Trilateral Customs Guide to NAFTA

Preface

The North American Free Trade Agreement (NAFTA) is expected to enter into force on January 1, 1994. One of the main results of the Agreement is the elimination of tariffs between Canada, Mexico, and the United States on nearly all qualifying goods by the year 2003. Chapter 5 of the Agreement attempts to ensure that customs procedures will facilitate trade flows as much as possible.

Trade policy and trade relations are crucially important to the achievement of Canada's economic and social goals. Canada's exports account for about 40% of the total output of the private sector. One in five Canadian jobs is directly dependent on exports. In 1992, Canada's exports amounted to $157.5 billion. Of perhaps even greater significance is that each $1 billion of new exports translates roughly into 15,000 jobs.

Free, fair, and open trade is essential to the future of our country. NAFTA provides Canadian businesses and entrepreneurs with access to the largest free trade area in the world.

This guide concentrates on explaining Chapters 4 and 5 of NAFTA, where the rules of origin and procedural obligations for customs administration are described. We have also provided a list of sources for more information in the three countries. We hope it gives importers, exporters, and manufacturers an overview of the requirements of the Agreement.

> This guide was designed to provide only general information on the North American Free Trade Agreement. For detailed information and advance rulings, contact the sources listed in Chapter 15 of this guide, particularly from the customs administration of each NAFTA country.

Table of Contents

Description of NAFTA

Objectives

The objectives of this Agreement (as elaborated more specifically through its principles and rules, including

national treatment, most-favoured-nation treatment, and transparency), are to:

- eliminate barriers to trade in, and facilitate the cross-border movement of, goods and services between the territories of the parties;
- promote conditions of fair competition in the free-trade area;
- increase substantially investment opportunities in the territories of the parties;
- provide adequate and effective protection and enforcement of intellectual property rights in each party's territory;
- create effective procedures for implementing and applying this Agreement, for jointly administering it, and for resolving disputes;
- establish a framework for further trilateral, regional, and multilateral co-operation to expand and enhance the benefits of this Agreement.

Tariff phase-out

NAFTA eliminates tariffs on most goods originating in Canada, Mexico, and the United States over a maximum transition period of 15 years. The schedule to eliminate tariffs already established in the Canada-United States Free Trade Agreement will continue as planned, so that all Canada-United States trade will be duty-free in 1998. For most Mexico-United States and Canada-Mexico trade, NAFTA will either eliminate existing customs duties immediately, or phase them out in five to 10 years. On a few sensitive items, the Agreement will phase out tariffs over 15 years. NAFTA member countries may agree to a faster phase-out of tariffs on any goods.

During the transition period, duty rates will vary, depending on in which NAFTA country the goods were produced. That is, NAFTA may grant a Canadian good entering the United States a different NAFTA rate than the same Mexican good entering the United States. For most goods imported into Canada, there will be three NAFTA rates - the rate depends on whether the goods are of U.S. origin, Mexican origin, or produced jointly with U.S. and Mexican inputs. To know which duty rate applies, traders must first establish that the goods meet the NAFTA rules of origin, and then use the tariff rules found in Annex 302.2 of NAFTA.

Generally, tariffs will only be eliminated on goods that originate, as defined in article 401 of NAFTA. For example, transshipping goods through Mexico that were made in Guatemala will not entitle them to preferential NAFTA duty rates. NAFTA does provide benefits on some goods of Canada, Mexico, and the United States that do not originate but that meet specified conditions. For example, limited quantities of goods that are non-originating may be eligible for preferential NAFTA treatment under special tariff-rate quotas.

NAFTA creates a free-trade area, not a common market. Customs administrations will still exist, and goods entering Canada, Mexico, or the United States must still comply with each country's laws and regulations. NAFTA does not allow for the unchecked movement of goods among Canada, Mexico, and the United States.

Rules of Origin

Purpose

NAFTA grants benefits to a variety of goods from the NAFTA region. Maximum benefits are reserved for those goods that **originate** in the NAFTA region. The Agreement's rules of origin establish which goods originate, and prevent goods from other countries from obtaining those benefits by merely passing through Canada, Mexico, or the United States. Within the context of NAFTA, the words **origin**, **originate**, or **originating** are used differently than in the context of determining country of origin. It is possible, for instance, for goods not to originate in Canada, Mexico, or the United States, as that term is defined in NAFTA, but still be an article of Canada, Mexico, or the United States for country of origin marking, statistical, or other purposes.

