



Ottawa, June 18, 2014

# Memorandum D11-3-1

## Marking of Imported Goods

### In Brief

The Appendix F, and any references to the Appendix F have been removed.

This memorandum outlines and explains the legislation, regulations and general guidelines that apply to the country of origin marking for goods imported from both NAFTA and non-NAFTA countries.

### Legislation

The following are excerpts from legislation relevant to the marking program.

#### *Customs Act*

##### **Marking of Goods**

35.01 No person shall import goods that are required to be marked by any regulations made under section 19 of the *Customs Tariff* unless the goods are marked in accordance with those regulations.

##### **Notice Requiring Marking or Compliance**

(2) The Minister or any officer designated by the President for the purposes of this section may, by notice served personally or by registered mail, require any person

(a) to mark the imported goods in accordance with the regulations made under section 19 of the *Customs Tariff*, within such reasonable time as may be stipulated in the notice, if there has been a failure to comply with section 35.01 with respect of the goods; or

(b) to comply with section 35.01 in respect of any goods designated in the notice that will subsequently be imported by the person.

##### **Goods Imported From a NAFTA Country**

(4) If a person imports goods of a prescribed class from a NAFTA country, that person is not liable to a penalty under section 109.1 unless

(a) the person has previously failed to comply with section 35.01 in respect of imported goods and has been given a notice pursuant to subsection (2);

(b) the goods with respect to which there has been a failure to comply with section 35.01 or a notice given pursuant to subsection (2) have been released without being marked in the manner referred to in section 35.01; or

(c) the imported goods have been marked in a deceptive manner so as to mislead another person as to the country or geographic area of origin of the goods.

##### **Penalties and Interest**

###### Designated provisions

109.1 (1) who fails to comply with any provision of no person shall act or a regulation designated by the regulations made under subsection (3) is liable to a penalty of not more than twenty-five thousand dollars, as the Minister may direct.

### Failure to comply

(2) Every person who fail to comply with any term or condition of a licence issued under this Act or the *Customs Tariff* or any obligation undertaken under section 4.1 is liable to a penalty of not more than twenty-five thousand dollars, as the Minister may direct.

### Designation by regulation

(3) The Governor in Council may make regulations

(a) designating any provisions of this Act, the *Customs Tariff* or the *Special Import Measures Act* or of any regulation made under any of those Acts; and

(b) establishing short-form descriptions of the provisions designated under paragraph (a) and providing for the use of those descriptions.

### Offences

159.1 No person shall

(a) fail to mark imported goods in the manner referred to in section 35.01;

(b) mark imported goods in a deceptive manner so as to mislead another person as to the country or geographic origin of the goods; or

(c) with intent to conceal the information given by or contained in the mark, alter, deface, remove or destroy a mark on imported goods made as required by the regulations made under subsection 19(2) of the *Customs Tariff*.

### *Customs Tariff*

#### Marking of Goods

##### Regulations requiring marking

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

(a) requiring imported goods of any description or class, including a description or class specified in terms of the use of the goods, to be marked, in accordance with the regulations made under 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 marking purposes.

##### Regulations prescribing marking requirements

(2) The Minister of Public Safety and Emergency Preparedness may make regulations for the purpose of the administration of this section, including regulations prescribing

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

(b) when imported goods must be marked, including whether they must be marked before or after importation, and any conditions applicable to the time of marking.

##### Applicable regulations

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

***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*.

**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 the outermost usual container.

***Regulations for Determining the Country of Origin of Goods Imported From a Non-NAFTA Country for the Purpose of Specifying That Goods be Marked***

**Short Title**

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

**Application**

2. (1) Subject to subsection (2) goods set out in Schedule I that are imported into Canada from a country other than a NAFTA country shall be marked so as to indicate their country of origin, in accordance with the *Marking of Imported Goods Regulations*.

(2) These Regulations do not apply to goods set out in Schedule II.

**Country of Origin**

3. The country of origin of goods is the country in which the goods were substantially manufactured.

***Regulations Respecting the Marking of Imported Goods***

**Interpretation**

2. In these Regulations,

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

“country of origin” means

(a) in the case of goods imported from a NAFTA country, the country of origin of the goods determined in accordance with the *Determination of Country of Origin for the Purposes of Marking Goods (NAFTA Countries) Regulations*, and

(b) in the case of goods imported from any other country, the country of origin of the goods determined in accordance with the *Determination of Country of Origin for the Purpose of Marking Goods (Non-NAFTA Countries) Regulations*; (*pays d’origine*)

“goods” means any goods in respect of which any regulations made pursuant to paragraph 19(1)(a) of the *Customs Tariff* apply; (*marchandises*)

“identical goods” means goods that are the same in all respects, including physical characteristics, origin, quality and reputation, except for minor differences in appearance; (*marchandises identiques*)

“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*)

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

“similar goods” means goods that closely resemble each other in respect of their component materials and characteristics, are capable of performing the same functions, are commercially interchangeable, and were produced in the same country; (*marchandises semblables*)

“sufficiently permanent” means, in respect of a marking, capable of remaining in place until the goods reach the ultimate purchaser or, in the case of non-NAFTA goods where there is no ultimate purchaser, the ultimate recipient, unless deliberately removed; (*suffisamment permanente*)

“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*)

“ultimate recipient” means the last person in Canada who receives the goods in the form in which they are imported; (*dernier destinataire*)

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

### **General**

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

(2) The marking of non-NAFTA goods shall indicate, to the ultimate purchaser, or where there is no ultimate purchaser, to the ultimate recipient, the country of origin of the non-NAFTA goods.

### **General Manner of Marking**

4. (1) NAFTA goods shall be marked in English, French or Spanish.

(2) Non-NAFTA goods shall be marked in English or French.

5. The marking of goods shall be legible, sufficiently permanent and capable of being seen easily during normal handling of the goods or their container.

6. Where the words “Canada” or “Canadian” or any abbreviation thereof, or the name of any country or place other than the country of origin of the goods appears on any goods elsewhere than in the country of origin marking, and the presence of the words can be expected to mislead the ultimate purchaser or the ultimate recipient, as the case may be, the country of origin marking shall be located in close proximity to those words and shall contain the expression “made in,” “produced in” or “printed in” or any other expression, in any of the languages used in accordance with subsection 4(1) or (2), that indicates to the ultimate purchaser or to the ultimate recipient, as the case may be, the country of origin of the goods.

7. An abbreviation of a country name may be used in a country of origin marking if the abbreviation clearly indicates to the ultimate purchaser or to the ultimate recipient, as the case may be, the country of origin of the goods.

