



Ottawa, March 23, 2007

MEMORANDUM D11-3-3

In Brief

NAFTA COUNTRY OF ORIGIN MARKING RULES

1. This Memorandum has been revised to include updated contact information in **Appendix F**, Marking Experts.
2. This revision replaces Appendix F as found in D-Memorandum D11-3-3, *NAFTA Country of Origin Marking Rules*, dated January 31, 1996.



Printed in Canada

MEMORANDUM D11-3-3

Ottawa, January 31, 1996

SUBJECT

**NAFTA COUNTRY OF ORIGIN
“MARKING RULES”**

1. This Memorandum outlines and explains the legislation, regulations, and general guidelines that apply to the country of origin marking for goods imported from a NAFTA country (i.e., the United States or Mexico).
2. Information pertaining to the country of origin marking for goods imported from a non-NAFTA country is found in Memorandum D11-3-1, *Marking of Imported Goods*.

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Legislation

Customs Act Marking of Goods

35.01 No person shall import goods that are required to be marked by any regulations made pursuant to section 63.1 of the *Customs Tariff* unless the goods are marked in accordance with those regulations.

Custom Tariff Marking of Goods

63.1(1) The Governor in Council may, on the recommendation of the Minister of Finance, make regulations

(a) specifying imported goods of any description or class, including any description or class specified in terms of the use of the goods, and requiring them to be marked in accordance with the regulations made pursuant to subsection (2) so as to indicate their country or geographic area of origin; and

(b) for determining the country or geographic area of origin of imported goods for the purposes of paragraph (a).

(2) The Minister may make regulations for the purpose of the administration of this section, including regulations

(a) prescribing the manner in which imported goods must be marked and any conditions that apply to the marking of the goods; and

(b) prescribing when the imported goods must be marked, including whether they must be marked before or after importation, and prescribing any conditions that apply in respect of the time of marking.

(3) Regulations made under this section may apply generally or in relation to particular countries or geographic areas defined in the regulations.

(4) The operation of section 64 is suspended during the period in which this section is in force.

North American Free Trade Agreement (NAFTA)

Article 311

Annex 311 applies to measures relating to country of origin marking.

Annex 311

The following paragraph is an excerpt from Annex 311.

1. The Parties shall establish by January 1, 1994, rules for determining whether a good is a good of a Party (“Marking Rules”) for purposes of this Annex, Annex 300-B and Annex 302.2, and for such other purposes as the Parties may agree.

Regulations

The following Sections are excerpts from the *Marking of Imported Goods Regulations*.

Short Title

1. These Regulations may be cited as the *Marking of Imported Goods Regulations*.

Interpretation

2. In these Regulations,

“NAFTA goods” means any goods in respect of which the Determination of Country of Origin for the Purposes of Marking Goods (NAFTA Countries) Regulations apply; (*marchandises d’un pays ALÉNA*)

“ultimate purchaser” means the last person in Canada who purchases the goods in the form in which they are imported, whether or not that purchaser is the last person to use the goods in Canada; (*dernier acheteur*)

General

3. (1) The marking of NAFTA goods shall indicate, to the ultimate purchaser, the country of origin of the NAFTA goods.

REGULATIONS FOR DETERMINING THE COUNTRY OF ORIGIN OF GOODS IMPORTED FROM A NAFTA COUNTRY FOR THE PURPOSE OF SPECIFYING THAT CERTAIN GOODS BE MARKED

Short Title

1. These Regulations may be cited as the Determination of Country of Origin for the Purposes of Marking Goods (NAFTA Countries) Regulations.

Interpretation

2. (1) For the purposes of these Regulations,

“Act” means the Customs Tariff; (*Loi*)

“applicable change in tariff classification” means, with respect to materials incorporated into goods, a change in tariff classification specified in a rule set out in Schedule III for the tariff provision under which the goods are classified; (*changement de classement tarifaire applicable*)

“commingled” means physically combined or mixed in inventory; (*combiné*)

“direct physical identification” means identification by visual or other organoleptic examination; (*identification directe*)

“domestic materials” means materials whose country of origin as determined under these Regulations is the same country as the country in which the goods are produced; (*matière d’origine nationale*)

“enterprise” means any entity constituted or organized under applicable laws, whether or not for profit and whether privately owned or governmentally owned, including any corporation, trust, partnership, sole proprietorship, joint venture or other association; (*entreprise*)

“foreign materials” means materials whose country of origin as determined under these Regulations is not the same country as the country in which the goods are produced; (*matière étrangère*)

“form in which those goods were imported” means the condition of the goods before they underwent an applicable change in tariff classification; (*forme sous laquelle les marchandises ont été importées*)

“fungible goods” means goods that are interchangeable for commercial purposes with other goods and whose properties are essentially identical; (*marchandises fongibles*)

“fungible materials” means materials that are interchangeable for commercial purposes with other materials and whose properties are essentially identical; (*matières fongibles*)

“General Rules” means the General Rules for the Interpretation of the Harmonized System set out in Schedule I to the Act; (*Règles générales*)

“incorporated” means physically incorporated into goods as a result of production in respect of those goods; (*incorporé*)

“indirect materials” means goods used in the production, testing or inspection of other goods but not incorporated into those other goods, or goods used in the maintenance of buildings or the operation of equipment associated with the production of other goods, and includes

(a) fuel and energy,

(b) tools, dies and moulds,

(c) spare parts and materials used in the maintenance of equipment and buildings,

(d) lubricants, greases, compounding materials and other materials used in production or used to operate equipment and buildings,

(e) gloves, glasses, footwear, clothing, safety equipment and supplies,

(f) equipment, devices and supplies used for testing or inspecting the other goods,

(g) catalysts and solvents, and

(h) any goods not referred to in paragraphs (a) to (g) that are not incorporated into those other goods but the use of which in the production of those other goods can reasonably be demonstrated to be part of the production; (*matière indirecte*)

“materials” means goods that are incorporated into other goods, and includes a part, a component and an ingredient; (*matière*)

“minor processing,” in respect of goods, means

(a) mere dilution with water or any other substance that does not materially alter the characteristics of the goods,

(b) cleaning, including removal of rust, grease, paint or any other coating,

(c) applying any preservative or decorative coating, including any lubricant, protective encapsulation, preservative or decorative paint, or metallic coating,

(d) trimming, filing or cutting off small amounts of excess material,

(e) unloading, reloading or any other operation necessary to maintain the goods in good condition,

(f) putting up in measured doses, packing, repacking, packaging or repackaging,

(g) testing, marking, sorting or grading,

(h) repairs or alterations, washing, laundering or sterilizing,

(i) textile decorative processes incidental to the production of textile goods, other than apparel, such as edge pinking, whipping, folding and rolling, fringing and fringe knotting, piping, bordering, minor embroidery, hemstitching, embossing, dyeing and printing, or

(j) ornamental or finishing operations incidental to apparel assembly and designed to enhance the marketing appeal or the ease of care of the goods, such as embroidery, hemstitching and sewn appliqué work, stone or acid washing, printing and piece dyeing, preshrinking and permanent pressing, and the attachment of accessories, notions, trimmings and findings; (*traitement mineur*)

“person” means a natural person or an enterprise; (*personne*)

“production” means growing, mining, harvesting, fishing, trapping, hunting, manufacturing, processing or assembling goods; (*production*)