Article 401 of the Agreement defines **originating** in four ways: goods wholly obtained or produced in the

NAFTA region; goods produced in the NAFTA region wholly from originating materials; goods meeting the Annex 401 origin rule; and unassembled goods and goods classified with their parts which do not meet the Annex 401 rule of origin but contain 60% regional value content using the transaction method (50% using the net cost method).

Wholly obtained or produced

Goods wholly obtained or produced entirely in Canada, Mexico, or the United States contain no foreign materials or parts from outside the NAFTA territory. Article 415 defines goods wholly produced in the NAFTA region as:

a) mineral goods extracted in Canada, Mexico, or the United States;

Silver mined in Mexico is originating because it was extracted in the territory of one of the parties.

Wheat grown in Canada is originating because it is harvested in the territory of one of the parties.

b) vegetable goods, as such goods are defined in the Harmonized System, harvested in Canada, Mexico, or the United States;

c) live animals born and raised in Canada, Mexico, or the United States;

d) goods obtained from hunting, trapping, or fishing in Canada, Mexico, or the United States;

e) goods (fish, shellfish, and other marine life) taken from the sea by vessels registered or recorded with Canada, Mexico, or the United States and flying that country's flag;

f) goods produced on board factory ships from the goods referred to in subparagraphe), as long as such factory ships are registered or recorded with that country and fly that country's flag;

g) goods taken by Canada, Mexico, or the United States, or a person of these countries, from the seabed or beneath the seabed outside territorial waters, as long as Canada, Mexico, or the United States has rights to exploit that seabed;

h) goods taken from outer space, as long as they are obtained by Canada, Mexico, or the United States, or a person of these countries, and not processed in a non-NAFTA country;

i) waste and scrap derived from:

- production in Canada, Mexico, or the United States; or
- used goods collected in Canada, Mexico, or the United States, as long as such goods are fit only for the recovery of raw materials; and

Copper recovered in Canada from scrap telephone or electrical wires is wholly obtained or produced in Canada, regardless of where the wire was originally produced.

j) goods produced in Canada, Mexico, or the United States exclusively from goods referred to in subparagraphs a) through i), or from their derivatives, at any stage of production.

Silver jewelry made in the United States from silver mined in Mexico is wholly obtained or produced in the NAFTA territory because it is made exclusively of a mineral good extracted in Mexico.

Meets Annex 401 origin criterion

Article 401(b) indicates that goods can **originate** in Canada, Mexico, or the United States, even if they contain non-originating materials, as long as the materials satisfy the rules of origin specified in Annex 401 of the Agreement.

The Annex 401 rules of origin are commonly called **specific rules of origin**, and are based on a change in tariff classification, a regional value content requirement, or both. Since Annex 401 is organized by Harmonized Tariff Schedule (HTS) number, one has to know the HTS number of a good to find its specific rule of origin. Annex 401 gives the applicable rule of origin opposite the HTS number.

Tariff change

When a rule of origin is based on a change in tariff classification, each of the non-originating materials used in producing the goods must undergo the applicable change because of production occurring entirely in Canada, Mexico, or the United States. This means that the non-originating materials are classified under one tariff provision before processing, and classified under another once processing is complete. The specific rule of origin in Annex 401 defines exactly what change in tariff classification must occur for the goods to be considered **originating**.

Frozen pork meat (HTS 02.03) is imported into the United States from Hungary, and is combined with spices imported from the Caribbean (HTS 09.07-09.10) and cereals grown and produced in the U.S. to make fresh pork sausage (HTS 16.01). The Annex 401 rule of origin for HTS 16.01 states:

A change to heading 16.01 through 16.05 from any other chapter.

Since the imported frozen meat is classified in Chapter 2 and the spices are classified in Chapter 9, these non-originating materials meet the required tariff change. One does not consider whether the cereal meets the applicable tariff change, since it is originating only **non-originating** materials have to undergo the tariff change.