### **Specific Manner of Marking**

8. For the purposes of section 5 and subject to section 9, goods that are iron or steel pipes or tubes shall be marked

(a) by paint stencilling, die stamping, cast-in-mould lettering, etching or engraving; or

(b) in the case of pipes or tubes that have an inside diameter of 4.8 cm or less (1.9 inches or less) and are imported in bundles, by tagging or labelling each bundle.

9. Goods that are iron or steel pipes or tubes and have a critical surface finish may be marked by tagging or labelling each pipe or tube.

10. For the purposes of section 5, the country of origin marking for goods that are printed or lithographed paper products shall be

- (a) of a size not smaller than 1.6 mm (0.06 inch); and
- (b) in a colour that is as bold as any other characters or images that are printed or lithographed on the paper product.

11. A container that is required to be marked in accordance with the *Determination of Country of Origin for the Purposes of Marking Goods (NAFTA Countries) Regulations*, in which is imported an empty usual container, whether or not the usual container is disposable, shall be marked with the country of origin of the usual container.

12. A usual container that is required to be marked in accordance with the *Determination of Country of Origin for the Purposes of Marking Goods (NAFTA Countries) Regulations*, imported filled, whether or not the usual container is disposable, shall be marked with the country of origin of its contents unless the contents are marked with their country of origin and the usual container can be readily opened for inspection of the contents, or the marking of the contents is clearly visible through the usual container.

### **Time of Marking**

13. Subject to section 14, goods shall be marked before their importation.

### **Exceptions**

14. Goods may be marked in Canada after their importation but before their release, if

- (a) the goods are not imported as mail;
- (b) a notice referred to in subsection 35.02(2) of the Act in respect of similar goods or identical goods to be imported
  - (i) has not been served on the importer of the goods, or
  - (ii) has been served on the importer of the goods less than thirty days or more than two years before the importation of the goods;
- (c) the importer of the goods
  - (i) before the importation of the goods, gives written notice to an officer that the goods will be marked in Canada by the importer, or
  - (ii) at the time of the importation of the goods, gives notice to an officer that the goods will be marked in Canada by the importer, where the importer demonstrates that it was not possible to give the notice referred to in subparagraph (i) before the importation of the goods; and
- (d) the importer of the goods complies with any instructions given pursuant to section 15.

15. After receipt of a notice referred to in paragraph 14(c), an officer shall give the importer of the goods written instructions indicating

- (a) the Canada Border Services Agency (CBSA) office, bonded warehouse or sufferance warehouse in Canada where the marking is to be done;
- (b) the time within which the marking must be completed; and
- (c) the CBSA office, bonded warehouse or sufferance warehouse in Canada where the goods are to be made available on the completion of the marking for examination by an officer.

16. (1) An importer of goods who has given a notice under subparagraph 14(c)(i) shall present to an officer a copy of the instructions referred to in section 15 at the time the goods

- (a) are reported under section 12 of the Act; and
- (b) are accounted for under subsection 32(1) or (2) of the Act.

(2) An importer of goods who has given a notice under subparagraph 14(c)(ii) shall present to an officer a copy of the instructions referred to in section 15 at the time the goods are accounted for under subsection 32(1) or (2) of the Act.

17. An importer of goods that are required to be marked, who delivers the goods to a bonded warehouse before they are marked, shall mark the goods in accordance with any instructions given under section 15 before a transfer document may be submitted in accordance with section 18 of the *Customs Bonded Warehouses Regulations*.

## **Guidelines and General Information**

### **Introduction**

1. The authority for application of Canada's marking program is contained in section 19 of the *Customs Tariff*. This section enables regulations to be made which identify:
  - (a) what goods require country of origin marking;
  - (b) the appropriate country to be marked on goods;
  - (c) the proper method and manner of marking;
  - (d) the time when goods must be marked.
2. 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 and Industry Canada. For example, Industry Canada's regulations require that certain product related information such as fabric content of apparel be shown on a product label.
3. Certain goods when imported into Canada are required to be marked to indicate clearly the country in which the goods were made. The goods that require marking are listed in Appendix A to this memorandum. The foreign exporter or producer usually applies the country of origin marking. However, Canadian importers are responsible for ensuring that imported goods comply with marking requirements at the time they import the goods.
4. For goods imported from a NAFTA country, the purpose of the marking requirement is to inform the ultimate purchaser of the country 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 take place.
5. When goods are imported from a non-NAFTA country, the marking should indicate to the ultimate purchaser, or where there is no ultimate purchaser to the ultimate recipient, the country of origin of the goods. The ultimate recipient is the last person in Canada who receives the goods in the form in which they are imported.
6. Depending on whether the goods are imported from a NAFTA or a non-NAFTA country, there are differences in CBSA's administration of the marking program. These differences are explained in the sections that follow.

### **Definitions**

7. The "Interpretation" section of the [\*Marking of Imported Goods Regulations\*](#) contains definitions that are important to understanding the administration of the marking program. In addition, definitions for the following terms are also important:

"Container" – A general term for the packaging used to transport goods, such as, but not limited to, boxes, wooden crates, and plastic receptacles.

"Critical surface finish" – The marking of certain types of pipes and tubes (e.g., ornamental products, specialized products used in the aerospace industry) may constitute an unreasonable burden for technical or commercial reasons, resulting in damage to the product. In such cases, the product may be considered to have a critical surface finish.

"For the exclusive use of the importer or that importer's employees and not for resale to the general public" – Applies to the exclusion of imported goods of which the importer/owner or the importer/owner's employee(s)



is (are) the final user. This exclusion includes goods supplied by an importer/owner to the importer/owner's employee(s) whether free or for a charge, e.g., uniforms. This exclusion does not apply to goods for external distribution by the importer/owner, e.g., sales samples or giveaways, when they are imported from non-NAFTA countries.

“Ornamental pipe and tube” – These articles are generally defined as being tubular products with critical surface finishes, and are generally used for architectural purposes (e.g., railings or cross bars for fencing, excluding fence posts) and furniture manufacturing. When produced from carbon steel grades, the product generally has a polished surface. Ornamental tubing may be round, square, rectangular, or may be rolled to a variety of specialized sectional shapes depending on the final use. When determining whether tubing is ornamental in nature, consideration should be given to the degree the exporter has undertaken to protect the surface finish (e.g., individual wrapping, protective packaging such as wooden crates or metal containers).

“Outermost usual container” – A shipping container used to transport goods. In some cases, goods may reach the ultimate purchaser in the outermost usual shipping container.

“The form in which it was imported” – Means the condition of the good before it has undergone one of the changes in tariff classification, or other applicable requirements as described in the marking rules.

“Used goods” – Does not include seconds, factory rejects, or blemished goods.

“Usual container” – Means the container in which goods will ordinarily reach the ultimate purchaser (point of sale packaging).

