



## POST-CLEARANCE AUDIT

Paper submitted by Canada (Canada Border Services Agency - CBSA) for the November 2011, World Trade Organization (WTO) Symposium on Trade Facilitation.

### Preface

Trade facilitation is a key element of the Canada Border Services Agency's (CBSA) role in supporting Canada's economy. As such, the CBSA invests in programs that permit expedited processing of shipments for those that comply with the requirements governing the movement of commercial goods into and from Canada. Subsequently, this investment allows the CBSA to focus on areas or businesses where there is a greater risk related to issues of compliance.

The CBSA recognizes that educating businesses by providing information and services is the key to supporting compliance within the trade community. Therefore, the CBSA provides access to the following resources:

- publications (e.g. policy guidelines and customs notices);
- outreach activities (e.g. seminars for importers and exporters and information booths at trade shows);
- advance rulings;
- the Small and Medium-Sized Enterprise Centre on the CBSA's Web site (a source of importing products and tools, such as checklists, step-by-step guides and seminar registrations);
- the Border Information Service (BIS) — a toll-free border information line; and,
- the voluntary disclosure program.

The CBSA further ensures trade compliance by:

- examining goods and shipments at the border;
- conducting **Post-Release Verifications** to confirm trade compliance and to correct errors (this includes issuing reassessments to collect additional duties and taxes); and,
- issuing Administrative Monetary Penalties (AMPs) for cases of non-compliance.

### Post-Clearance Audit in Canada

In Canada, the process of **Post-Clearance Audit** is referred to as **Post-Release Verification**. The verifications are administered by the CBSA and are implemented under the legislative authority of the Canada Customs Act and promoted under the principal of trade compliance.

Post-Release Verification is a customs control mechanism that is managed strategically and in tandem with a rigorous risk management approach. Risk management is a necessary discipline for any organization, whether it is a private entity or government authority, that has access to only finite resources to sustain its operations and fulfill its mandate. In Canada, the CBSA manages border-related risks within three environments: pre-arrival, at the border and post-release.

To ensure the security and prosperity of Canada and its people, while simultaneously facilitating the free flow of goods, border services officers must render decisions expeditiously while releasing shipments without compromising safety and security. This is imperative to minimize delays caused by customs decision-making processes which could translate into incremental costs incurred by the trade community and, subsequently, impacting the nation's economic health.

In contrast, in a post-border environment, where the pressure for the timely release of goods is non-existent, the CBSA's officers are permitted the time required to comprehensively research, analyze, and render appropriate decisions under legislated programs such as Tariff Classification (TC), Origin/Tariff Treatment (TT), and Valuation (Val), which involve an extensive process.

Having been assured that non-compliance issues are being addressed in the post-border environment, Canada's Post-Release Verification program provides back-end support to CBSA's officers at the border, by allowing them to prioritize and concentrate their efforts on identifying and mitigating risks or issues that present an immediate threat to the safety and security of Canadian residents, such as contraband and weapons.

Post-Release Verifications promote trade compliance through results that require importers to pay required duty and taxes not levied at time of release, however they also encompass the obligation for Canadian importers to provide true, accurate and complete trade information, including a proper description of the imported goods. This obligation is established in the Customs Act and applies to all goods regardless of dutiable status. Post-Release Verifications are conducted to ensure that importers are compliant with customs legislation and regulations.

While Post-Release Verifications carried out in Canada include a wide range of program areas such as Duties-Relief/Drawbacks and Transportation the primary focus rests on TC, TT, and Val.

In general, the CBSA conducts two types of Verifications, taking into account the specific program needs and the nature of the Importer's activities:

1. Multi-program: which include at the minimum, TC, TT, and Val programs and are used to assess an importer's overall level of compliance; and
2. Single-program: which concentrates on one program area only (TC, TT or Val) in which an importer or industry-specific risk or issue has been identified.

Based on preliminary risk analysis, the CBSA decides where the Verification will be conducted: whether it will be on-site at the Importer's place of business, or a Desk-Verification from the CBSA officer's workplace, and the program(s) to be reviewed for each importer. In initiating the Verification, the CBSA informs the importer with, at the minimum: the purpose for the Verification, the period for review, the scope, the CBSA's legislative authority to conduct the Verification, and any customs documentation, product literature, and/or product samples required from the Importer that would serve to support the import declarations selected for review.

Upon receipt of the furnished documentation and information, the CBSA Verification officer will review the accuracy of the importer's declaration in accordance with each program legislation and regulation

Upon completion, the CBSA will inform the Importer with the findings including any changes in the TC, TT, and/or Val of imported goods, any corresponding penalties and the Importer's obligations to correct other import declarations, stemming from the results of the Verification. All findings are eligible for appeal under the CBSA's recourse provisions. The Verified Importer will be then be monitored until such time it is confirmed by the Verification officer that their obligations have been fulfilled.