“repair or alteration” does not include an operation or process that either destroys the essential character of any goods or creates new or commercially different goods; (*réparations ou modifications*)

“simple assembly” means the fitting together of five or fewer parts, all of which are foreign parts, other than screws, bolts or other fasteners, by bolting, gluing, soldering, sewing or any other means without more than minor processing; (*montage simple*)

“tariff provision” means a heading, subheading or tariff item; (*poste tarifaire*)

“ultimate purchaser” means, with respect to goods, the last person in Canada who purchases the goods in the form in which those goods were imported, whether or not that purchaser is the last person to use the goods; (*dernier acheteur*)

“usual container” means the container in which goods ordinarily reach their ultimate purchaser. (*contenant usuel*)

(2) For the purpose of determining the materials that impart the essential character of goods under sections 5 to 7,

(a) the only materials that shall be taken into consideration are those materials, including materials produced by the producer of the goods and materials that are classified under the same tariff provision as that under which the goods are classified, that are incorporated into those goods and in respect of which there is not an applicable change in tariff classification; and

(b) the factors to be taken into consideration are the following, namely,

- (i) the nature of each of the materials, such as the volume, weight and value of the material,
- (ii) the quantity of each of the materials, and
- (iii) the role of each of the materials with regard to the use of the goods.

(3) For the purposes of these Regulations, the country or countries of origin of materials shall be determined under these Regulations.

Marking

3. (1) Goods set out in Schedule I that are imported from a NAFTA country shall be marked so as to indicate their country or countries of origin as determined under these Regulations.

(2) Subsection (1) does not apply to goods set out in Schedule II.

(3) The outermost usual container of goods referred to in any of items 10 to 14 and 18 of Schedule II shall be marked with the country or countries of origin of the goods contained in that outermost usual container.

Determination of Country of Origin

4. (1) The country of origin of goods is the country in which

- (a) the goods are wholly obtained or produced;
- (b) the goods are produced exclusively from domestic materials;
- (c) each of the foreign materials incorporated into the goods undergoes an applicable change in tariff classification and satisfies any other applicable requirements of these Regulations; or
- (d) a good is considered to originate under a Chapter Note set out in Schedule III.

(2) For the purpose of paragraph (1)(a), goods are wholly obtained or produced in a country if the goods are

- (a) mineral goods extracted in that country;
- (b) vegetables or other goods harvested in that country;
- (c) live animals born and raised in that country;
- (d) goods obtained from hunting, trapping or fishing in that country;
- (e) fish, shellfish or other marine life taken from the sea by vessels registered or recorded with that country and flying its flag;
- (f) goods produced on board factory ships from goods referred to in paragraph (e), where the factory ship is registered or recorded with that country and is flying its flag;
- (g) goods taken by that country or by a person of that country, from or beneath the seabed outside territorial waters, where that country has the right to exploit that seabed;
- (h) goods taken from outer space, where the goods are obtained by that country or by a person of that country;
- (i) waste and scrap derived from
 - (i) production in that country, or
 - (ii) used goods collected in that country, where those used goods are fit only for the recovery of raw materials; or
- (j) goods produced in that country exclusively from goods referred to in any of paragraphs (a) to (i), or from derivatives of such goods, at any stage of production.

5. (1) Except in the case of goods that are described in Schedule I to the Act as a set or are classified as a set pursuant to Rule 3 of the General Rules, where the country of origin of goods cannot be determined under section 4, the country or countries of origin of the goods shall be the country or countries of origin of the single material that imparts the essential character of the goods.

(2) Where the single material that imparts the essential character of the goods is a fungible material and has been commingled so that direct physical identification of the country or countries of origin of each fungible material is not practical, the country or countries of origin of that material shall be determined, at the choice of the importer of the goods, under subsection (1) or on the basis of an inventory management method set out in Part I of Schedule X to the *NAFTA Rules of Origin Regulations*.

(3) The single material that imparts the essential character of a complete or finished television receiver of any of subheading Nos. 8528.10 through 8528.20 shall be determined in accordance with the Note to Chapter 85 set out in Schedule III, if that Note is applicable.

6. Where the country or countries of origin of goods cannot be determined under section 4 or 5 and the goods are described in Schedule I to the Act as a set or mixture, or are classified as a set or mixture or as composite goods pursuant to Rule 3 of the General Rules, the country or countries of origin of the goods

shall be the country or countries of origin of all the materials that merit equal consideration as imparting the essential character of the goods.

7. Where the country or countries of origin of goods cannot be determined under any of sections 4 to 6, the country or countries of origin of the goods shall be

- (a) if the goods are produced by only minor processing, the country or countries of origin of all the materials that merit equal consideration as imparting the essential character of the goods;
- (b) if the production of the goods is by simple assembly and the parts that merit equal consideration as imparting the essential character of the goods have the same country of origin, the country of origin of those parts; or
- (c) in any other case, the last country in which the goods underwent production.

Tariff Preference Override

8. Notwithstanding sections 4 to 7, where any goods are originating goods under the *NAFTA Rules of Origin Regulations* and the country of origin of the goods is not determined to be a single NAFTA country under section 4 or 5, the country of origin of those goods shall be the last NAFTA country in which the goods underwent production, other than by minor processing, if a Certificate of Origin under the *Proof of Origin of Imported Goods Regulations* has been completed and signed for the goods.

Production Outside Canada

9. Where the country of origin of imported goods would be determined to be Canada under any of sections 4 to 7 and the goods have undergone production that involves more than minor processing in another NAFTA country prior to their importation, the country of origin of the goods shall be the last NAFTA country in which the goods underwent that production.

Fungible Goods

10. (1) Subject to subsection (2), where two or more fungible goods have different countries of origin and have been commingled, all of the countries of origin of those fungible goods shall be the countries of origin of those commingled goods.

(2) Where fungible goods have been commingled so that direct physical identification of the countries of origin of the goods is not practical, the country or countries of origin of each of the fungible goods shall be determined, at the choice of the importer of the goods, under subsection (1) or on the basis of an inventory management system set out in Part II of Schedule X to the *NAFTA Rules of Origin Regulations*.

De Minimis

11. (1) Foreign materials that are incorporated into goods and do not undergo an applicable change in tariff classification or satisfy any other applicable requirements of these Regulations shall be disregarded in determining the country or countries of origin of the goods

- (a) in the case of goods classified under any of Chapters 50 to 63 of Schedule I to the Act, if the combined weight of the foreign materials does not exceed 7% of the total weight of the goods; and
- (b) in the case of goods classified under any other chapter of Schedule I to the Act, other than under any of Chapters 1 to 4, 6 to 8, 11, 12, 15, 17 and 20, if the value of the foreign materials is not more than 7% of the value of the goods, or 10% where the goods are classified under Chapter 22 of that Schedule.

(2) For the purpose of this section, the value of materials is, at the choice of the importer of the goods,
(a) their value for duty, as defined in subsection 2(1) of the *Customs Act*, except that for the purpose of determining that value, the reference in section 55 of that Act to “in accordance with regulations made under the *Currency Act*” shall be read as a reference to “in accordance with subsection 3(1) of the *NAFTA Rules of Origin Regulations*”; or

(b) their value determined in accordance with Schedule VIII to the *NAFTA Rules of Origin Regulations*, with such modifications as the circumstances may require.