## Goods That Require Marking

8. Schedule I of the [\*Determination of Country of Origin for the Purpose of Marking Goods \(NAFTA Countries\) Regulations\*](#) and of the [\*Determination of Country of Origin for the Purpose of Marking Goods \(Non-NAFTA Countries\) Regulations\*](#) identifies those goods that require marking. Schedule I is contained in Appendix A to this memorandum. The list of goods that require marking is divided into the following six main product categories:

- (a) Goods for Personal or Household Use;
- (b) Hardware;
- (c) Novelties and Sporting Goods;
- (d) Paper Products;
- (e) Apparel; and
- (f) Horticultural Products.

9. To clarify the types of goods included in each product category, a guide to Schedule I has been prepared. This guide is contained in Appendix B. The purpose of this guide is to show examples of some of the goods that require marking, and to provide definitions of various terms where possible. This guide is not designed to cover all goods that require marking.

10. Further information or clarification regarding which goods require marking may be obtained by contacting a marking expert located at one of the CBSA offices.

11. In addition to the guide referred to in Appendix B, the following general principles should be applied when interpreting the wording contained in Schedule I:

- (a) If an imported article does not fall under a specific class of goods, it may fall under a more general class. For example, although cotton gloves that require marking are not specifically annotated in paragraph 5(4) “Gloves made partially or wholly of leather” of the Schedule, they would fall under the more general paragraph 5(10) “Apparel made substantially or wholly of natural or synthetic textile fibres”.
- (b) When determining whether an article described in the “Goods for Personal or Household Use” category requires marking, it is important to consider the meaning of the wording used in the heading. For example, if “Blankets” that are listed in paragraph 1(5) of the Schedule are imported by hospitals or university dormitories,

they would not require marking. Blankets imported under such circumstances would not be considered as goods for personal or household use.

(c) It should not be automatically assumed that the modern counterparts to classes of goods listed in the Schedule require marking if they are not specifically listed. For example, compact disc players do not require marking as they are not specifically listed in the Schedule despite the fact that they have replaced the use of phonographs (paragraph 1(15) under “Goods for Personal or Household Use”).

(d) If a class of goods in the Schedule is preceded by the phrase “the following,” the list that follows is all-inclusive and the requirement for marking applies only to the goods listed.

(e) If a class of goods in the Schedule is preceded by the phrase “including,” this means including but not limited to the list that follows.

## Exemptions

12. 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 Schedules II (see Appendix C to this memorandum) of the [\*Determination of Country of Origin for the Purpose of Marking Goods \(NAFTA Countries\) Regulations\*](#) and the [\*Determination of Country of Origin for the Purpose of Marking Goods \(Non-NAFTA Countries\) Regulations\*](#). There are 21 exemptions that apply to goods imported from a NAFTA country, and 7 exemptions that apply to goods imported from a non-NAFTA country.

13. Importers, exporters, and producers are advised to contact a marking expert (ME) in the region where goods will be imported to obtain information regarding the use of exemptions. Depending on the circumstances involved, the party requesting information may be required to substantiate entitlement through the submission of an advance ruling request, or by providing some form of written evidence supporting the use of an exemption. Information on advance rulings is contained in the section entitled “Advance Rulings.” The specific exemption being requested should be identified at the time of release by means of a written explanation to the border services officer or a notation on the invoice. The officers will consult with the regional marking expert in situations where it is not evident that an importer is entitled to use an exemption. In such cases, the marking expert will make a determination regarding the marking of the goods.

14. A guide for Schedule II is contained in Appendix D. The purpose of this guide is to explain the documentation and/or information that may be required by CBSA in order to determine the applicant’s eligibility for use of a specific exemption.

## Methods of Determining Country of Origin for Marking

15. There are different methods used to determine the country of origin, depending on whether the goods are imported from a NAFTA country (the United States or Mexico) or from a non-NAFTA country. When determining the country of origin for goods imported from a NAFTA country, a set of marking rules are used. These are technical rules that are applied systematically to determine the country or countries of origin of a good for country of origin marking purposes. The following list identifies some of the criteria used in determining the country of origin for goods imported from NAFTA countries. This list is not all inclusive and is only meant to provide a general guide as to how the country of origin may be determined. Generally, the country of origin is the country in which:

- (a) the goods are wholly obtained or produced;
- (b) the goods are produced exclusively from domestic materials;
- (c) the foreign materials incorporated into the goods undergo a specific tariff classification change; or
- (d) the single material that gives the goods their essential character was produced.

16. For goods imported from a non-NAFTA country, the country of origin of goods is the country in which the goods were substantially manufactured. This means the country where the major part of production or manufacturing took place. It will be necessary to consider the accumulated costs of material, labour, and overhead when determining the proper country of origin for marking purposes.



## Method and Manner of Marking

17. The [Marking of Imported Goods Regulations](#) contain provisions that explain the proper method and manner of marking goods from either NAFTA or non-NAFTA countries.

### General Manner of Marking Goods

18. In general, the marking of goods from both NAFTA and non-NAFTA countries must clearly indicate the country of origin of the goods. When goods are imported from NAFTA countries, marking shall be in English, French, or Spanish. For goods imported from non-NAFTA countries, marking shall be in English or French.

19. Generally, importers, exporters, or producers are encouraged to use the full name of the country of origin in the marking reference. However, the use of abbreviations may be necessary where there are space limitations on a product.

20. An abbreviation of a country name may be used as a marking reference, if the abbreviation clearly indicates to the ultimate purchaser or to the ultimate recipient the country of origin of the goods. This provision applies to goods from both NAFTA and non-NAFTA countries. Short country names will not be allowed to be abbreviated as it would be more difficult for the ultimate purchaser or ultimate recipient to reasonably conclude the name of the country.

21. The marking of goods shall be legible, sufficiently permanent, and capable of being easily seen during normal handling of the goods or their container. The provision to allow marking on containers only applies to goods imported from NAFTA countries provided certain conditions are met. For goods imported from non-NAFTA countries, marking should appear on the individual article. In addition, if point of sale packaging conceals the marking on the product, then the packaging should also be marked.

22. Any reasonable method of marking that will remain on the good or its container (where applicable) until the product reaches the ultimate purchaser or recipient is acceptable. In most cases, the methods of marking that will be acceptable will depend on the nature of the goods. Appendix E defines several examples of acceptable methods of marking. It should be noted that other methods of marking may be considered as acceptable.

23. For apparel, CBSA will accept country of origin marking on the same label required by the [Textile Labelling Act](#) and Regulations of Industry Canada. It should be noted that methods of marking country of origin, other than the use of labels, may also be acceptable for apparel.