The CBSA will compile the Verification results of each case for internal reporting purposes, and to analyze and potentially identify any patterns which may serve to define areas of high-risk that were previously unknown and form the basis of future Verification work or, provide the pre-border and at-border operations with intelligence for targeting and examination purposes.

## **Benefits**

Efficient risk management strategies and models are developed from the collection and analysis of trade data and provide the basis for using Post-Release Verification within the trade facilitation nexus of a nation's economy.

The key benefit of implementing a Post-Release Verification regime is that it allows for reduced release times and expedites the release of goods for traders. The Customs authority then uses its risk assessment strategies and tools in order to measure and assess trade compliance based on established criteria. Clearly, a strong risk assessment regime is an integral part of the Post-Release Verification programme implemented by a customs authority.

A Post-Release Verification regime is dynamic and can focus on specific sectors of the economy and identify specific goods within that sector, providing more efficient control that can be implemented for a specific period of time. Specific companies, or specific goods within certain sectors can be analyzed over time, thereby identifying

patterns or inconsistencies that may then be targeted for Post-Release Verification. Such targeted work may result in potential additional payment of duties or taxes by the importer, successful identification of fraudulent practices by traders, and correction to trade data.

In the long run, the accurate trade data resulting from consistent management of a Post-Release Verification regime becomes a valid tool for the national economy, promoting economic prosperity, as businesses are provided access to the data required in assessing questions related to market shares and potential market opportunities. Accordingly, the CBSA strives to emphasize to the Canadian business community that the trade compliance established through a sustained Post-Release Verification regime enables importers to develop sound business plans and support key business decisions, based on the reliable data manifested as a result of this activity.

The CBSA is convinced that the Post-Release Verification mechanism is a vital tool for economic competitiveness and trade facilitation as opposed to being simply a punitive customs mechanism, with revenue generation as the sole driving principle.

At the same time, protecting revenue and domestic industry is important for Canada as well, and the shift of customs control away from the border and managing compliance through Post-Release Verifications, enhances the ability of the CBSA to fulfill those objectives.

Throughout the Verification process, the CBSA officer may also provide client assistance and guidance on complex issues related to TC, TT, and Val, so as to enable the importer to eliminate errors in customs declarations in the future. A final Verification report will provide detailed results and also include recommendations that will ultimately allow the importer to facilitate their customs declaration procedures and maintain a high level of compliance.

Post-Release Verifications are an integral part of Canada's border management continuum, linked to the pre-border and at-border environments, as it provides for a control mechanism that promotes the integrity of trade data, increases border security and protects the economy by identifying importers that have not met legislative requirements. For example, the verifications identify those who have failed to obtain the required import permits or maintain established import quotas on certain goods.

## **Skills & Tools Required**

Creating an efficient Risk Management model for targeting of industry sectors, companies and/or goods: The key challenge is to create national standards for risk analysis that are specific to the needs of a Post-Release Verification regime. This entails investments in information technology in to maintain strong data base systems with all required commercial data and training to sustain a sound understanding of established national priorities within the customs continuum and the principles of risk assessment, trade practices and high risk targeting.

Key investments in technology infrastructure: An efficient Web-based database system with extensive functionality is required for the implementation of sustained and efficient Post-Release Verification. In Canada, the Compliance Management System (CMS) provides for the capability to extract import data from a national commercial customs database; allows for analysis and sampling of import data; the creation of Verification files at a national and regional level; the creation of reports for quality control by management; immediate access to company Verification details; reporting on time spent on cases; statistically reliable workload managed from a central source and consistent reporting of Verification results.

The costs of creating and maintaining a strong and effective Information Technology (IT) infrastructure that is required for a successful post-release verification program will be significant. Such information technology resources must include very strong database systems in the areas of collection, analysis for risk assessment purposes and the communication of data with equivalent internal systems. In addition, efficient and modern IT systems are required for effective reporting and monitoring of post-verification results. The cost of periodic updates to IT systems is also a consideration as the volume of international trade increases and electronic mechanisms continue to be introduced throughout the ongoing modernization of global customs procedures.

Training for Post-Release Verification officers is required to maintain consistent reporting of Verification results. This entails sound knowledge of legislative authorities, verification principles and methodology, technical accounting skills, principles and guidelines related to TC, TT, and Val and a sound understanding of the dynamics within an importer/business environment for the purpose of on-site Verifications.

Post-release verification officers are typically officers who have previously worked as customs-focused border services officers on the front-line. Even with such background experience, a combination of classroom training and on-the-job experience for post-release verification officers is significant. Classroom training may be completed in 2 to 4 weeks; however, it could take between 18 to 24 months for an officer to become well-versed in the technical nature of the job functions. Consequently, depending on the size and scope of a post-release verification program, the cost of staffing and training the required resources could be significant.