Regional value content

Some Annex 401 specific rules of origin say that a good has to have a minimum regional value content, which means that a certain percentage of the value of the goods must be from North America. Article 402 gives two formulas for calculating the regional value content. Usually, the exporter or producer can choose between these two formulas: the **transaction value method**, or the **net cost method**.

Having two methods gives producers more than one way to demonstrate that the rule of origin has been satisfied. The transaction value method is generally simpler to use, but a producer can choose whichever method is most advantageous.

The **transaction value method** calculates the value of the non-originating materials as a percentage of the GATT transaction value of the good, which is the total price paid for the good, with certain adjustments for packing and other items, and is loosely based on principles of the GATT Customs Valuation Code. The essence of this method is that the value of non-originating materials can be calculated as a percentage of the invoice price, which is usually the price actually paid for them. Because the transaction value method permits the producer to count all of its costs and profit as territorial, the required percentage of regional

value content under this method is higher than under the net cost method.

However, there are a number of situations where the exporter or producer cannot use the transaction value method, and the net cost method is the only alternative. The net cost method must be used when there is no transaction value, for some related-party transactions, for certain motor vehicles and parts, when a producer is accumulating regional value content (see page 14 for a discussion of accumulation), and when determining the regional value content for designated intermediate materials (see page 10). The producer can also revert to the net cost method if using the transaction value method is unfavourable.

The formula for calculating the regional value content using the transaction value method is:

$$RVC = \frac{TV - VNM}{TV} \times 100$$

where

RVC is the regional value content, expressed as a percentage;

TV is the transaction value of the good adjusted to a free-on-board (F.O.B.) basis; and

VNM is the value of non-originating materials used by the producer in the production of the good.

The **net cost method** calculates the regional value content as a percentage of the net cost to produce the good. Net cost represents the costs incurred by the producer minus expenses for sales promotion (including marketing and after-sales service), royalties, shipping and packing costs, and non-allowable interest costs. The percentage content required for the net cost method is lower that the percentage content required for the transaction value method, since certain costs are excluded from the net cost calculation.

The formula for calculating the regional value content using the net cost method is:

$$RVC = \frac{NC - VNM}{NC} \times 100$$

where

RVC is the regional value content, expressed as a percentage;

NC is the net cost of the good; and

VNM is the value of non-originating materials used by the producer in the production of the good.

An electric hair curling iron (HTS 8516.32) is made in Mexico from Japanese hair curler parts (HTS 8516.90). Each hair curling iron is sold for US$4.00; the value of the non-originating hair curler parts is US$1.80. The Annex 401 rule of origin for HTS 8516.32 states:

A change to subheading 8516.32 from subheading 8516.80 or any other heading; or

A change to subheading 8516.32 from subheading 8516.90, whether or not there is also a change from subheading 8516.80 or any other heading, provided there is a regional value content of not less than:

(a) 60%, where the transaction value method is used; or
(b) 50%, where the net cost method is used.

The first of these two rules is not met, since there is no heading change. Therefore, the producer must verify whether the curling irons can qualify under the second rule. In the second rule, since the required subheading change is met (from 8516.90 to 8516.32), one proceeds to calculate the regional value content. The regional value content under the transaction value method is:

$$\frac{4.00 - 1.80}{4.00} \times 100 = 55\%$$

The hair curler is not considered an originating good under this method, since the required regional value content is 60% when the transaction value is used. Instead, the producer uses the net cost method. The total cost of the hair curler is US$3.90, which includes US$0.25 for shipping and packing costs. There are

no costs for royalties, sales promotion, or non-allowable interest. The net cost is therefore US$3.65. The regional value content under the net cost method is:
(3.65 - 1.80) x 100 = 50.1%
3.65

The hair curler would be considered originating, since the required regional value content is 50% when the net cost method is used.

Produced in the NAFTA territory wholly of originating materials

Goods also originate if they are produced entirely in Canada, Mexico, or the United States exclusively from materials that are considered to be originating because they meet the specific rules of origin in Annex 401

Company A imports whole raw bovine skins (41.01) into Mexico from Argentina and processes them into finished leather (41.04). The finished leather is then purchased by Company B to make leather eyeglass cases (4202.31). The rule of origin for 41.04 states:

A change to heading 41.04 from any other heading, except from heading 41.05 through 41.11.