(3) For the purpose of this section, the value of any goods is,

(a) where the importer of the goods has chosen that the value of the materials incorporated into the goods be determined under paragraph (2)(a), their value for duty, as defined in subsection 2(1) of the *Customs Act*, except that for the purpose of determining that value, the reference in section 55 of that Act to “in accordance with regulations made under the *Currency Act*” shall be read as a reference to “in accordance with subsection 3(1) of the *NAFTA Rules of Origin Regulations*”; and

(b) where the importer of the goods has chosen that the value of the materials incorporated into the goods be determined under paragraph (2)(b), their value determined in accordance with Schedule VIII to the *NAFTA Rules of Origin Regulations*, with such modifications as the circumstances may require, as though they were a material.

Change in Tariff Classification

12. (1) The following materials shall be disregarded in determining whether goods undergo an applicable change in tariff classification or satisfy any other applicable requirements of these Regulations:

- (a) packaging materials and containers in which the goods are packaged for retail sale and that are classified with the goods;
- (b) accessories, spare parts or tools that are delivered, classified and shipped with the goods;
- (c) packing materials and containers in which the goods are packed for shipment; and
- (d) indirect materials.

(2) For greater certainty, an applicable change in tariff classification includes a change to goods from other goods that are classified under the same tariff provision, where such a change is specified in a rule set out in Schedule III for the tariff provision under which the goods are classified.

Non-qualifying Operations

13. A foreign material incorporated into goods shall not be considered to have undergone an applicable change in tariff classification or to satisfy any other applicable requirements of these Regulations by reason of

- (a) the change from one tariff classification to any other merely as the result of a change in the end use of the goods;
- (b) the change from one tariff classification to any other merely as the result of the dismantling or disassembly of the goods;
- (c) the mere packing, repacking, packaging or repackaging of the goods;
- (d) the mere dilution with water or any other substance that does not materially alter the characteristics of the material; or
- (e) the mere collection of parts so that the collection of parts is classified as if it were an assembled good pursuant to Rule 2(a) of the General Rules.

GUIDELINES AND GENERAL INFORMATION

INTRODUCTION

1. With the implementation of the *North American Free Trade Agreement* on January 1, 1994, new country of origin marking requirements for goods imported into Canada from NAFTA countries (i.e. Mexico and the United States) came into effect.
2. These Regulations apply to goods that have been imported from a NAFTA country (i.e., the United States or Mexico). For the purposes of these Regulations, the imported goods do not have to “originate” within the meaning of the *NAFTA Rules of Origin Regulations* (see Memorandum D11-5-1).
3. The requirement for country of origin marking should not be confused with labelling requirements of other government departments such as Agriculture and Agri-food Canada or Industry Canada. For example, Industry Canada’s regulations require that certain product-related information such as fabric content of wearing apparel be shown on a product label.
4. All goods, which contain a description that might mislead a person as to the country of origin of the goods, are prohibited entry into Canada under the provisions of tariff code 9967. Information concerning the provisions of tariff code 9967 is set out in Memorandum D9-1-9, *False Description of Geographical Origin of Goods, and Goods with Trade Marks, Tariff Code 9967*.
5. Only certain goods are required to be marked to clearly indicate the country in which the goods were made. Those goods that are required to be marked are set out in Schedule I to these Regulations (see Appendix A).
6. A guide to Schedule I has been prepared to clarify the classes of goods that are required to be marked. This guide is contained in Appendix B to Memorandum D11-3-1, *Marking of Imported Goods*.
7. Certain types of goods, or goods imported under specific conditions may be exempt from the requirement for country of origin marking. These exemptions are listed in Schedule II of these Regulations. There are 21 exemptions that apply to goods imported from a NAFTA country (see Appendix B).
8. A guide for Schedule II is contained in Appendix D to Memorandum D11-3-1. The purpose of this guide is to explain the documentation or information, or both, that may be required by the Department to determine the applicant’s eligibility for use of a specific exemption.
9. Under section 4 of these Regulations, reference is made to Schedule III the “Tariff Shift Rules.” Schedule III is set out in Memorandum D11-3-4, *NAFTA Country of Origin “Marking Rules” (Schedule III –Tariff Shift Rules)*.
10. For goods imported from a NAFTA country, the purpose of the marking requirement is to inform the ultimate purchaser of the country or countries of origin of the goods. The ultimate purchaser is the last person in Canada who purchases the goods in the form in which they are imported, whether or not that purchaser is the last person to use the goods in Canada. In order to have an ultimate purchaser, a purchase or transaction must occur.

DEFINITIONS

11. The “Interpretation” section of these Regulations contains definitions that are important in understanding the administration of these Regulations. For purposes of this Memorandum, the following terms are also important:

“accessories, spare parts or tools” means goods that are delivered with a good, whether or not they are physically affixed to that good, and that are used for the transport, protection, maintenance or cleaning of the good, for instruction in the assembly, repair or use of that good, or as replacements for consumable or interchangeable parts of that good. (*accessoires, pièces de rechange ou outils*)

“country of origin” means the country of origin that must be marked on the good by the application of the rules set out in Sections 4 through 10 of these Regulations. (*pays d’origine*)

“countries of origin” means the countries of origin that must be marked on the good by the application of the rules set out in Sections 5 through 7 or 10 of these Regulations. (*pays d’origine*)

“HS” means the Harmonized Commodity Description and Coding System that is used for the classification of goods. (*SH*)

“packaging materials and containers” means materials and usual containers in which a good is packaged for retail sale. (*matières de conditionnement et contenants*)

“packing materials and containers” means materials and outermost usual containers that are used to protect a good during transportation, but does not include packaging materials and containers. (*matières d’emballage et contenants*)

“paragraph” means a subset of a section of these Regulations (for example paragraph 7(a) sets out the method for determining the country of origin for marking a good when the good is produced by minor processing). (*alinéa*)

“section” means a portion of these Regulations (for example: Section 9 pertains to Production Outside Canada). (*article*)

“subsection” means a subset of a section of these Regulations (for example subsection 2(1) sets out the definitions found in these Regulations). (*paragraphe*)

“these Regulations” means the *Determination of Country of Origin for the Purposes of Marking Goods* (NAFTA Countries) Regulations. (*Règlement*)

“outermost usual container” means a shipping container used to transport goods. In some cases, goods may reach the ultimate purchaser in the outermost usual (shipping) container. (*contenant usuel extérieur*)

METHODS OF DETERMINING COUNTRY OF ORIGIN FOR MARKING

General

12. When determining the country of origin for marking of goods imported from a NAFTA country, a set of marking rules is used. These are technical rules that are applied systematically to determine the country or countries of origin that are to be marked on the goods. These rules are set out in Sections 4 through 7 of the Regulations.

13. Section 4, paragraphs 7(b) and 7(c) and Section 8 of the Regulations only allow for a single country of origin to be marked on a good.

14. Sections 5 and 6 and paragraph 7(a) allow for either a single country or multiple countries of origin to be marked on a good.

15. Section 9 can affect the country or countries of origin determined under Sections 4 through 7.

16. Section 10 can affect which country or countries of origin may be marked on a fungible good.

17. Charts 1 and 2 have been developed to assist in the understanding of the application of Sections 4 through 7 of these Regulations. The charts should be used in conjunction with the application of these sections and not in isolation (see appendices C and D).

18. Table 1 has been developed to assist in the application of Section 8 entitled “Tariff Preference Override.” Section 8 can affect the country or countries of origin determined under Sections 4 to 7 (see Appendix E).