### Specific Manner of Marking Goods

24. There are specialized requirements that apply to the marking of iron or steel pipes and tubes. The specific methods of marking for each pipe or tube are: paint stencilling, die stamping, cast-in-mould lettering, etching, or engraving. For pipes or tubes that have an inside diameter of 4.8 cm or less (1.9 inches or less) and are imported in bundles, marking by tagging or labelling each bundle is acceptable.

25. Iron or steel pipes and tubes that have a critical surface finish (e.g., ornamental products) may be marked by tagging or labelling each pipe or tube, or where bundled, by tagging or labelling each bundle. If this provision is applicable, the importer, exporter, or producer should provide a written description of the goods to the marking expert in the region where goods will be imported indicating why they would be considered as having a critical surface finish. The section entitled “Definitions” contains descriptions of the terms “critical surface finish” and “ornamental pipe and tube.”

26. The following pipes and tubes are exempt from country of origin marking requirements:

- (a) intended for use as parts and such parts are usually of a specific size and are committed by design to a particular application, and will generally have a part number applied thereon;
- (b) intended for use as a casting or mould in a manufacturing process. The importer/agent may be requested to supply appropriate specifications and supporting documentation;
- (c) when imported for use as original equipment in and by manufacturers of automobiles, buses, or specified commercial vehicles; and

(d) when the non-ferrous metal content is greater than 50%. Pipe and tube containing less than 50% by weight of iron is not considered to be of iron or steel. The importer/agent may be required to supply appropriate specifications and supporting documentation.

27. Country of origin marking for goods that are printed or lithographed paper products should be of a size not smaller than 1.6 mm or 1/16 of an inch. Examples of acceptable methods of marking:

United States  
Printed in the United States  
Made in the USA  
Made in the United States

Mexico  
Printed in Mexico  
Made in Mexico

Japan  
Made in Japan

Spain  
Made in Spain

**Note:** For printed matter, there is also a requirement for the marking to be in a colour that is as bold as any other characters or images that are printed or lithographed on the paper product.

28. To avoid confusion as to the country of origin of the goods, if the word “Canada” or “Canadian” appears on the goods either spelled in full or abbreviated, the country of origin may be required to appear in close proximity to that reference and be preceded by: “made in,” “produced in,” “printed in,” or some similar expression. The same provision applies where any other country or place name appears other than that of the country of origin. The presence of these words referring to other geographic locations must be expected to mislead the ultimate purchaser or ultimate recipient in order to trigger the application of this provision.

29. In the case of printed matter, the “close proximity provision” will not apply to geographical references that are contained within the body or text of a publication.

30. When NAFTA goods require marking, the country of origin may appear on the usual container only (point of sale packaging) if this is the manner in which the ultimate purchaser buys the good. Country of origin may also appear on the good, provided the usual container can be readily opened for inspection of the content, or the marking of the content is clearly visible through the usual container. Detailed information regarding the application of exemptions to the marking requirements is contained in Appendix D.

## **Authorization to Mark Goods in Canada**

31. The [\*Marking of Imported Goods Regulations\*](#) provides the authority where, under certain conditions, authorization may be granted to mark goods in Canada after they have been imported but before they are released from CBSA. Whenever possible, importers should request such authorizations before the goods arrive in Canada. Authorization may be granted for goods from both NAFTA and non-NAFTA countries.

32. An importer should request pre-authorization to mark goods in Canada before importation actually takes place. Pre-authorization may be granted for a one time importation only, or a blanket authorization may be granted that allows for marking of goods over a specific period of time (e.g., 6 months) covering several shipments. In addition, an importer may also request authorization to mark goods in Canada at the time of importation. If this latter method is used, approval will only be given for the shipment on hand. A request for blanket authorization for multiple shipments of goods must be submitted prior to importation.

33. The applicant must meet the following conditions in order to be given approval to mark goods in Canada:

(a) the goods cannot be imported as mail;

- (b) a notice of non-compliance pursuant to subsection 35.02(2) of the [Customs Act](#) must not have been issued to the importer on similar or identical goods more than 30 days before the importation of the goods or less than two years before importation of the goods;
- (c) if authorization is requested prior to importation, the importer gives written notification to CBSA that the goods will be marked in Canada;
- (d) if authorization is not requested prior to importation, the importer gives written notification at the time of importation to CBSA that the goods will be marked in Canada and demonstrates that it was not possible to give prior notice;
- (e) transfer of ownership of the goods cannot take place until the goods are marked properly.

34. The written notification referred to in the previous paragraph should take the form of a letter to the Superintendent or chief officer at the CBSA office nearest to the location where the goods will be released. The letter should contain the following information:

- (a) importer name, number, and address;
- (b) complete description of the goods;
- (c) location where goods are to be marked;
- (d) if location is a bonded warehouse, location of warehouse, warehouse licence number, and security number;
- (e) date by which the marking will be completed;
- (f) the location where the goods may be verified for compliance;
- (g) if the request is for a blanket authorization to mark goods;
- (h) name and telephone number of a contact person.
- (i) if authorization to mark in Canada is requested at the time of importation, the importer of the goods must also demonstrate that it was not possible to submit notification prior to importation

35. To ensure acceptance of the request, it is advisable that the importer discuss the arrangements for authorization to mark goods in Canada with CBSA before a written notification is submitted. There are five locations that may be acceptable for marking purposes:

- (a) public bonded warehouse;
- (b) private bonded warehouse;
- (c) importer's premises;
- (d) CBSA office; and
- (e) sufferance warehouse.

36. Due to space limitations at many CBSA offices it may not be possible to mark goods at these locations. In addition, goods may be marked at a location other than the office of report provided this information is included with the notification.

37. Once the importer's written notification has been presented, CBSA will review the request and notify the applicant of the decision made. Authority to mark will take the form of a letter of authorization issued by the chief officer of CBSA or the superintendent. The letter of authorization will confirm whether the location for marking is acceptable, indicate the time frame for completion of the marking, and specify the location where goods will be examined, if required. In cases where pre-authorization for marking has been approved, the importer should present the letter of authorization to the appropriate CBSA office at the time of first reporting and also when requesting release of the goods. When approval for marking has been granted at the time of importation, the letter of authorization should be presented when requesting release of the goods.

38. The importer may mark goods in a bonded warehouse. Information regarding bonded warehouse requirements is contained in [Memorandum D7-4-4, Customs Bonded Warehouses](#).

## Issuance of Notices to Mark Goods

39. When goods have not been marked in accordance with the marking requirements, a notice to properly mark the goods will be issued by the regional marking expert for goods imported, from both NAFTA and non-NAFTA countries, indicating:

- (a) in what manner goods currently under customs control must be marked; or
- (b) in what manner subsequent importations of identical or similar goods are to be marked.