The finished leather originates in Mexico, because it meets the Annex 401 criterion. Assuming the eyeglass cases do not contain any non-originating materials, they originate since they are made wholly of a material that is originating (because it satisfied the Annex 401 criterion).

Unassembled goods and goods classified with their parts

In some cases, a good that has not undergone the required tariff change can still qualify for preferential NAFTA treatment if a regional value content requirement is met. This NAFTA provision can only be used under two very specific circumstances. However, it can never be used for wearing apparel provided for in Chapters 61 and 62, and textile articles of Chapter 63 of the Harmonized System. The two circumstances where the provision can be used are when goods do not undergo the tariff change required by Annex 401 because:

- the goods are imported into Canada, Mexico, or the United States in an unassembled or a disassembled form, but are classified as assembled goods pursuant to the General Rule of Interpretation 2(a) of the Harmonized System; or
- the goods are produced using materials imported into a NAFTA country that are provided for as parts according to the Harmonized System, and those parts are classified in the same subheading or undivided heading as the finished goods.

Other Instances to Confer Origin

The four main criteria set out in Chapter 2 of this publication are the basic conditions to confer origin. However, a good that does not meet these requirements may, in some cases, qualify as originating by using the additional options described below.

Intermediate materials

For the purpose of calculating the regional value content of final goods (using either the transaction value method or the net cost method), article 402(10) allows a producer to designate as an intermediate material any self-produced, originating material used in the production of the final goods. As long as the intermediate material qualifies as an originating material, its entire value can be treated as originating to determine the regional value content of the finished goods.

The purpose of the intermediate material designation is to treat vertically integrated manufacturers in as close to the same way as producers who purchase materials from independent suppliers are treated. If you produce your own materials from non-NAFTA inputs, the intermediate-materials provision may help your goods to originate. This provision covers all goods and materials except:

- automotive goods defined in article 403(1) and described in Annex 403.1; and
- components described in Annex 403.2, specifically engines and gearboxes.

An intermediate material is a self-produced material, designated by the producer, that meets the rules of origin of Annex 401 and that is incorporated into the final good. Article 415 defines a self-produced material as a material produced by the same party that produced the final goods, and which is used in the production of those final goods.

An intermediate material may be composed of originating and non-originating sub-materials. After determining that an intermediate material satisfies the applicable rule of origin under article 401, the total cost to produce that intermediate material is treated as an originating cost. In other words, the producer does not include the value of the non-originating materials used to produce the intermediate material as part of the value of non-originating materials in the final goods. The benefit of designating an intermediate material is that producers can treat self-produced materials close to the same way they treat an originating material purchased at arm's length for the purposes of determining the value of the non-originating materials of the final goods.

If the Annex 401 rule of origin for the material requires a minimum regional value content, the net cost method must be used to calculate that regional value content.

A producer can make any number of intermediate material designations, as long as no material subject to a regional value content requirement can be designated as an intermediate material, if it contains submaterials also subject to a regional value content requirement that were also designated as intermediate materials.

Company Z manufactures forklift trucks in Canada and makes some of the materials used in their production. As illustrated in the graphic on page 11, each geometric symbol represents a material used in the production of the forklift truck. The circles (i.e., outer races, balls, steel, gaskets, impellers, bearings, engine blocks, crank shafts) are materials acquired from sellers in non-NAFTA countries. The squares (i.e., rod-end bearings, casings, impeller assemblies, engines) are self-produced materials. They are considered horizontal materials in relation to each other. The impeller assemblies cannot be designated as intermediate materials because they do not meet the Annex 401 rule of origin ("a change to subheading 8413.91 from any other heading"). However, the rod-end bearings, casings, and engines could all be designated intermediate materials, as long as they satisfy the applicable Annex 401 rules of origin. (The casings undoubtedly meet the rule of origin, which provides for "a change to subheading 8412.90 from any other heading." The engines and rod-end bearings meet the required tariff change prescribed in the Annex 401 rules of origin, but would also have to meet a regional value content requirement to qualify as originating.) We assume that the regional value content is met throughout this example.

