



Ottawa, April 9, 2014

Memorandum D11-4-29

Uniform Regulations – Chapter Four of the Canada-Panama Free Trade Agreement (CPAFTA)

In Brief

This memorandum is issued to publish the Memorandum of Understanding between the Government of Canada and the Government of the Republic of Panama concerning the uniform regulations for the interpretation, application and administration of Chapter Four of the Free Trade Agreement between Canada and the Republic of Panama.

This memorandum contains the Memorandum of Understanding between the Government of Canada and the Government of the Republic of Panama concerning Uniform Regulations of Chapter Four of the CPAFTA.

Guidelines and General Information

1. The Uniform Regulations elaborate in detail how CPAFTA Parties will interpret, apply, and administer the obligations regarding customs procedures under Chapter Four. They are designed to ensure consistent and uniform treatment of, and greater certainty for, importers, exporters, and producers in Canada and Panama.

Additional Information

2. For more information, within Canada call the Border Information Service at **1-800-461-9999**. From outside Canada call 204-983-3500 or 506-636-5064. Long distance charges will apply. Agents are available Monday to Friday (08:00 – 16:00 local time/except holidays). TTY is also available within Canada: **1-866-335-3237**.

Appendix

Memorandum of Understanding between the Government of Canada and the Government of the Republic of Panama Concerning Uniform Regulations for the Interpretation, Application and Administration of Chapter Four of the Free Trade Agreement Between Canada and the Republic of Panama

The Government of Canada (“Canada”) and the Government of the Republic of Panama (“Panama”), hereinafter referred to as the “Participants”, pursuant to Article 4.12 of the Customs Procedures Chapter of the [Free Trade Agreement Between Canada and the Republic of Panama](#) (“the Agreement”); wishing to establish uniform regulations for the interpretation, application and administration of Chapter Four (Customs Procedures) of the Agreement; Have come to the following understanding:

Certificate of Origin

1. The Participants will ensure that the Certificate of Origin referred to in Article 4.02 of the Agreement is:
 - (a) equivalent in substance to the Certificate of Origin set out in Annex I;
 - (b) in a printed or electronic format or in such other medium as may be approved by the customs administration of the Participant into whose territory the good is imported; and
 - (c) completed by the exporter in accordance with this Memorandum of Understanding, including any instructions contained in the Certificate of Origin set out in Annex I.
2. The Participants understand that for the purposes of Article 4.02(5)(a) of the Agreement, a single Certificate of Origin may be used for:
 - (a) a single shipment of goods that results in the filing of one or more entries on the importation of the goods into the territory of a Participant; or
 - (b) more than one shipment of goods that results in the filing of one entry on the importation of the goods into the territory of a Participant.

Regarding Importations

3. The Participants will not subject to penalties an importer that makes a corrected declaration of origin pursuant to Article 4.03(1)(d) of the Agreement, and pays any duties owing, in accordance with Article 4.03(3)(b), where:
 - (a) in the case of Canada, the importer submits a corrected declaration within ninety (90) days of the date on which the importer has reason to believe that the declaration is incorrect; and
 - (b) in the case of Panama, the importer submits a corrected declaration within ninety (90) days of the date on which the importer has reason to believe the certificate of origin is incorrect, prior to the error being detected by the customs administration, either before or after the physical review of the goods by the customs administration.
4. The Participants understand that, where, as a result of an origin verification conducted under Article 4.07 of the Agreement, the customs administration of a Participant determines that a good covered by a Certificate of Origin that applies to multiple importations of identical goods in accordance with Article 4.02(5)(b) of the Agreement does not qualify as an originating good, that Certificate may not be used to claim preferential tariff treatment for identical goods imported after the date that the written determination is provided under Article 4.07(14) of the Agreement.

Exceptions

5. (a) The Participants will ensure that the statement referred to in Article 4.04(a) of the Agreement is equivalent in substance to the following:

“I certify that the goods referred to in this invoice/sales contract originate under the rules of origin specified for these goods in the *Free Trade Agreement between Canada and the Republic of Panama* and that further

production or any other operation outside the territories of the Participants has not occurred subsequent to production in the territories”.

Signature: _____ Date: _____

(b) The statement, where required by the customs administration of the Participant into whose territory the good is imported, will be attached to, or handwritten, stamped or typed on the invoice for the good.

6. The Participants understand that for the purposes of Article 4.04 of the Agreement, “series of importations” means **two** or more importations of a good accounted for separately but covered by one commercial invoice issued by the seller of the good to the purchaser of the good.