40. The following three options are available to the importer when goods arrive in Canada that are not marked according to the requirements of the marking program:

- (a) mark the goods in Canada, provided the conditions outlined in the section entitled “Authorization to Mark Goods in Canada” are met;
- (b) export the goods; or
- (c) abandon the goods to the Crown.

## Advance Rulings

41. NAFTA importers, exporters, and producers may request an advance ruling on country of origin marking for goods to be imported from a NAFTA country. Authority for this provision of the marking program is contained in section 43.1 of the [Customs Act](#). Such requests must be submitted in writing prior to the importation of the goods. If the requesting party is a person with an office in Canada, the request should be sent to the marking expert in the CBSA office responsible for their area. If the requesting party does not have an office in Canada, the request should be sent to the marking expert in the area where the majority of importations will likely occur. CBSA will then issue rulings on one or more of the following marking components:

- (a) Is the good required to be marked with its country of origin?
- (b) What country of origin must be marked on the good?
- (c) What is the acceptable method and manner of marking the good?

42. It is mandatory that a request for an advance ruling includes, as a minimum, the component described in paragraph (a). Additional information regarding advance rulings is contained in [Memorandum D11-4-16, Advance Rulings Under Free Trade Agreements](#).

## Determinations/Re-determinations

43. A marking determination is a decision rendered by a border service officer located at their regional office indicating whether or not goods imported from a NAFTA country have been marked in accordance with marking regulations. This authority is contained in section 57.01 of the [Customs Act](#). A marking re-determination is a decision made by an officer in a CBSA office to modify a marking determination. Sections 60 and 61 of the *Customs Act* provide CBSA with such authority. The determination or re-determination generally includes all three marking components referred to in paragraph 41 above.

44. A NAFTA importer, exporter, or producer may file an appeal of a marking determination/re-determination with the appropriate CBSA office within 90 days of having received a notice of the marking determination. All requests for review of a marking determination/re-determination should be accompanied by such information as:

- (a) descriptive illustrations, literature, or samples relating to the goods that are subject of the request;
- (b) other supporting documentation such as the certificate of origin, relevant file number, or previous advance rulings.

45. Decisions made by CBSA on appeals of determinations/re-determinations may be further appealed to the Canadian International Trade Tribunal (CITT) and subsequently to the Federal Court of Canada. The authority for appeals of determinations/re-determinations is provided for under sections 67 and 68 of the [Customs Act](#).

## Penalties

46. Failure to mark goods in accordance with the marking requirements may result in the application of penalties. There are now provisions for CBSA to issue both civil and criminal penalties for goods imported from both NAFTA and non-NAFTA countries. The authority to issue civil penalties is contained in section 109.1 of the [Customs Act](#) and the authority for criminal persecutions is found in the [Designated Provisions \(Customs Regulations\)](#).

47. For specific penalties on marking violations, please refer to the [CBSA Web site](#).

48. Criminal penalties pursuant to section 159.1 of the [Customs Act](#) may be assessed by CBSA where a person:

- (a) fails to mark goods in the manner referred to in Section 35.01;
- (b) marks the goods in a deceptive manner so as to mislead another person as to the country of origin or geographic origin of the goods; or
- (c) with intent to conceal the information given by or contained in the mark, alters, defaces, removes or destroys a mark on imported goods made as required by the regulations made under subsection 19(2) of the *Customs Tariff*.

## Additional Information

49. Additional information regarding CBSA's country of origin marking program may be obtained by contacting the regional marking expert in any one of the CBSA offices.

50. For questions concerning the administration of these procedures from a CBSA perspective should be directed to the CBSA [Border Information Service \(BIS\)](#) online, or call BIS toll-free in Canada at **1-800-461-9999**. If you are calling from outside Canada, you can access BIS by calling 204-983-3500 or 506-636-5064 (long-distance charges will apply). BIS agents are available, during regular business hours from Monday to Friday (except holidays), 8:00 to 16:00 local time. TTY is also available within Canada: **1-866-335-3237**.

## Appendix A

### Goods to be Marked

#### Schedule I – Goods From a NAFTA or Non-NAFTA Country

The following goods are required to be marked with their country of origin whether they are imported from a NAFTA or a non-NAFTA country; with (exceptions indicated in the exception of goods in category 3, item 2 (Athletic gloves and mitts); marking requirements only applies to goods imported from a non-NAFTA country).

##### 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, ½ inch (1.27cm) 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) Enamelled 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 (30.48cm) 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 fruit, when in a usual container

(7) Christmas trees, rooted or unrooted, when in a usual container

(8) Rose bushes, grafted or not, except cut roses, when in a usual container

## Appendix B

### Guide to Schedule I

| Product  | Definition   | Examples   |
|--|--|--|
| <b>Section 1 of Schedule I – Goods for Personal or Household Use</b>   |  |  |
| 1(1) Bakeware and cookware made of aluminum  | used to bake or cook food  | cake pan, muffin pan, cookie sheet, pots, pans   |
| 1(2) Bakeware and cookware made of cast iron   | used to bake or cook food  | cake pan, muffin pan, cookie sheet, pots, pans   |
| 1(3) Bath mats, towels and wash cloths, knitted or woven   | bath mat: mat placed on floor in bathroom;   |  |
|  | wash cloth: used for wiping the hands, face, or person when washing or bathing   | wash cloths: face cloths   |
|  | towel: used for wiping something dry, esp. for wiping the hands, face, or person after washing or bathing  | towels: bath towels, hand towels, kitchen towels, beach towels   |
| 1(4) Batteries, dry cell   | primary batteries having a zinc anode, a carbon or graphite cathode surrounded by manganese dioxide and a paste containing ammonium chloride as an electrolyte | alkaline and nickel cadmium batteries, does not include car batteries  |
| 1(5) Blankets  | bed coverings  | comforters, duvets, electric blankets  |
| 1(6) Brushes, including toothbrushes and their handles   |  | paint brushes, hair brushes, eyelash brushes   |
| 1(7) Candles   | a body of wax, tallow, or the like, formed around a wick of cotton or flax, and used to give artificial light  | Christmas candles, table candles   |
| 1(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 (1.27cm) in width and that is imported in sheet form or otherwise | credit cards: allows one to make a transaction and to pay at a future date; identification cards: shows tombstone information identifying an individual        | credit cards: those provided by department stores and financial institutions; identification cards: driver's licence |
| 1(9) Chrome-plated ware and utensils for use in serving food and beverages   | chromium-plated kitchen utensils used to serve food and beverages; similar to 1(13) and (28)   | chrome-plated ware: serving dishes, ice tongs<br><br>utensils: ladle, spatula, salad servers                         |
| 1(10) Cigar and cigarette lighters, except lighters for incorporation into motor vehicles  | devices that produce a flame with which to light cigarettes and cigars   | disposable lighters (butane), refillable lighters  |