Application of Section 4 (See Chart 1 in Appendix C)

19. Paragraph 4(1)(a) of these Regulations allows that a single country be marked on a good if the good is wholly obtained or produced in one country. “Wholly obtained” does not mean a good purchased in one country. The definition of “wholly obtained or produced” is set out in subsection 4(2) of these Regulations

Example: Dormant crocus bulbs are wholly obtained in the United States. They are harvested from crocus plants grown in the United States. Therefore, the bulbs are marked as a product of the United States by the application of paragraph 4(2)(b).

Example: Leather gloves are produced in Mexico. They are made from leather wholly produced from cattle born and raised in Mexico. Therefore, the gloves are wholly produced in Mexico and would be marked as such by the application of paragraph 4(2)(j).

20. Paragraph 4(1)(b) of these Regulations allows that a single country be marked on a good if the good is produced exclusively from domestic materials. This means that the components or materials that are incorporated into the good, each qualifies in its own right as being either “wholly obtained or produced,” or meeting a tariff classification change rule under Schedule III. The materials must qualify as a domestic material (i.e., the same country as that in which the good is produced).

Example: Wax candles (heading No. 34.06) with a cotton wick are produced in the United States. The paraffin wax is a mixture of hydrocarbons obtained from petroleum extracted from the soil in the United States. The wax is therefore “wholly obtained or produced” and is considered to be a domestic material for purposes of paragraph 4(1)(b). Cotton yarn of Chapter 52 is imported from Mexico to produce cotton wicks of heading No. 59.08 in the United States. This cotton yarn is a “foreign” material (i.e., it is from a country different from that in which a good, for example the cotton wick, is being produced). In order for the candles to be determined to be made “exclusively” from domestic materials, the cotton yarn must meet a change in tariff classification under Schedule III. The applicable rule for wicks does provide for a change in tariff classification from the “foreign” cotton yarn. Therefore, the candles would be made exclusively of domestic materials and could be marked as a product of the United States.

21. Paragraph 4(1)(c) of these Regulations allows that a single country be marked on a good, provided that each of the foreign materials incorporated in the good undergoes a change in tariff classification as set out in Schedule III and meets any other applicable provisions of these Regulations, such as sections 12 and 13.

Example: Ladies’ kid leather gloves of heading No. 42.03 are made in the United States from Mexican kid leather of heading No. 41.06. The leather gloves can only be marked as a product of the United States if the Mexican material (for example the foreign materials) meets the tariff classification change rule for the ladies’ leather gloves. The tariff change rule for leather gloves of 42.03 reads as follows: “a change to heading Nos. 42.03 through 42.06 from any other heading, including another heading within that group.” The Mexican kid leather meets the rule as the materials are classified outside of the heading numbers set out in the rule. Therefore, the leather gloves could be marked as a good of the United States.

22. If a foreign material that is incorporated into a good does not make a tariff classification change as set out in Schedule III, section 11, *De Minimis*, may be applicable (see Section 11: *De Minimis*).

23. Paragraph 4(1)(d) of the Regulations allows that a single country of origin be marked on a good as set out by an applicable Chapter Note in Schedule III. These Notes and Schedule III are published in Memorandum D11-3-4.

24. If by the application of paragraph 4(1)(d), a single non-NAFTA country is determined, Section 8 may be applied (see Section 8: Tariff Preference Override and Appendix E).

25. When a single country of origin cannot be determined under section 4, then section 5 of these Regulations is next applied to the goods.

Application of Section 5 (See Chart 2 in Appendix D)

26. Section 5 is applicable to all goods except those that are described as a set in Schedule I of the *Customs Tariff* or are classified as a set by the application of Rule 3 of the General Rules for the Interpretation of the Harmonized System. If the good is described or classified as a set, proceed directly to section 6.

27. Section 5 provides that the country or countries of origin of the single material that imparts the essential character of the good shall be marked on the good. The definition of essential character is found in subsection 2(2) to the Regulations.

28. For purposes of essential character, the materials which are taken into consideration are the following:

- (a) any foreign material, incorporated into the good, which does not meet the marking rule for the good as set out in Schedule III,
- (b) any foreign material, incorporated into the good, that is classified under the same tariff provision as the good,
- (c) any domestic material which is classified the same as the foreign material which does not meet the marking rule for the good as set out in Schedule III,
- (d) any domestic material that is classified under the same tariff provision as the good, and
- (e) any material, produced by the producer of the goods that is classified under the same tariff provision as the foreign material that does not meet the marking rule for the good as set out in Schedule III.

29. Under subsection 5(1), where a single material imparts the essential character of a good, the good can be marked with the country or countries of origin of that material.

Example: A US company produces wall clocks of subheading No. 9105.29. All the components are wholly obtained or produced in the United States except for the Swiss clock movement of heading No. 91.09. The country of origin of the clocks cannot be determined by the application of section 4, as the foreign clock movements do not meet the change in tariff classification as set out in Schedule III. The clock movement is determined to be the single material that imparts the essential character of the clocks. In turn, the origin of the clock movement is determined to be Switzerland under these Regulations. Therefore, the clocks would be marked as a good of Switzerland.

30. Under subsection 5(2), if the single material that imparts the essential character of the goods is fungible (i.e. interchangeable) and commingled (physically combined or mixed) in inventory so that the direct physical identification of the country or countries of origin of the single material is not practical, then the goods shall be marked with the country or countries of origin of each fungible material by the application of either subsection 5(1) or 5(2).

Example: A company in the United States produces wool blankets of subheading No. 6301.20 from woven wool fabric of heading No. 51.12. By the application of these Regulations, the countries of origin of the woven fabric are determined to be the US and England. When the bolts of woven wool fabric arrive at the US plant, they are covered in shrink-wrap plastic that indicates the country of origin of the fabric. The shrink wrap is removed when the bolts of fabric are placed in inventory. The fabric is fungible and commingled, and physical identification of the countries of origin of each of the

fungible materials is not practical. In this instance the wool blankets would be marked as a good of the United States and England by the application of subsection 5(1).

31. Furthermore, under subsection 5(2), if the single material that imparts the essential character of the goods is fungible (i.e. interchangeable) and commingled (physically combined or mixed) in inventory, so that the direct physical identification of the country or countries of origin of the single material is not practical, then the goods shall be marked with the country or countries of origin of each fungible material on the basis of an approved inventory management method as described in subsection 5(2).

Example: A company in Mexico produces cotton blankets of subheading No. 6301.30 from woven cotton fabric of heading No. 52.08. The countries of origin of the cotton fabric are determined to be India and the US under these Regulations. The country of origin of the fabric is woven into the selvage edge of each bolt of fabric. The fabric is fungible and commingled in inventory so that physical identification of the countries of origin of each of the fungible materials is not practical. However, the Mexican company uses an approved inventory management method as set out in Part I of Schedule X to the *NAFTA Rules of Origin Regulations* (see Memorandum D11-5-1). In this instance, the cotton blankets would be marked as a good of either the United States or India by the application of subsection 5(2).

32. Under subsection 5(3), the country of origin of the single material that imparts the essential character of complete or finished television receivers is determined by the application of a Chapter Note to goods of Chapter 85. The Chapter Note can only be applied in certain circumstances to goods of subheading Nos. 8528.10 and 8528.20. The Note is found in Schedule III of Memorandum D11-3-4.