An Effective Review Program is required to allow for impartial review of Post-Release Verification final results and penalties rendered. The CBSA has an effective recourse program in place that promotes transparency and allows importers to appeal decisions that they believe require further review. This review process is supported by Canada's national legislation under the Customs Act and follows established guidelines and procedures.

## **Challenges**

### Changes to legislation:

To allow for the verification of importer records on-site; requirements to maintain import records for a defined period (in Canada, the current prescribed period is 6 years). Legislative changes often prove difficult due to timeframes for implementation.

### Building a flexible system:

The capacity to provide a flexible response to identified problem areas within the national economy is essential for a successful Post-Release Verification regime. Evolving risk management strategies form the foundation of any efficient flexible response initiative that will complement the Post-Release Verification regime.

Dynamic and flexible responses will allow the customs authority to use various programmes within the regime that can be modified or updated when required, including being able to adapt its risk assessment strategies within the Post-Release Verification regime. For example, a customs authority may choose to focus on certain goods for a specific period as a national priority and only with regard to TC, or focus on Val within a specific industry sector. Maintaining an ongoing review and analysis of current programmes and results in order to implement timely program changes based on legislation, national priorities and emerging global trade issues is essential.

### Developing strong relationships with the trade community:

The trade community must be educated on the benefits of Post-Release Verification from a trade facilitation perspective. Without a strong commitment from traders, a Post-Release Verification regime will be difficult to implement and sustain. Any national customs authority must therefore build strong and effective relationships with its business community through transparent communication, extensive outreach activities, publications (electronic and traditional), advance rulings, telephone information services, and using highly trained officers that will communicate openly with importers and provide the required technical guidance, knowledge and advice.

### Formal Post-Release Verification standards must be created and maintained:

- Officers should have required knowledge of legislative authorities and an understanding of Post-Release Verification objectives;
- Verifications should be adequately planned, supervised, and reviewed for quality control;
- Verifications should be conducted with objectivity and transparency; and,
- Consideration should be given to the company's business circumstances and final reports issued to the importer within a reasonable time.

Maintain the integrity of privacy based on legislation:

In Canada, the *Privacy Act* and the *Customs Act* outline the requirements pertaining to the protection of information. When conducting a Post-Release Verification, officers must ensure that confidential information obtained from importer records is protected at all times, whether it is in hard copy or electric format.

Monitoring Post-Release Verifications:

In Canada, under current legislation an importer may be required to correct an erroneous declaration of TC, TT, and/or Val back to a maximum of 4 years. This may involve significant duties and taxes due to the Government of Canada in addition to significant resources borne by the importer to effect the required corrections that may number individual transactions amounting in the hundreds or, even, thousands. As such, any Post-Release Verification can only be terminated once the required corrections are monitored and confirmed to be completed. This is vital, not only from the revenue point of view but to sustain accurate trade data as well. This can prove challenging in cases of limited resources or non-efficient reporting methods or tools—such as an effective data base system—of the customs authority.

Implementing an administrative penalty regime:

In 2002, the CBSA introduced AMPS, which is a civil penalty regime authorizing the CBSA to assess monetary penalties for non-compliance with customs legislative, regulatory and program requirements. The CBSA imposes monetary penalties in accordance with the type and frequency of an infraction. Most penalties are graduated and will take the compliance history of the trader into consideration. AMPS is supported by current legislation in Canada and was established to improve compliance. Traders can avoid AMPS penalties by ensuring that they are fully compliant with CBSA requirements. The most important objectives of the AMPS are to correct non-compliance and to establish a level playing field for all traders.

## Results (for fiscal year 2010-11)

<b># of Verification Officers:</b>	369
<b># of Verifications completed:</b>	3,143
<b>Value for Duty identified to be in error:</b>	\$3.2 billion
<b>Total revenue assessed (duties and taxes):</b>	\$58 million
<b>Percentage error rates in total value for duty by program:</b>	
- <b>Tariff Classification:</b>	18.80%
- <b>Origin:</b>	6.44%
- <b>Valuation:</b>	7.13%
<b>Value for Duty of **Entry Adjustments processed:</b>	\$19 Billion
<b>Duties and Taxes collected from **Entry Adjustments processed:</b>	\$140 million

\* All figures are approximate and are a general representation of post-verification results for Canada.

\*\*Note: Entry Adjustments = corrections to import declarations, post-Verification

## Conclusion

Under the Tariff classification program alone, Canada has recorded a reduction in error rates for non-compliance from 27.90% in 2005-06 to 18.80% in 2010-11. This positive result signifies the effectiveness of Post-Release Verifications and its merits with respect to security and prosperity for the Government of Canada and the trade community. For Canada, Post-Release Verifications are an integral element within the customs continuum. It is also the belief of the CBSA that Post-Release Verifications complement our overarching objectives of trade facilitation, national security and prosperity.