| Product   | Definition   | Examples  |
|---|--|---|
| 1(11) Clocks and movements, except clocks and movements for use as original equipment by motor vehicle manufacturers  | clock: an instrument for the measurement of time; movement: the moving mechanism of a watch or clock   | clocks: wall clocks, grandfather clocks, digital or analog, not including watches |
| 1(12) Containers, thermostatic, the following: carafes, flasks, jars, jugs and vacuum bottles, and refills or inserts therefor  |  |   |
| 1(13) Cutlery, chrome-plated or stainless steel   | similar to 1(9) and (28) implements for eating and/or serving food   | forks, knives, spoons   |
| 1(14) Dishes and ornaments made of china earthenware, ironstone, porcelain, semi-porcelain, stoneware or white granite  |  | plates, side plates, cups, mugs, saucers, ornaments                               |
| 1(15) Electronic equipment, the following: phonographs, radio receiving sets, radio-phonograph sets, radio-phonograph television sets, record players, tape recorders and television receiving sets                       |  |   |
| 1(16) Ironing board covers and pads   |  |   |
| 1(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 |  |   |
| 1(18) Knives, the following: jack, pen, and pocket; scissors and shears   | jack-knife: a large folding clasp-knife for the pocket or purse<br><br>penknife: a small folding knife, usually carried in the pocket or purse<br><br>pocketknife: a knife with one or more blades which fold into the handle, for carrying in the pocket or purse |   |
| 1(19) Lawn mowers (powered)   | used to cut grass  | gas or electrically powered   |
| 1(20) Matches in books, boxes, or folders   |  |   |
| 1(21) Pencils   | an instrument for marking, drawing, or writing and having a tapered point  | eyebrow/eyeliner pencil; mechanical lead pencil; non-mechanical lead pencil       |
| 1(22) Pens, the following: ball point and fountain; and nib penholders  |  | not including felt or nylon tipped pens, nor highlighters                         |

| <b>Product</b>  | <b>Definition</b>  | <b>Examples</b>   |
|---|--|---|
| 1(23) Pillowslips and sheets made of cotton   | coverings for pillows and beds made of cotton                        | includes pillowcases and shams  |
| 1(24) Razor blades (safety type)  | must be safety type  | blades only, does not include disposable unit, whereby a handle is attached |
| 1(25) Thermometers  | an instrument for measuring temperature                              | food, body, weather   |
| 1(26) Tiles, glazed, unglazed and ceramic mosaic, the following: hearth, floor, and wall  |  |   |
| 1(27) Umbrellas   | anything serving as protection from the elements (i.e., rain or sun) | parasols, golf  |
| 1(28) Utensils, kitchen type, chrome-plated or stainless steel  | similar to 1 (9) and (13)  | flour sifters, egg beaters  |
| 1(29) Watch bracelets (expansion type)  |  |   |
| <b>Section 2 of Schedule I – Hardware</b>   |  |   |
| 2(1) Caps, made of metal, lithographed or printed, for containers, the following: lug, screw and vacuum   |  |   |
| 2(2) Copper tubing  | mainly used for plumbing to supply water                             | for sinks, bathtubs, washing machines                                       |
| 2(3) Drapery I-beam rails, made of aluminum, brass, steel or other metals or plastic, and component parts of drapery I-beam rails   | tracks to carry curtains   | component parts: brackets, rollers, hooks, screws                           |
| 2(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 | the electrical measuring device is mounted on a panel                |   |
| 2(5) Glass in panes or sheets, the following: common or colourless window, laminated, plate and sheet   |  |   |
| 2(6) Goods made of porcelain for electrical use   | insulating posts for electrical high and low voltage lines           | usages: telephone posts (low voltage), hydro lines (high voltage)           |

| Product  | Definition  | Examples  |
|--|---|---|
| 2(7) Files and rasps   | <p>file: a metal instrument, having one or more of its faces covered with small cutting edges or teeth, for abrading, reducing, or smoothing surfaces</p> <p>rasp: a course kind of file, having separate teeth raised on its surface by means of a pointed punch</p> | <p>television tubes, computer monitor tubes, fluorescent light tubes</p>  |
| 2(8) Sink strainers (basket type)  |   |   |
| 2(9) Tubes, electronic   | <p>components of electrical circuits for radios and televisions used for internal electronics and for viewing TV; tubes which contain electrons flowing through them</p>  |   |
| 2(10) Twines, the following: baler and binder  | <p>twine: thread or string composed of two or more yarns or strands twisted together</p>  |   |
| 2(11) Wire insect screening  | <p>a wire mesh used in windows and doors to protect against insects, e.g., mosquitos</p>  | window/door wire mesh   |
| 2(12) Iron or steel pipes and tubes  |   | <p>not including parts that are used to join lengths of pipe together, i.e., pipe fittings, outlets, and nipples or exemptions listed in the section entitled "Method and Manner"</p> |
| <b>Section 3 of Schedule I – Novelties and Sporting Goods</b>  |   |   |
| 3(1) Articles in the style of North American Indian handicrafts  | <p>imitation of North American Indian handicrafts either by mass production or otherwise</p> <p>Indian: Aboriginal people of North America</p> <p>Handicraft: skilled work with the hands</p>   |   |
| 3(2) Athletic gloves and mitts, including baseball and hockey gloves and mitts ( (applies only to goods from Non- NAFTA countries) |   |   |
| 3(3) Bicycles  |   |   |
| 3(4) Decorations, novelties and ornaments  | <p>decoration and ornament: that which adorns</p> <p>novelty: a new or unusual thing or occurrence; small decoration or toy of novel design</p>   | <p>decorations: artificial flowers and fruits, statuettes</p> <p>novelties: figurine stamp pads</p>   |

| <b>Product</b>  | <b>Definition</b>   | <b>Examples</b>  |
|---|---|--|
| 3(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 | enamel: glasslike coating<br>emblem: a symbol   | lapel pins that depict provincial flags                                      |
| 3(6) Gift wrappings, the following: bindings, braids, ribbons, tapes, ties and trimmings, made chiefly or wholly of textile fibres  |   |  |
| 3(7) Toys, games and athletic and sporting goods  | toy: a plaything for children or others; something contrived for amusement rather than for practical use<br><br>game: amusement, fun, sport<br>Athletic: pertaining to sporting activities<br><br>sport: pleasant past time; amusement; diversion | toys: balloons, dolls, stuffed toys<br><br>games: board games, bowling balls |

#### **Section 4 of Schedule I – Paper Products**

4(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

4(2) Paper matter and products, lithographed or printed

books, magazines, catalogues, calendars, business reports, maps, posters, business invoices; not including blank paper