Records

7. The Participants will require that the documentation and records maintained under Article 4.06 of the Agreement be maintained in such a manner as to enable an officer of the customs administration of a Participant, in conducting a verification of origin under Article 4.07 of the Agreement, to perform detailed verifications of the documentation and records to verify the information on the basis of which:

(a) in the case of an importer, a claim for preferential tariff treatment was made for a good imported into that Participant’s territory; and

(b) in the case of an exporter or producer, a Certificate of Origin was completed for a good exported to the territory of the other Participant.

8. The Participants will ensure that exporters and producers that are required to maintain records pursuant to Article 4.06(1)(a) of the Agreement, subject to the notification and consent requirements provided for in Article 4.07(5) of the Agreement, make those records available for inspection by an officer of the customs administration of a Participant conducting a verification visit and provide facilities for that inspection.

Origin Verifications

9. The Participants understand that for the purposes of Article 4.07(1)(d) of the Agreement, the customs administration of a Participant may conduct a verification of origin with respect to a good that is imported into that Participant’s territory by means of any method customarily used by the customs administration of the Participant conducting the verification.

10. The Participants understand that where their respective customs administrations conduct a verification under Article 4.07(1) of the Agreement, they may issue, on the basis of a response of an exporter or producer to a communication referred to in Article 4.07(1), a written determination under Article 4.07(14) of the Agreement in order to determine:

(a) that the good does not qualify as an originating good, provided that the response is in writing and is signed by that exporter or producer; or

(b) that the good qualifies as an originating good.

11. The Participants understand that, for the purposes of Article 4.07(11) of the Agreement, the customs administration conducting a verification visit will require an exporter or producer of a good to identify to that customs administration any observers designated to be present during that visit.

12. The common standards for the written questionnaires referred to in Article 4.07(1)(b) of the Agreement are set out in Annex II.

Advance Rulings

13. The common standards regarding the information to be submitted in an application for an advance ruling are set out in Annex III.

14. The Participants understand that for the purposes of Article 4.10 of the Agreement, an application to the customs administration of a Participant for an advance ruling will be completed in the language of that Participant, as set forth in paragraph 21 of this Memorandum of Understanding.

15. The Participants understand that for the purposes of Article 4.10(3) of the Agreement, if the customs administration of a Participant determines that an application for an advance ruling is incomplete, it may decline to process the application provided that:

- (a) it has notified the applicant of any supplemental information required and of the period, which will not be less than thirty (30) days, within which the applicant must provide the information; and
- (b) the applicant has failed to provide the information within the period specified.

16. The Participants understand that paragraph 4.10(4) of the Agreement and paragraph 3 will not be construed to prevent a person from reapplying for an advance ruling.

17. For the purposes of Article 4.10(8) of the Agreement, “importations of a good” is defined as:

- (a) in the case of Canada, goods released pursuant to Section 31 of the *Customs Act*; and
- (b) in the case of Panama, Chapter I, Title V (Custom Regimes) in Cabinet Decree No. 41 (December 11, 2002).

Review and Appeal

18. The Participants understand that a determination of origin of a good by the customs administration of a Participant may be subject to review or appeal in accordance with Article 4.11 of the Agreement by the exporter or producer of the good who completed a Certificate of Origin for the good for which a claim for preferential tariff treatment was denied, including a denial of preferential tariff treatment under Articles 4.07(4) and 4.07(7) of the Agreement.

19. The Participants understand that where an advance ruling is issued under Article 4.10 of the Agreement, a modification or revocation of the advance ruling will be subject to review or appeal under Article 4.11 of the Agreement.

Miscellaneous

20. For the purposes of Chapter 4 of the Agreement and the Memorandum of Understanding, “completed” means completed, signed and dated.

21. The Participants understand that, for the purposes of this Memorandum of Understanding, the language of a Participant will be as follows:

- (a) in the case of Canada: English or French; and
- (b) in the case of Panama: Spanish.

22. Each Participant will ensure that its customs procedures governed by the Agreement are consistent with Chapter 4 of the Agreement and this Memorandum of Understanding.

Entry into Effect, Modification and Termination

23. This Memorandum of Understanding will enter into effect on the date of entry into force of the Agreement.

24. The Participants may amend this Memorandum of Understanding in writing at any time by mutual consent.

25. This Memorandum of Understanding will cease to have effect on termination of the Agreement.

Annex I – [Form BSF631, Certificate of Origin – Free Trade Agreement Between Canada and the Republic of Panama](#), is available on the Canada Border Services Agency (CBSA) Web site.

Annex II – Common Standards for Written Questionnaires

1. For the purposes of paragraph 12 of this Memorandum of Understanding, the Participants will seek to decide on uniform questions to be included in the general questionnaire.

2. Subject to paragraph 3, where the customs administration of a Participant conducts a verification under Article 4.07(1)(b) of the Agreement, it will send to the exporter or producer the general questionnaire referred to in paragraph 1 of this Annex.