The rod-end bearings and casings are used in the production of the cylinders. Likewise, the impeller assemblies and engines are used in the production of the pumps that drive the hydraulic mechanisms of the forklifts. The cylinders and pumps (represented by triangles) are intermediate materials that are horizontal in relation to each other, and vertical in relation to the materials from which they were made. As long as there is no regional value content requirement for more than one intermediate material in the vertical stream, each new material can be designated as an intermediate material. The cylinder qualifies as originating under article 401(c) because it is made in Canada exclusively from originating materials. Here, however, both the engine and the pump are subject to regional value content requirements. Thus, Company Z can choose to designate the engine or the pump as an intermediate material, but not both. Therefore, Company Z must choose which is most advantageous: to designate the engines as an intermediate material, or to designate the pump. The forklift truck will then qualify as an originating good.

When a single producer designates intermediate materials that qualify as originating solely based on a tariff change (i.e., without having to satisfy a regional value content requirement), subsequent designations can be made with previously designated intermediate materials. Therefore, in the example above, if the engine had not been subject to a regional value content requirement, both it and the pump could have been designated as intermediate materials.

There are two ways to determine the value of an intermediate material:

- the total cost incurred with respect to all goods produced that can be reasonably allocated to that intermediate material; or
- the aggregate of each cost that forms part of the total cost incurred with respect to that intermediate material that can be reasonably allocated to that intermediate material.

The two methods allow producers to select the one that best fits their production and accounting practices. The value of the intermediate material should be about the same using either method. **However, the net cost method must be used for intermediate materials subject to a regional value content requirement.** Article 402(8) of the Agreement lists those costs that cannot be included when calculating the regional value content of the intermediate material using the net cost method:

- sales promotion, including marketing and after-sales service costs;
- royalties;
- shipping and packing costs; and
- non-allowable interest costs.

Although these costs are excluded in the net cost calculation, they do form part of the total cost of the material. Accordingly, costs such as royalties are excluded when calculating the net cost for purposes of

determining whether the material satisfies a regional value content requirement (and thus originates and can be designated an intermediate material), but are included in the total value of the material once its origin has been determined. As noted above, the total value of an intermediate material can be counted as an originating cost.

Accumulation

When producers determine the regional value content of goods, the entire value of the materials used in the production of the goods that they acquire from suppliers is considered as wholly originating or wholly non-originating, as appropriate. The accumulation provision allows the producer or exporter of goods to choose to include as part of the goods' regional value content any regional value added by suppliers of non-originating materials used to produce the final goods. Thus, accumulation allows the producer to reduce the value of the non-originating materials used in the production of the good, by taking into account the NAFTA inputs incorporated into those materials.

Therefore, when producers find they are unable to satisfy a regional value content requirement based on (i) their own processing costs and (ii) the value of originating materials they use to produce a good, accumulation allows them to include (iii) any regional value added in the NAFTA territory by other persons who produced non-originating materials that were later incorporated into the final good.

The conditions for using accumulation are:

- producers/exporters who choose to use accumulation must use the net cost method to calculate any regional value content;
- producers/exporters of goods must obtain information on the regional value content of non-originating materials used to make their goods from the producers (suppliers) of those materials-it will not be obtained by government authorities;
- all non-originating materials used in the production of the goods must undergo the tariff classification change set out in Annex 401 of the Agreement, and the goods must satisfy any applicable regional value content requirement, entirely in the territory of one or more of the NAFTA countries; and
- the goods must satisfy all other applicable requirements of the rules of origin.

Company A imports unfinished bearing rings (HTS 8482.99) into Canada from Japan and further processes them into finished rings (HTS 8482.99.11 in Canada). Since the finished bearing rings contain non-originating materials, they must satisfy the Annex 401 origin criterion to be considered originating. The Annex 401 origin criterion for HTS 8482.99 is:

A change to subheading 8482.91 through 8482.99 from any other heading.

Since the unfinished bearing rings are classified in the same tariff subheading as the finished rings, there is no change in headings. Accordingly, the finished bearing rings cannot be considered originating, even though they contain some regional value content by virtue of the labour and other costs associated with the finishing operations.