33. Section 8: Tariff Preference Override may be applicable if a single Non-NAFTA country or multiple countries have been determined under Section 5 (see Section 8 and Appendix E).

Application of Section 6 (See Chart 2 in Appendix D)

34. This section is only applicable to goods which are specifically described in the *Customs Tariff* as a set or mixture or are classified as a set, mixture or composite good by the application of Rule 3 of the General Rules for the Interpretation of the Harmonized System.

Example: mechanical train sets of HS classification No. 9503.70.10.10 would be an example of a good described as a set in Schedule I of the *Customs Tariff*.

A travel kit consisting of a shaving brush (heading No. 96.03), a razor (heading No. 82.12), a hair brush (heading No. 96.03), a toothbrush (heading No. 96.03) and a comb (heading No. 96.15) put up in a leather case (heading No. 42.02) is classified under heading No. 96.03 as a set by the application of Rule 3 of the General Rules for the Interpretation of the Harmonized System.

35. Section 6 provides that the country or countries of origin of the goods shall be the country or countries of origin of all the materials that merit equal consideration as imparting the essential character of the good.

Example: A US company produces plastic mechanical train sets of subheading No. 9503.70. The sets consist of an engine, a caboose, six cars, track, signal equipment, and lift pieces. The engine is from England, the caboose from Germany and the cars are from Denmark. The balance of the components are of US origin. All of the components are also classified in subheading No. 9503.70.

The country of origin of the plastic mechanical train sets cannot be determined by the application of section 4, as the goods are not wholly obtained or produced, they are not made exclusively from domestic material, there is no change in tariff classification and there is no Chapter Note set out in Schedule III. Section 5 does not provide for goods described as sets, therefore that section cannot be applied.

By the application of these Regulations, the engine, caboose and cars would be considered as imparting the essential character of the train sets. Therefore, by the application of section 6, the sets would be marked as a product of England, Germany and Denmark.

36. Section 8, the Tariff Preference Override may be applicable (see section 8 and Appendix E).

Application of Section 7 (See Chart 2 in Appendix D)

37. When a good is produced by minor processing (see definition found in subsection 2(1) of these Regulations) the country or countries of origin of the good is determined by the country or countries of origin of all the materials which impart the essential character of the good by the application of paragraph 7(a). Note that the Tariff Preference Override (section 8) is not applicable when a good is produced by minor processing.

Example: A US company sources bicycle components worldwide. The saddles (8714.95) are from France, the frame parts (8714.91) from Mexico, the hubs (8714.93) from Japan, the wheel rims and spokes (8714.92) from Germany. All the other bicycle components are wholly obtained from England. The US company packages, but does not assemble, the bicycle components into boxes for exportation to Canada.

The country of origin of the goods (i.e. bicycles) cannot be determined by the application of section 4, as the goods are not wholly obtained or produced, they are not made exclusively from domestic material, there is no change in tariff classification and there is no Chapter Note set out in Schedule III. When the factors for determining essential character are applied, the frame parts from Mexico, or the wheel rims and spokes from Germany could be used to determine the essential character of the bicycle. Therefore, section 5 is not applicable as this section only allows for a single material. The bicycle is not a set, mixture or composite good, therefore section 6 is not applicable.

The bicycles are produced by merely packaging the bicycle components. This is a form of minor processing as described in subsection 2(2) of these Regulations. Therefore paragraph 7(a) can be used to determine the country or countries of origin of the bicycles. Since the frame parts and the wheel rims and spokes merit equal consideration as imparting the essential character of the bicycles, the bicycles would be marked as a good of Mexico and Germany.

38. Under paragraph 7(b) the country of origin of the goods is determined by the country of origin of the parts that determine the essential character of the goods. Multiple countries of origin cannot be determined by the application of paragraph 7(b) because the parts must be from the same country. In addition, the good must be produced by simple assembly [see definition in subsection 2(1)]. The Tariff Preference Override may apply if either a single NAFTA or Non-NAFTA country is determined (see section 8 and Appendix E).

Example: A US company produces leather purses of subheading No. 4202.21. The purses are made from Brazilian bovine and crocodile leather cut components of heading Nos. 41.04 and 41.07. Each purse consists of only three pieces.

The country of origin of the purses cannot be determined by the application of section 4, as the goods are not wholly obtained or produced, they are not made exclusively from domestic materials, the tariff shift rule is not met, and there is no Chapter Note set out in Schedule III. As either the bovine or crocodile leather could be used to determine the essential character of the purses, section 5 cannot be applied. Section 5 only allows for a single material. The purses are not a set, mixture or composite good, therefore section 6 is not applicable.

The good is produced by simple assembly. Therefore, paragraph 7(b) can be used to determine the origin of the purses. The bovine and crocodile leather components merit equal consideration as imparting the essential character of the purses and both components are from Brazil. Therefore, by the application of paragraph 7(b), the country of origin of the purses would be determined to be Brazil.

39. Paragraph 7(c) can only be applied when the country of origin for marking of goods cannot be determined under sections 4 through 6, or by paragraphs 7(a) or 7(b). The Tariff Preference Override may apply if either a single NAFTA or Non-NAFTA country is determined (see section 8 and Appendix E).

Example: A Mexican company produces artificial flowers of heading No. 67.02 from components imported from Singapore and Taiwan. The components consist of petals, stamens, leaves and stems that are also classified under heading No. 67.02. The petals and leaves are made from silk, the stems from plastic and the stamens of rubber.

The country of origin of the artificial flowers cannot be determined by the application of sections 4, 5 or 6, therefore, section 7 must be reviewed.

The artificial flowers are produced by more than minor processing, therefore, paragraph 7(a) is not applicable. There are more than five foreign components, from two different countries, that are to be assembled. Therefore, paragraph 7(b) cannot be used to determine the country of origin of the goods. By the application of paragraph 7(c), the artificial flowers would be marked as a product of Mexico as that is the last country in which the goods underwent production.

SECTION 8: TARIFF PREFERENCE OVERRIDE (SEE TABLE 1 IN APPENDIX E)

40. This section may only apply to goods that qualify as “originating” under the *NAFTA Rules of Origin Regulations* and for which a NAFTA certificate of origin has been completed and signed. If it is determined that the production is by minor processing, then section 8 is not applicable.

41. Section 8 must be applied if the requirements have been met and a single NAFTA country has not been determined under sections 4 or 5.

SECTION 9: PRODUCTION OUTSIDE CANADA

42. This section is only applicable where:

- (a) a good is determined to be of Canadian origin by the application of sections 4 to 7; and
- (b) the good has undergone production in another NAFTA country; and
- (c) any production that occurred in the other NAFTA country is more than minor processing, then the goods would be marked with that last NAFTA country.

43. If the production is determined to fall within the definition of minor processing [see subsection 2(2)], then the country of origin for marking of the goods would remain as Canada.

SECTION 10: FUNGIBLE GOODS

44. Subsection 10(1) deals with the commingling of two or more fungible goods where direct physical identification of the country or countries of origin of the goods can be determined.

45. Subsection 10(2) deals with the commingling of fungible goods where direct physical identification of the country or countries of origin of the goods is not practical.