#### **Section 5 of Schedule I –Apparel**

5(1) Boots, shoes and slippers

not including shoe uppers

5(2) Brassieres, corselettes, garter belts, girdles and lacing corsets

5(3) Fabrics, braided or woven, containing rubber yarns, not exceeding 12 inches (30.48cm) in width; boot and shoe laces

5(4) Gloves made partially or wholly of leather



| Product   | Definition  | Examples  |
|---|---|---|
| 5(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 |   |   |
| 5(6) Handbags and purses, except handbags and purses made of beads, metal mesh or similar material  |   |   |
| 5(7) Hats, including berets, bonnets, caps, hoods and shapes made of felt fur, wool felt, and wool-and-fur felt   |   | straw hats  |
| 5(8) Knitted garments   |   | sweater, vest, socks, hat, mittens, leg warmers, coat, scarf  |
| 5(9) Raincoats and rain wear made of plastic  | plastic: any number of synthetic polymeric substances   |   |
| 5(10) Apparel made substantially or wholly of natural or synthetic textile fibres   | natural textile fibres: cotton, wool, silk, ramie synthetic textile fibres: polyester, nylon, rayon, viscose, spandex   | shirt, pants, skirt, dress, jacket, vest, socks, stockings, hat, gloves, scarf, belt, undergarments |
| <b>Section 6 of Schedule I – Horticultural Products</b>   |   |   |
| 6(1) Tubers   | a short, thick, fleshy, usually but not always underground stem or branch bearing buds (eyes) that serve as storage organs  | Begonia   |
| 6(2) Tuberous roots   | large fleshy roots bearing or producing tubers  | Tuberous Begonia, spider plants   |
| 6(3) Rhizomes, corms, crowns (also known as Corona)   | rhizomes: rootstock, usually an underground rootlike stem on or under the ground that sends up a succession of leaves or stems at the apex and emitting roots from the lower side   | Dogwood, German Iris  |
|   | corms: a solid, swollen part of a stem, usually underground, as the so-called “bulb”  | Crocus and Gladiolus  |
|   | crowns: the base of a plant, where the stem and root meet; part of a rhizome with a large bud, suitable for propagation; a circular appendage, or a circle of appendages; in a flower, an outgrowth of the perianth, or the staminal circle or a cluster of small cells crowning the oogonium |   |

## Appendix C

### Goods Exempt From Marking

#### Schedule II

##### Goods From a Non-NAFTA Country

1. Donations for charitable purposes and not for the purpose of sale.
2. Gifts or bequests.
3. Antiques.
4. Used goods, with the exception of iron or steel pipes and tubes.
5. Goods for the exclusive use of the importer or that importer's employees and not for resale to the general public, with the exception of iron or steel pipes and tubes.
6. Goods that are imported under tariff item No. 9808.00.00, 9809.00.00 or 9810.00.00.
7. Goods imported for subsequent exportation from Canada, with the exception of iron or steel pipes and tubes.

##### Goods From a NAFTA Country

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 that 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.
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 CBSA 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 either 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 (ceramic building bricks), or heading No. 85.41 (diodes, transistors and similar semiconductor devices, includes photosensitive) or 85.42 (electronic integrated circuits), 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 D

### Guide to Schedule II

1. Goods for charitable purposes and not for the purpose of sale (NAFTA and non-NAFTA)

The importer may be required to submit evidence that the goods are for charitable purposes and not for resale. A letter from the recipient of the goods is an example of what may serve as satisfactory proof. It should be noted that the wording for this exemption is different when comparing the NAFTA Schedule with the Non-NAFTA Schedule. While the wording is slightly different, the interpretation of these exemptions is identical in both cases.

2. Goods that are gifts or bequests (NAFTA and non-NAFTA)

The importer may be required to submit evidence that goods are either gifts or bequests. For gifts, a letter from the donor indicating that no sale has taken place is an example of what documentation may serve as satisfactory proof. A bequest may be confirmed by presentation of a copy of the will.

3. Goods that are antiques or goods that have been produced more than 20 years prior to importation (NAFTA and non-NAFTA)

For goods imported from NAFTA countries, it may be evident to the BSO at the time of importation that the goods are more than 20 years old. However, it may be necessary to present evidence of the age of the goods. For non-NAFTA goods, it may be necessary for the importer to present evidence that the goods are antiques. A certificate of antiquity or a letter from an antique dealer may be satisfactory. For the purposes of the country of origin marking requirement, antiques are articles that are more than 100 years old. It should be noted that for goods imported from non-NAFTA countries, such goods must be antiques before they qualify for this exemption.

4. Used goods, with the exception of iron or steel pipes and tubes (NAFTA and non-NAFTA)

CBSA should be satisfied through examination of the goods that they qualify as being used. Used goods do not include seconds, factory rejects, or blemished goods.

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 (NAFTA and non-NAFTA)

In many cases, it may be evident from the nature of the goods that they are for the exclusive use of the importer or the importer's employees. However, the importer may be required to substantiate entitlement to this exemption by submitting a letter that outlines the specific details of the disposition of the goods. For a good to be exempt from marking under this exemption, it must be used internally by the importers or their employees and not for distribution to the public. A good example of when this exemption may apply would be the importation of uniforms by a company for use by its employees in conducting their business. In the case of goods imported from a non-NAFTA country, this exemption would not apply in a situation where pens, for example, are being given away to the public as a promotional product.

6. Goods imported for use by the importer and not intended for sale in the form in which they were imported (NAFTA)

For this exemption to be used, there must be a change in the tariff classification of the goods, or the other applicable requirements as described in the marking rules must be relevant (e.g., production that results in a substantial transformation of the product, subsection 12(2) of the *Determination of Country of Origin for the Purposes of Marking Goods (NAFTA Countries) Regulations*). The importer should consult with a marking expert to determine eligibility for this exemption.

7. Goods that are imported under tariff item No. 9808.00.00, 9809.00.00 or 9810.00.00 (NAFTA and non-NAFTA)

Information provided at the time of release should be sufficient for CBSA to determine that the importer qualifies to use these tariff items.

8. Goods that are imported for subsequent exportation from Canada, with the exception of iron or steel pipes and tubes (NAFTA and non-NAFTA)

The importer should submit evidence that the goods will be subsequently exported from Canada. The following are examples of evidence that would be acceptable:

- (a) certification in writing on the customs accounting document that the goods are for exportation from Canada, or
- (b) a letter from the importer indicating the circumstances under which the goods will be subsequently exported.

9. Goods that, for the purpose of temporary duty-free admission, that are in transit or in bond or otherwise under CBSA control (NAFTA)

CBSA controls that currently apply to these types of importations will be used.