Company A's per-unit cost is:
$0.75 Non-originating materials
$0.15 Originating materials
$0.35 Labour
$0.05 Overhead
$1.30 Total cost

Subsequently, Company A sells the finished rings (HTS 8482.99.11 in Canada) for $1.45 to Company B in the United States, who incorporates the rings into ball bearings (HTS 8482.10). Company B exports the bearings to Mexico and wants to claim NAFTA preferential treatment. The rules of origin for HTS 8482.10 are:

A change to subheading 8482.10 through 8482.80 from any subheading outside that group, except from Canadian tariff item 8482.99.11 or 8482.99.91, U.S. tariff item 8482.99.05, 8482.99.15 or 8482.99.25 or Mexican tariff item 8482.99.01 or 8482.99.03; or

A change to subheading 8482.10 through 8482.80 from Canadian tariff item 8482.99.11 or 8482.99.91, U.S. tariff item 8482.99.05, 8482.99.15 or 8482.99.25 or Mexican tariff item 8482.99.01 or 8482.99.03, whether or not there is also a change from any subheading outside that group, provided there is a regional value content of not less than:

(a) 60%, where the transaction value method is used; or
(b) 50%, where the net cost method is used.

The bearings do not meet the tariff change described in the first rule. They do, however, meet the tariff change described in the second rule and, as long as they satisfy one of the two regional value content requirements, can be considered originating. Since Company B knows it is short in meeting the regional value content under either method, it decides to accumulate its regional value content with that of Company A. Assuming Company A sold the rings to Company B for $1.45 per unit, and A is willing to disclose to B the regional value content in the finished rings that it sold to B, the following demonstrates accumulation:

Without accumulation
$1.45 Non-originating ring (A)
$0.45 Originating material (B)
$0.75 Labour (B)
$0.05 Overhead (B)
$2.70 Total

With accumulation
$0.75 Non-regional value content of ring (A)
$0.55 Regional value content of ring (A)
$0.45 Originating material (B)
$0.75 Labour (B)
$0.05 Overhead (B)
$2.55 Total

The $0.75 represents the value of the non-originating materials, which in this case are the unfinished bearing rings imported into the United States from Japan.

The regional value content, using the net cost method, is:

$$RVC = \frac{NC - VNM}{NC} \times 100$$

RVC = regional value content

NC = net cost

VNM = value of non-originating materials

Accordingly, the regional value content calculation, with and without accumulation, is:

Without accumulation

$$\frac{\$2.70 - \$1.45}{\$2.70} \times 100 = 46\%$$

With accumulation

$$\frac{\$2.55 - \$0.75}{\$2.55} \times 100 = 71\%$$

Therefore, accumulation allows Company B to qualify the bearings as originating by aggregating the regional value content of both Company A and Company B.

De minimis

Although requiring a change in tariff classification is a very simple principle, it requires that all non-originating materials undergo the required change. A very low percentage of materials cannot undergo the tariff change, thus preventing the goods from originating. Therefore, the Agreement contains a *de minimis* provision that allows goods to qualify as originating, as long as such materials are not more than a certain percentage (7% in most cases) of the transaction value of the goods adjusted to a free-on-board (F.O.B.) basis or, in some cases, of the total cost of the goods.

However, if the goods must meet a regional value content requirement to qualify as originating, the value of such non-originating materials must be taken into account in calculating the regional value content.

Where the rule of origin contains a requirement for a minimum regional value content, the calculation of that content is waived if the value of all non-originating materials used in the production of the goods is not more than the specified de *minimis* amount.

A manufacturer purchases inexpensive textile watch straps made in Taiwan (HTS 91.13), to be assembled with originating mechanical watch movements (HTS 91.08) and originating cases (HTS 91.12). The value of the straps is less than 7% of the transaction value of the final watch (HTS 91.02) adjusted to a F.O.B. basis. The Annex 401 origin criterion for 91.02 is:

A change to heading 91.01 through 91.07 from any other chapter; or

A change to heading 91.01 through 91.07 from 91.14, whether or not there is also a change from any other chapter, provided there is a regional value content of not less than:
(a) 60%, where the transaction value method is used; or
(b) 50%, where the net cost method is used.

Only non-originating materials need to undergo the required tariff classification change: in this case, the textile straps. The straps do not satisfy either of the indicated tariff changes, but since their value is less than 7% of the transaction value of the finished watch adjusted to an F.O.B. basis, the de *minimis* rule applies and the watches can be considered originating.

Textiles

For textile goods classified in Chapters 50 through 63 of the Harmonized System, the *de minimis* rule is applied by weight (instead of value) to the component of the good that determines its tariff classification, as determined according to the General Rules of Interpretation of the Harmonized System.