46. Subsection 10(2) allows the importer of the goods a choice of the following:

- (a) multiple countries of origin under sub- sections 10(1) or 10(2); or
- (b) a single country of origin on the basis of one of the inventory management methods as set out in Part II of Schedule X to the *NAFTA Rules of Origin Regulations*.

SECTION 11: DE MINIMIS

47. This section is only applicable when the country of origin is being determined under paragraph 4(1)(c).

48. Any foreign material that is incorporated into a good and does not undergo a tariff classification change can be disregarded when determining the country of origin of the good provided the total value of the non-qualifying foreign materials is not greater than 7% of the total value of the goods.

49. For beverages, spirits and vinegar classified in Chapter 22 of the *Customs Tariff*, the total *de minimis* value is not greater than 10% of the total value of the goods.

50. For textiles and textile articles of Chapters 50 to 63, the *de minimis* provision provides that the combined weight of all non-qualifying foreign materials cannot exceed 7% of the total weight of the goods.

51. The *de minimis* provision does not apply to materials that are incorporated into goods that are classified under Chapters 1 to 4, 6 to 8, 11, 12, 15, 17, or 20 of the *Customs Tariff*.

52. For the purposes of subsection 11(2) of the Regulations, the importer of the goods can determine the “value of materials” in two ways. The first method, set out in paragraph 11(2)(a), provides that the value of materials is the value for duty as determined according to sections 45 to 56 of the *Customs Act*. The reference to the *Currency Act* in section 55 of the *Customs Act* should be read as subsection 3(1) of the *NAFTA Rules of Origin Regulations* found in Memorandum D11-5-1.

53. The second method, set out in paragraph 11(2)(b), provides that the value of materials is determined according to Schedule VIII of the *NAFTA Rules of Origin Regulations* (see Memorandum D11-5-1).

54. For purposes of subsection 11(3) of the Regulations, the “value of any goods” is determined by the same method that the importer chose to determine the “value of materials.” In other words, paragraph 11(3)(a) provides that the value of any good is the value for duty as determined according to sections 45 to 56 of the *Customs Act*. The reference to the *Currency Act* in section 55 of the *Customs Act* should be read as subsection 3(1) of the *NAFTA Rules of Origin Regulations* found in Memorandum D11-5-1.

Paragraph 11(3)(b) provides that the value of any goods is the value as determined according to Schedule VIII of the *NAFTA Rules of Origin Regulations* as set out in Memorandum D11-5-1. Any reference in Schedule VIII to material should be read as a reference to goods.

SECTION 12: CHANGE IN TARIFF CLASSIFICATION

55. When paragraph 4(1)(c) of these Regulations is used to determine the country of origin for the marking of goods, this section of the Regulations must also be complied with.

56. This section lists certain materials that are to be disregarded when applying the tariff shift rules. The materials that are to be disregarded are as follows:

- (a) packaging materials and containers in which goods are packaged for retail sale and that are classified with the goods;
- (b) accessories, spare parts or tools that are delivered, classified and shipped with the goods;
- (c) packing materials and containers in which goods are packed for shipment; and
- (d) indirect materials.

57. Accessories, spare parts and tools include such articles as an operational manual for a television, bicycle tool kit, brush or other tool to clean out a machine, and electrical cords and power bars for use with electronic goods.

58. Indirect materials include such goods as fuel and energy, tools, dies and moulds, gloves, glasses, footwear and safety equipment. For a complete definition of indirect materials, see subsection 2(1) of these Regulations.

59. Under subsection 12(2), a change to a good from another good/material that is classified under the same HS classification as the finished good, is only allowed when such a change is set out in a rule in Schedule III.

Example: The rule for battery powered toys of subheading No. 9503.49 reads as follows: “A change to a toy of subheading Nos. 9503.41 through 9503.49 from parts or accessories of those subheadings, whether or not there is also a change from any other heading.”

In other words, this rule allows for a change to battery powered toys of subheading No. 9503.49 from parts of subheading No. 9503.49 (i.e. goods provided for under the same HS classification as the finished good).

SECTION 13: NON-QUALIFYING OPERATIONS

60. When determining if a foreign material undergoes an applicable change in the tariff classification in Schedule III or satisfies any other applicable requirements, certain operations cannot be used to qualify the good. These operations are set out in section 13 of these Regulations.

TARIFF TREATMENT

61. The marking rules are to be used to determine the tariff treatment for agricultural goods described under Article 708, and textile and apparel goods described under Appendix 1.1. of Annex 300-B, as set out in the *NAFTA Tariff Preference Regulations* (see Memorandum D11-4-19, *Regulations Respecting the Determination of When Goods Are Entitled to the Benefit of the United States Tariff, Mexico Tariff or the Mexico-United States Tariff*).

62. For example, paragraph 4(1)(d) of the marking Regulations provides that the country of origin of a good is the country in which the good is considered to originate by an applicable Chapter Note set out in Schedule III.

Example: Worn clothing from Mexico and the United States is collected and packaged in Mexico prior to exportation to Canada. Worn clothing is classified under HS heading No. 63.09. An examination of the applicable rule for goods classified under HS heading No. 63.09 indicates that Chapter Note 1 is applicable. The note states that “for purposes of heading No. 63.09, the country of origin of such a good shall be the country in which the good is last collected and packaged for shipment.” Therefore, as the worn clothing is last collected and packaged in Mexico, the goods would be entitled to the *Mexico Tariff*.

63. For further information concerning tariff treatment see Memorandum D11-4-19.

ADDITIONAL INFORMATION

64. Additional sources of information regarding the Department’s country of origin marking program:

(a) Memoranda

D11-3-1, *Marking of Imported Goods*

D11-3-2, *Marking Determination/Re-Determination of Goods Imported from a NAFTA Country*

D11-3-4, *NAFTA Country of Origin “Marking Rules” (Schedule III – Tariff Shift Rules)*;

(b) customs document, C-132, *Country-of-Origin Marking*;

(c) marking experts in any one of the customs offices listed in Appendix F.

APPENDIX A

GOODS TO BE MARKED

SCHEDULE I [Subsection 3(1)]

1. *Goods for Personal or Household Use*

- (1) Bakeware and cookware made of aluminum
- (2) Bakeware and cookware made of cast iron
- (3) Bath mats, towels and wash cloths, knitted or woven
- (4) Batteries, dry cell
- (5) Blankets
- (6) Brushes, including toothbrushes and their handles
- (7) Candles
- (8) Cards, the following: credit and identification, made of any material that has a diameter that exceeds, or a side the length of which exceeds, 1/2 inch (1.27 cm) in width and that is imported in sheet form or otherwise
- (9) Chrome-plated ware and utensils for use in serving food and beverages
- (10) Cigar and cigarette lighters, except lighters for incorporation into motor vehicles
- (11) Clocks and movements, except clocks and movements for use as original equipment by motor vehicle manufacturers
- (12) Containers, thermostatic, the following: carafes, flasks, jars, jugs and vacuum bottles, and refills or inserts therefor
- (13) Cutlery, chrome-plated or stainless steel
- (14) Dishes and ornaments made of china earthenware, ironstone, porcelain, semi-porcelain, stoneware or white granite
- (15) Electronic equipment, the following: phonographs, radio receiving sets, radio-phonograph sets, radio-phonograph-television sets, record players, tape recorders and television receiving sets
- (16) Ironing board covers and pads
- (17) Kitchenware made of metal or plastic, coated, lithographed, painted or otherwise, the following: bread boxes, cake humidors, canisters, foil and paper dispensers, range sets, serving ovens and step-on waste cans
- (18) Knives, the following: jack, pen and pocket; scissors and shears
- (19) Lawn mowers (powered)
- (20) Matches in books, boxes or folders
- (21) Pencils
- (22) Pens, the following: ballpoint and fountain; and nib penholders
- (23) Pillowslips and sheets made of cotton
- (24) Razor blades (safety type)