3. For the purposes of Article 4.07(1)(b) of the Agreement, where the customs administration of a Participant requires specific information not provided in the general questionnaire, it may send to the exporter or producer a more specific questionnaire based on the information required to determine whether the good subject to verification is an originating good.
4. For the purposes of paragraph 12 of this Memorandum of Understanding, the questionnaires, at the option of the exporter or producer, may be completed in either the language of the Participant into whose territory the good is imported or the language of the Participant in the territory where the exporter or producer is located.

Annex III – Common Standards for Information Required in the Application for an Advance Ruling

1. For the purposes of Article 4.10(2) of the Agreement, the Participants understand that a request for an advance ruling will include the following:

- (a) the name and address of the exporter, producer or importer of the good requesting the issuance of the ruling;
- (b) where the applicant is:
 - (i) the exporter of the good, the name and address of the producer and importer of the good, if known,
 - (ii) the producer of the good, the name and address of the exporter and importer of the good, if known, or
 - (iii) the importer of the good, the name and address of the exporter and, if known, the producer of the good;
- (c) where the request is made on behalf of an applicant, the name and address of the person requesting the issuance of the advance ruling and either:
 - (i) a written statement from the person requesting the issuance of the advance ruling, or
 - (ii) upon the request of the customs administration of that Participant, that person provide, in accordance with applicable law, evidence from the applicant on whose behalf the ruling is being requested, that indicates that the person is duly authorized to transact business as the agent of the applicant;
- (d) a statement, based on the applicant's knowledge, as to whether the issue that is the subject of the request for an advance ruling is, or has been, the subject of:
 - (i) a verification of origin,
 - (ii) an administrative review or appeal,
 - (iii) a judicial or quasi-judicial review, or
 - (iv) a request for an advance ruling,
 in the territory of either Participant, and if so, a brief statement setting forth the status or disposition of the matter;
- (e) a statement, based on the applicant's knowledge, as to whether the good that is the subject of the request for an advance ruling has previously been imported into the territory of the Participant to whom the request for the advance ruling has been made;
- (f) a statement that the information presented is accurate and complete; and
- (g) a complete description of all relevant facts and circumstances relating to the issue that is the subject of the request for the advance ruling, including:
 - (i) a concise statement, within the scope of Article 4.10(1) of the Agreement, setting forth the issue on which the advance ruling is sought, and
 - (ii) a general description of the good.

2. Where relevant to the issue that is the subject of the request for an advance ruling, the request must include, in addition to the information referred to in paragraph 1:
- (a) a copy of any advance ruling or other ruling with respect to the tariff classification of the good that has been issued to the applicant by the Participant to whom the request for an advance ruling is made; and
 - (b) if no previous advance ruling or other ruling with respect to the tariff classification of the good has been issued by the Participant to whom the request for the advance ruling is made, sufficient information to enable the customs administration of that Participant to classify the good, including:
 - (i) a full description of the good, including, where relevant, the composition of the good, a description of the process by which the good is manufactured, a description of the packaging in which the good is contained, the anticipated use of the good and its commercial, common or technical designation, product literature, drawings, photographs or schematics, and
 - (ii) where practical and useful, a sample of the good.
3. Where the request for the advance ruling involves the application of a rule of origin that requires an assessment of whether materials used in the production of the goods undergo an applicable change in tariff classification, the request must include:
- (a) a list of each material that is used in the production of the good;
 - (b) with respect to each material referred to in paragraph (a) that is claimed to be an originating material, a complete description of the material, including the basis on which it is considered that the material originates;
 - (c) with respect to each material referred to in paragraph (a) that is a non-originating material or the origin of which is unknown, a complete description of the material, including its tariff classification; and
 - (d) a description of all processing operations employed in the production of the good, the location of each operation, and the sequence in which the operations occur.
4. Where the request for an advance ruling involves a value test, the applicant must indicate whether the request is based on the use of the transaction value or the net cost, or both.
5. Where the request for an advance ruling involves the use of the transaction value, the request must include information sufficient to calculate the transaction value of the good with respect to the transaction of the producer or exporter of the good, in accordance with Article 3.04 of the Agreement.
6. Where the request for an advance ruling involves the net cost of the good, the request must include:
- (a) information sufficient to calculate the net cost of the good in accordance with Article 3.06 of the Agreement; and
 - (b) the period over which the net cost calculation is to be made.
7. Where the request for an advance ruling is limited to the calculation of a value test, in addition to the information required under paragraph 1, only that information set out under paragraphs 4, 5 and 6 that is relevant to the issue that is the subject of the request for an advance ruling need be contained in the request.

References	
Issuing Office	Trade and Anti-dumping Programs Directorate
Headquarters File	
Legislative References	
Other References	
Superseded Memorandum D	