come from larger multinational toy companies, most of which are based in the U.S. The Toy Association is a not-for-profit trade association for producers and importers of toys and youth entertainment products sold in North America. It represents over 800 companies. The mission of our members is to bring fun and joy to children's lives and in that mission toy safety is paramount – it is our industry's number-one priority.

The toy industry operates across a well-established global supply and manufacturing network. Ensuring clear and uniform rules for importers and exporters is essential to our member companies. We recognize that CBSA's goal from its proposed amendments to the *Valuation for Duty Regulations* is to further enhance greater clarity and continuity with WTO principles, however, we have several concerns with the proposal and believe that, in application of the proposal as presented, the opposite effect will occur.

We have detailed below several observations for CBSA's consideration. Beyond the administrative and legal irregularities of the proposal, it is important to stress that CBSA's proposal will trigger significant increases in costs for both non-resident importers *as well as* imports by Canadian residents. Inevitably, these costs will have to be passed on to consumers. As many of our member companies operate within tight margins, these costs will have a very real impact on our smaller member companies and will place additional stress at the retail level on Canadian families who are managing a difficult economic climate with ongoing inflation. Prior to advancing these proposed amendments to the regulations, we strongly encourage CBSA to conduct a full and proper economic analysis of its intent. We believe there will be significant and unforeseen economic implications from this proposal of which CBSA may not be fully aware.

Since the release of this consultation, the CTA has been working with other like-minded Canadian organizations, such as the Canadian Chamber of Commerce (Chamber). With support of Canadian legal counsel and other organizations, the Chamber has prepared a detailed assessment of the terms and definitions set out under CBSA's proposal, which was jointly filed with the U.S. Council for International Business. The Chamber has highlighted several real challenges for Canadian and foreign based companies supplying the Canadian marketplace. Rather than reiterate these comments, we are writing to state our full support of the Chamber's position as submitted to CBSA. The toy industry shares the Chamber's concerns on the challenges tied to the proposed meanings of "sale" and "purchaser" as well as the broader implications to how the amendments will unintentionally impact Canadian companies, rather than strictly non-resident importers as intended by CBSA.

Furthermore, we request that CBSA scrutinize its proposal against the trade protocols as applied in the United States and the corresponding interplay of the chapter on Good Regulatory Practices under the *Canada-United States-Mexico Agreement (CUSMA)*. As an industry, we are focused on encouraging greater alignment of standards/regulations with the United States. Avoiding unnecessary divergences is a very important objective as it improves compliance and coordinates enforcement amongst US/Canadian regulators. This is in addition to the obvious economic benefits conferred by reducing technical trade barriers. As currently drafted, CBSA has proposed a starkly different approach to customs valuation rules between Canada and the United States. This inconsistency in the valuation methodology will have significant compliance issues for our members, triggering confusion and additional administrative burdens, will negatively impact the flow of trade between Canada and the U.S. and complicate the assessment process. We strongly recommend that CBSA amend its proposal to allow for an aligned approach with the U.S. and other trading partners.

Finally, we question CBSA's rationale that Canadian companies are already experiencing a disadvantage on duty calculation and therefore the current regulatory regime has been operating as a trade irritant due to noncompliance from Canada's obligations under the *WTO Customs Valuation Agreement*. As detailed above, were CBSA to advance its amendments as proposed, they will undoubtedly trigger inconsistency, thereby contradicting WTO rules and opening Canada to potential trade challenges. We strongly encourage CBSA to notify the WTO of Canada's proposed amendments to its *Valuation of Duty Regulations*, consistent with its obligations under the World Trade Organization's *Agreement on Technical Barriers to Trade*.

We appreciate your consideration of our comments. As CBSA works to develop its amendments to the Regulations, please do not hesitate to contact us if you have any questions about our comments or industry considerations.

Yours sincerely,



Serge Micheli
Executive Director,
Canadian Toy Association
160 Tycos Drive, Suite 2219, Box 218
Toronto, ON M6G 1W8
Email: sm@canadiantoyassociation.ca



Jos Huxley
Senior Vice President, Technical Affairs
The Toy Association
1200 G Street NW – Suite 200
Washington, DC 20005
Email: jhuxley@toyassociation.org