- (25) Thermometers
- (26) Tiles, glazed, unglazed and ceramic mosaic, the following: hearth, floor and wall
- (27) Umbrellas
- (28) Utensils, kitchen type and chrome-plated or stainless steel
- (29) Watch bracelets (expansion type)

2. *Hardware*

- (1) Caps, made of metal, lithographed or printed, for containers, the following: lug, screw and vacuum
- (2) Copper tubing
- (3) Drapery I-beam rails, made of aluminum, brass, steel or other metals or plastic, and component parts of drapery I-beam rails
- (4) Electrical measuring devices for panel mounting designed to indicate alternating or direct current microamperes, milliamperes or amperes, millivolts, volts or kilovolts and such other variables as pressure, resistance and temperature that may be translated into alternating or direct current or voltage
- (5) Glass in panes or sheets, the following: common or colourless window, laminated, plate and sheet
- (6) Goods made of porcelain for electrical use
- (7) Files and rasps
- (8) Sink strainers (basket type)
- (9) Tubes, electronic
- (10) Twines, the following: baler and binder
- (11) Wire insect screening
- (12) Iron or steel pipes and tubes

3. *Novelties and Sporting Goods*

- (1) Articles in the style of North American Indian handicrafts
- (2) Athletic gloves and mitts, including baseball and hockey gloves and mitts
- (3) Bicycles
- (4) Decorations, novelties and ornaments
- (5) Enameled emblems and silver-plated or sterling silver bracelets, brooches, pins and spoons, all designed as souvenirs of Canada, its provinces, territories, cities, towns or other geographical locations
- (6) Gift wrappings, the following: bindings, braids, ribbons, tapes, ties and trimmings, made chiefly or wholly of textile fibres
- (7) Toys, games and athletic and sporting goods

4. *Paper Products*

- (1) Boxes and cartons, empty folding or set up, made of paper, paper board, plain or corrugated fibre or fibre board, for use as shipping containers
- (2) Paper matter and products, lithographed or printed

5. *Apparel*

- (1) Boots, shoes and slippers

- (2) Brassieres, corselettes, garter belts, girdles and lacing corsets
- (3) Fabrics, braided or woven, containing rubber yarns, not exceeding 12 inches (30.48 cm) in width; boot and shoe laces
- (4) Gloves made partially or wholly of leather
- (5) Hair pieces, the following: wigs, half wigs, switches, postiches, pony tails, toupees and other types of hair pieces designed to be worn on the head of a person
- (6) Handbags and purses, except handbags and purses made of beads, metal mesh or similar material
- (7) Hats, including berets, bonnets, caps, hoods and shapes made of felt fur, wool felt and wool-and-fur felt
- (8) Knitted garments
- (9) Raincoats and rain wear made of plastic
- (10) Apparel made substantially or wholly of natural or synthetic textile fibres

6. *Horticultural Products*

- (1) Tubers, tuberous roots and rhizomes, dormant, in growth or in flower, of paeonias
- (2) Tubers, tuberous roots, corms, crowns and rhizomes, dormant, of irises or other perennials, except begonias
- (3) Tubers, tuberous roots, or rhizomes, in growth or in flower, of begonias
- (4) Bulbs, dormant or in growth, except tulip bulbs
- (5) Unrooted cuttings or slips of fruit or nut trees, shrubs or bushes
- (6) Trees, shrubs, bushes, vines, or seedling stock, grafted or not, including those capable of bearing fruits
- (7) Christmas trees, rooted or unrooted
- (8) Rose bushes, grafted or not, except cut roses

APPENDIX B

GOODS EXEMPT FROM MARKING

SCHEDULE II [Subsections 3(2) and (3)]

1. Goods for charitable purposes and not for the purpose of sale
2. Goods that are gifts or bequests
3. Goods that are antiques or goods produced more than 20 years prior to importation
4. Used goods, with the exception of iron or steel pipes and tubes
5. Goods that are for the exclusive use of the importer or the importer's employees and not for resale to the general public, with the exception of iron or steel pipes and tubes
6. Goods imported for use by the importer and not intended for sale in the form in which they were imported
7. Goods that are imported under tariff item No. 9808.00.00, 9809.00.00 or 9810.00.00 of Schedule I to the Act
8. Goods that are imported for subsequent exportation from Canada, with the exception of iron or steel pipes and tubes
9. Goods that, for purposes of temporary duty-free admission, are in transit or in bond or otherwise under customs control
10. Goods that are incapable of being marked
11. Goods that cannot be marked prior to exportation without causing them injury
12. Goods that cannot be marked except at a cost that is substantial in relation to their value for duty so as to discourage their exportation
13. Goods that cannot be marked without materially impairing their function or substantially detracting from their appearance
14. Goods that are in a container that is marked in a manner that will reasonably indicate their origin to the ultimate purchaser
15. Goods that are crude substances
16. Goods that are to undergo production in Canada by the importer, or on the importer's behalf, in a manner that would result in their becoming goods the country of origin of which is Canada
17. Goods in respect of which, by reason of their character or the circumstances of their importation, the ultimate purchaser would reasonably know their country of origin even though the goods are not marked with country of origin
18. Goods that are imported without the required marking and cannot be marked after their importation except at a cost that would be substantial in relation to their value for duty, provided that the failure to mark the goods before importation was not for the purpose of avoiding compliance with the marking requirement
19. Goods that are original works of art
20. Goods that are classified under subheading No. 6904.10, or heading No. 85.41 or 85.42, other than goods that are so classified by reason of their having undergone a non-qualifying operation specified in section 13 of these Regulations
21. Goods in respect of which there is no ultimate purchaser

APPENDIX C

Chart 1

Marking a good imported from a NAFTA country

With which country or countries must I mark my good¹?

Is the good “wholly obtained or produced²” in one country?

yes

no

Mark with the country or origin in which
the good is wholly obtained or produced
[paragraph 4(1) (a), *NAFTA Marking Regulations*]

Is the good produced exclusively
from domestic material³?

yes

no

Mark with the country of origin in which
the good is exclusively produced from
domestic material³ [paragraph 4(1)(b),
NAFTA Marking Regulations].

Does each foreign material³ satisfy the tariff
classification change rule set out in Schedule III
and any other applicable provisions of the *NAFTA
Marking Regulations* (Sections 9, 11, 12, 13)⁴?

yes

no

Mark with the country of origin in which
each foreign material³ undergoes a
classification change and satisfies any
other applicable provisions
[paragraph 4(1)(d), *NAFTA Marking Regulations*].

Does a Chapter Note, set out in Schedule III of the
NAFTA Marking Regulations, apply to the good?

yes

no

Mark with the country determined
when applying the Chapter Note
[paragraph 4(1)(d), *NAFTA Marking
Regulations*]. See Table 1⁵.

Go to Chart 2.