A Mexican manufacturer produces women's shirts which have knit bodies and woven sleeves. The composition of the knit bodies is 60% cotton, 35% wool, and 5% rayon, by weight. The sleeves are made of Japanese fabric that is 100% polyester. Since the knit bodies give the garments their essential character, the shirts are classified under HTS 6106.10. The Annex 401 rule of origin criterion for 6106.10 is **yarn forward** (see Chapter 5 of this publication). Assuming the cotton and wool portions of the bodies meet the yarn-forward rule, the garment can still be considered originating even if the rayon yarn was from China, since it falls under the *de minimis* provision. The sleeves are ignored in determining whether the shirts originate, because **only the component that determines the tariff classification** of the goods is considered when applying the *de minimis* provision.

Agricultural products

The article 405 *de minimis* rule does not apply to agricultural goods provided for in Chapters 1 through 27

of the Harmonized System, unless the non-originating materials are classified in subheadings different from the subheadings in which the finished goods are classified.

Ground coffee, sold in retail packages, is produced in Mexico (HTS 0901.21). Most of the beans are grown and roasted in Mexico but, to give the coffee a unique flavor, the producer adds some roasted beans from Kenya (HTS 0090.21). The value of the beans from Kenya is 5% of the transaction value, adjusted to an F.O.B. basis, of each retail package. The Annex 401 origin criterion for HTS 09.01 is:

A change to heading 09.01 through 09.10 from any other chapter.

The coffee cannot be considered originating because the Kenya beans do not undergo the required tariff change. The *de minimis* rule does not apply because the Kenyan beans are classified in the same subheading as the final good.

Note: If green (unroasted) coffee were imported from Kenya and roasted in Mexico, the *de minimis* rule would apply, because green coffee beans are classified in HTS 0901.11, a different subheading. Thus, the ground coffee in retail packages could be considered originating.

Cigars, cheroots, cigarillos, and cigarettes

The *de minimis* amount for these products is 9%, not 7%, of the transaction value adjusted to an F.O.B. basis.

Excluded products

The article 405 *de minimis* rule does not apply to the following materials:

- certain dairy products and preparations that are used in the production of goods provided for in Chapter 4 of the HTS;
- goods provided for in Chapter 4 of the HTS and some dairy preparations that are used in the production of certain goods containing milk, milk solids, or butterfat;
- some fruits and juices used in the production of certain juices and juice concentrates;
- coffee beans used in the production of unflavoured instant coffee (note: the Annex 401 origin criterion for unflavoured, instant coffee allows up to 60% non-originating coffee, so substantial allowance is already made for non-originating inputs);
- fats, lards, oils, and related products provided for in Chapter 15 of the HTS that are used in the production of Chapter 15 goods (except olive, palm, and coconut oils, where the *de minimis* rule does apply);
- cane and beet sugar used in the production of sugars, syrups, and other products provided for in HTS headings 1701-1703;
- sugar, molasses, sugar confectionery, and other goods provided for in Chapter 17 of the HTS, and cocoa powder provided for in HTS 18.05, that are used in the production of chocolate and other food preparations containing cocoa;
- beer, wine, and other fermented beverages provided for in HTS headings 22.03-22.08 used in the production of alcoholic beverages and related products provided for in HTS headings 22.07 and 22.08;
- any non-originating material used in the production of many major appliances such as refrigerators, freezers, air conditioners, stoves, ranges, trash compactors, clothes-dryers, and washing machines; and
- printed circuit assemblies used in the production of a good, if the change in tariff classification

prescribed by Annex 401 for that good places restrictions on their use.

Fungible goods and materials

According to article 415 of NAFTA, fungible goods are goods that are interchangeable for commercial purposes, and have essentially identical properties. When a producer mixes originating and non-originating fungible goods, so that physical identification of originating goods is impossible, the producer may determine origin of those goods based on any of the standard inventory accounting methods (e.g., FIFO, LIFO) specified in the Uniform Regulations. These provisions apply equally to fungible materials that are used in the production of a good.