10. Goods that are incapable of being marked (NAFTA)

In order to determine eligibility for this exemption, an advance ruling request should be submitted as described in the section entitled "Advance Rulings." In any case, the importer, exporter, or producer must submit evidence that clearly demonstrates that the goods are incapable of being marked. CBSA must be satisfied that it is impossible to mark the goods before this exemption is granted. If approval for this exemption is given, the outermost usual container will require marking.

11. Goods that cannot be marked prior to exportation without causing them injury (NAFTA)

In order to determine eligibility for this exemption, an advance ruling request should be submitted as described in the section entitled "Advance Rulings." In any case, the importer, exporter, or producer must submit evidence that clearly demonstrates that the goods cannot be marked without causing injury to the goods. CBSA must be satisfied that injury to the goods would result if the goods were marked. If approval for this exemption is given, the outermost usual container will require marking.

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 (NAFTA)

In order to determine eligibility for this exemption, the importer, exporter, or producer should submit a request for an advance ruling as described in the section entitled "Advance Rulings." In any case, it must be clearly demonstrated that the cost of marking is substantial in relation to the value for duty and that this cost would discourage exportation. If approval for this exemption is given, the outermost usual container will require marking.

13. Goods that cannot be marked without materially impairing their function or substantially detracting from their appearance (NAFTA)

In order to determine eligibility for this exemption, the importer, exporter, or producer should submit a request for an advance ruling as described in the section entitled "Advance Rulings." In any case, it must be clearly demonstrated that the goods cannot be marked without materially impairing their function or substantially detracting from their appearance. If approval for this exemption is given, the outermost usual container will require marking.

14. Goods that are in a container that is marked in a manner that will reasonably indicate their origin to the ultimate purchaser (NAFTA)

In determining how this exemption applies, it is important to determine which party is the ultimate purchaser 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. This exemption also applies to goods in a usual container (point of sale packaging). Under this exemption, marking must appear on the container at time of purchase.

15. Goods that are crude substances (NAFTA)

Currently, there are no goods in Schedule I that would be considered as 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 the country of origin of which is Canada (NAFTA)

In order to determine eligibility for this exemption, the importer, exporter or producer should submit a request for an advance ruling as described in the section entitled "Advance Rulings." The request should include marking components (a) and (b).

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 (NAFTA)

In order to determine eligibility for this exemption, the importer, exporter or producer should submit a request for an advance ruling as described in the section entitled "Advance Rulings." In any case, it must be clearly demonstrated that the ultimate purchaser would reasonably know the country of origin even though the goods are not marked.

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 those goods before importation was not for the purpose of avoiding compliance with the marking requirement (NAFTA)

The importer should clearly demonstrate that the cost of marking would be substantial in relation to the value for duty and the intent was not to avoid the marking requirement. If approval for this exemption is given, the outermost usual container must be marked.

19. Goods that are original works of art (NAFTA)

In order to be eligible for this exemption, the importer, exporter, or producer should demonstrate that the goods being imported are original works of art. Original works of art are normally signed or initialled by the artist. The following specific information should be provided:

- (a) name of the artist;
- (b) date of the work;
- (c) medium used in the work;
- (d) processes involved;
- (e) whether the work executed entirely by hand; and
- (f) explanation of any other process used.

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 (NAFTA)

Goods in heading No. 85.41 or 85.42 do not require marking.

If the claim for exemption is made based on the goods falling under subheading No. 6904.10, the following information should be provided:

- (a) chemical composition of the product;
- (b) whether the good has been fired after shaping;
- (c) the type of article and intended use; and
- (d) whether the product can withstand a temperature of 1500°C or higher.

21. Goods in respect of which there is no ultimate purchaser (NAFTA)

In order for there to be an ultimate purchaser, a purchase or transaction must take place. 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.

## Appendix E

### Examples of Acceptable Methods of Marking

1. **Anodizing:** the formation of an oxide surface on non-ferrous metal by electrochemical means.
2. **Cast-in-Mould Lettering:** employs metal moulds and cores with either gravity or low-pressure introduction of molten metal, where part of the mould would be in the shape of letters.
3. **Decalcomania Transfer:** decalcomania is a transfer method of printing.
4. **Die Stamping:** to impress (lettering or a design) with heated metal type or dies, normally used to mark hard surfaces.
5. **Embossing:** to raise the surface of an article by pressure against a steel die roller cut or engraved with a pattern.
6. **Engraving:** to represent a mark by incisions on wood metal or stone.
7. **Etching:** to engrave by eating away the surface with acids.
8. **Labels:** a paper or plastic strip with adhesive backing that firmly adheres to a variety of dissimilar surfaces, or sewn in fabric label.
9. **Lithography:** process of printing from a plane surface (e.g., smooth stone or metal plate) on which the image to be printed is ink receptive and the blank area is ink repellent.
10. **Pressure Sensitive Label:** a label that at room temperature, without wetting or other addition, is permanently tacky (on one or both sides) and which firmly adheres to a variety of dissimilar surfaces upon contact, without the need for more than finger or hand pressure. This type of label may also be referred to as a sticker.
11. **Printing:** the process by which multiple reproductions are made from a plate or image carrier on a press.
12. **Stamping:** to impress or mark something with a symbol or design with ink or colouring (a rubber stamp could be used for stamping).
13. **Stencilling:** a form of duplication in which ink flows through openings on a porous sheet to form an image on a receiving surface. No ink can pass through the unopened blocked areas. Paint stencilling refers to the same method using paint instead of ink to form the mark.
14. **Tags:** a paper or plastic strip, normally tied to a product by a string or thread-like plastic.



| <b>References</b>              |  |
|--------------------------------|--|
| <b>Issuing Office</b>          | Commercial Border Programs Division<br>Border Programs Directorate<br>Programs Branch  |
| <b>Headquarters File</b>       |  |
| <b>Legislative References</b>  | <i>Customs Tariff</i> , section 19<br><a href="#"><i>Customs Act</i></a> , sections 35.01, 35.02, 43.1, 57.01, 61, 63, 64, and 159.1<br><a href="#"><i>Textile Labelling Act</i></a><br><a href="#"><i>Determination of Country of Origin for the Purpose of Marking Goods (NAFTA Countries) Regulations</i></a><br><a href="#"><i>Determination of Country of Origin for the Purpose of Marking Goods (Non-NAFTA Countries) Regulations</i></a><br><a href="#"><i>Marking of Imported Goods Regulations</i></a><br><a href="#"><i>Designated Provisions (Customs) Regulations</i></a> |
| <b>Other References</b>        | <a href="#">D7-4-4</a> , <a href="#">D11-4-16</a>  |
| <b>Superseded Memorandum D</b> | D11-3-1 dated January 28, 2011   |