-
1. This chart applies to goods which are:
(a) imported from a NAFTA country; and
(b) included under Schedule I of the *NAFTA Marking Regulations*.
 2. See definition of “wholly obtained or produced” under subsection 4(2) of the *NAFTA Marking Regulations*.
 3. See definition under section 2 of the *NAFTA Marking Regulations*.
 4. Sections: 9 Production Outside Canada;
11 *De Minimis*;
12 Change in Tariff Classification; and
13 Non-qualifying Operations.
 5. Where the Tariff Preference Override applies (Section 8), mark with the last NAFTA country in which the good underwent production (see Table 1).

APPENDIX D

Chart2

Marking a good imported
from a NAFTA country (continued)

Is the “essential character¹” of the good² imparted by a single material³?

Single Material	yes	no	Multiple Materials
Is the good a set in Schedule I of the <i>Customs Tariff</i> or classified as a set by Rule 3 of General Rules ³ (GIRs)?	yes	no	Is the good a set, or mixture in Schedule I of the <i>Customs Tariff</i> or classified as a set, mixture or composite good by Rule 3 of the General Rules ³ (GIRs)?
Mark with country or countries or origin of the material (section 6, <i>NAFTA Marking Regulations</i>). See Table 1. ⁴	yes	no	Mark with country or countries of origin of the materials (section 6), <i>NAFTA Marking Regulations</i> . See Table 1. ⁴
Does the material have one country of origin?	yes	no	Is the good produced by minor processing ³ ? materials (section 6), <i>NAFTA Marking Regulations</i> . See Table 1. ⁴
Is the good a set in Schedule I of the <i>Customs Tariff</i> or classified as a set by Rule 3 of General Rules ³ (GIRs)?	yes	no	Is the good a set, or mixture in Schedule I of the <i>Customs Tariff</i> or classified as a set, mixture or composite good by Rule 3 of the General Rules ³ (GIRs)?
Mark with the country of origin of the material [subsection 5(1), <i>NAFTA Marking Regulations</i>]. See Table 1. ⁴	yes	no	Mark with country or countries of origin of the materials [paragraph 7(a), <i>NAFTA Marking Regulations</i>].
Is the material fungible³ and commingled⁵ such that direct physical identification is impractical?	yes	no	Is the good produced by simple assembly ³ ?
Is an inventory management method approved under Part I of Schedule X to the <i>NAFTA Rules of Origin Regulations</i> being used?	yes	no	Mark the last country in which the goods underwent production [paragraph 7(c), <i>NAFTA Marking Regulations</i>]. ⁴
Mark with the countries of origin of the material [subsection 5(1) and paragraph 5(2)(a), <i>NAFTA Marking Regulations</i>]. ⁴ See Table 1.	yes	no	Do the parts taken into consideration have the same country of origin?
Mark with country (or countries ⁵) of origin determined on the basis of the approved inventory management method [subsection 5(2), <i>NAFTA Marking Regulations</i>]. See Table 1. ⁴	yes	no	Mark using that country of origin [paragraph 7(b), <i>NAFTA Marking Regulations</i>]. See Table 1. ⁴

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1. The method for determining the material(s) which impart(s) the “essential character” of a good is found under subsection 2(2) of the *NAFTA Marking Regulations*.
 2. This chart applies to goods which are:
 - (a) imported from a NAFTA country; and
 - (b) included under Schedule 1 of the *NAFTA Marking Regulations*.
 3. See definition under section 2 of the *NAFTA Marking Regulations*.
 4. Where the Tariff Preference Override applies (section 8), mark with the last NAFTA country in which the good underwent production (see Table 1).
 5. Where a material has multiple countries of origin prior to commingling.

APPENDIX E

Table 1

***NAFTA Marking of Imported Goods Regulations
Section 8***

Does the Tariff Preference Override Apply?

<i>NAFTA Marking Regulations</i>	Where Single NAFTA country determined	Where Single non-NAFTA country determined	Where Multiple countries determined
4(1)(a)	No, (I)	No, (II)	No, (III)
4(1)(b)	No, (I)	No, (II)	No, (III)
4(1)(c)	No, (I)	No, (II)	No, (III)
4(1)(d)	No, (I)	May Apply	No, (III)
5	No, (I)	May Apply	May Apply
6	May Apply	May Apply	May Apply
7(a)	No, (IV)	No, (IV)	No, (IV)
7(b)	May Apply	May Apply	No, (III)
7(c)	May Apply	May Apply	No, (III)

Notes:

May Apply – Where the good is “originating” under the *NAFTA Rules of Origin Regulations* (Memorandum D11-5-1) and a Certificate of Origin has been completed and signed for the good, section 8 will be used to determine the country of origin of the good.

I – The Tariff Preference Override does not apply where a single NAFTA country is determined under the *NAFTA Marking Regulations*.

II – The Tariff Preference Override does not apply because the good cannot be “originating” under the *NAFTA Rules of Origin Regulations* (Memorandum D11-5-1).

III – The Tariff Preference Override is excluded as only one country can be determined under the *NAFTA Marking Regulations*.

IV – The Tariff Preference Override does not apply where a good is merely minor-processed.

APPENDIX F

MARKING EXPERTS

Atlantic Region

CBSA Trade Compliance Division
1969 Upper Water St.
Purdy's Tower II, 5th Floor
Halifax, Nova Scotia
B3J 3R7

Tel: 902-426-2724
Fax: 902-426-8825

Quebec Region

CBSA Trade Services Division
400 Place d'Youville
Montréal, Québec
H2Y 2C2

Tel: 514-286-7879
Fax: 514-283-2396

Northern Ontario Region

CBSA Trade Compliance Division
2270 St. Laurent Blvd., 1st Floor
Ottawa, Ontario
K1G 6C4

Tel: 613-991-0714
Fax: 613-952-7149

Greater Toronto Area Region

Hamilton Office

CBSA
Compliance Verification and Services
55 Bay St. N, 8th Floor
P.O. Box 2220
Hamilton, Ontario
L8N 3E1

Tel: 905-572-2585
Fax: 905-308-8616

Toronto Office

CBSA
Compliance Verification and Services
P.O. Box 10, Station A
1 Front St. West, 3rd Floor
Toronto, Ontario
M5W 1A3

Tel: 416-954-4942
Fax: 416-954-0364

Southern Ontario Region

London Office

CBSA
Compliance Verification and Services
451 Talbot Street, 10th Floor
London, Ontario
N6A 5E5

Tel: 519-645-5843

Fax: 519-675-3309

Windsor Office

CBSA
Compliance Verification and Services
2500 Ouellette Avenue
P.O. Box 1641
Windsor, Ontario
N9A 7K3

Tel: 519-967-4145

Fax: 519-967-4067

Prairie Region

Winnipeg Office

CBSA Trade Compliance Division
269 Main Street
Victory Building, 1st Floor
Winnipeg, Manitoba
R3C 1B3

Tel: 204-983-3659

Tel : 204-984-7123

Fax: 204-983-6635

Calgary Office

CBSA Trade Compliance Division
220 – 4th Avenue S.E., Room 759
Calgary, Alberta
T2G 4X3

Tel: 403-292-4313

Fax: 403-292-4200

Pacific Region

CBSA Trade Compliance Division
333 Dunsmuir Street, 5th Floor
Vancouver, British Columbia
V6B 5R4

Tel: 604-666-6753

Fax: 604-666-2212

Alternatively, contact the Border Information Service (BIS) line at **1-800-461-9999**.