Company Y of Mexico supplies clips to airplane manufacturers throughout North America. Some of the clips Y supplies originate in Mexico, and others are made in China. All of the clips are of identical construction and are intermingled at Y's warehouse so that they are indistinguishable. On January 1, Company Y buys 3,000 clips of Mexican origin; on January 3, it buys 1,000 clips of Chinese origin. If Company Y elects FIFO inventory procedures, the first 3,000 clips it uses to fill an order are considered Mexican, regardless of their actual origin.

Other Provisions Relating to Origin

Accessories, spare parts, and tools

Accessories, spare parts, and tools that are delivered with the goods and that form part of the goods' standard accessories, spare parts, or tools, are considered originating if the goods originate, and are disregarded in determining whether all the non-originating materials undergo any Annex 401 tariff change. This provision applies as long as the accessories, spare parts, and tools are invoiced with the goods and the quantities and value are customary for the goods. However, if the goods are subject to a regional value content requirement, the value of the accessories, spare parts, and tools will be taken into account as originating or non-originating materials, whatever the case may be, in calculating the regional value content of the goods.

A pump originating in Canada is sold with rubber suction and discharge hoses made in Taiwan. The hoses from Taiwan are invoiced and packed with the pump, and are customarily sold with pumps of this kind. Since the pump originates, the rubber hoses are considered originating for the purposes of satisfying the required change in tariff classification. Their value, however, has to be counted as non-originating materials in any regional value content calculation.

Packaging for retail sale

In NAFTA, packaging and packing are used in different contexts. Packaging is used when referring to retail sale, while packing is for shipping purposes. Packaging materials and containers in which goods are packaged for retail sale, if classified with the goods, are disregarded when determining whether all the non-originating materials used in the production of the goods undergo the applicable change in tariff classification set out in Annex 401. However, if the goods are subject to a regional value content requirement, the value of the retail packaging materials and containers is taken into account as originating or non-originating materials, whatever the case may be, when calculating the regional value content of the goods.

Leather footwear (HTS 64.03) is made in Mexico. The shoes are wrapped in tissue paper and packed in cardboard boxes described with the brand logo for retail sale; both the tissue paper and the cardboard

box are of Brazilian origin. The Annex 401 origin criterion for 64.03 is:

A change to heading 64.01 through 64.05 from any heading outside that group, except from subheading 6406.10, provided there is a regional value content of not less than 55% under the net cost method.

Although the tissue paper and cardboard box are disregarded for the purposes of the tariff change, their value must be counted as non-originating when calculating the regional value content.

Packing for shipment

Packing materials and containers in which goods are packed for shipment are disregarded when determining whether the non-originating materials used in the production of the goods undergo an applicable change in tariff classification set out in Annex 401. They are also disregarded when determining whether the goods satisfy a regional value content requirement.

Company X makes chairs (HS 9401.69) in Mexico from Swedish furniture parts (HS 9401.90). Company Y of Canada buys chairs from Company X for C$10.90 - this price includes C$0.90 for Guatemalan crates used to hold each chair during international transit. The Annex 401 criterion for HTS 9401.69 is:

A change to subheading 9401.10 through 9401.80 from any other chapter; or

A change to subheading 9401.10 through 9401.80 from subheading 9401.90, whether or not there is also a change from any other chapter, provided there is a regional value content of not less than:

(a) 60%, where the transaction value method is used; or
(b) 50%, where the net cost method is used.

The value of the Swedish parts is C$4.10. Under the transaction value method, the regional value content is:

$$\frac{10.00 - 4.10}{10.00} \times 100 = 59\%$$

The chair does not originate because it does not meet the minimum regional value content of 60%. Note that the packing and shipping costs ($0.90) were deducted from the transaction value before calculating the regional value content.

Transshipment

Goods that qualify as originating will lose that status if they later undergo any operation outside the NAFTA region, other than unloading, reloading, or any other operation necessary to preserve them in good condition or to transport the goods to Canada, Mexico, or the United States.

Surgical instruments made in the United States (wholly of originating materials) and cotton gowns and bandages made in Mexico (from fibres and fabric wholly grown and produced in Mexico) are sent to the Dominican Republic, where they are packaged together and then sterilized for use in operating rooms. On their return to the United States, the medical sets are not eligible for preferential treatment under the NAFTA, because they underwent operations in the Dominican Republic that were not necessary to preserve the goods in good condition, or to transport them to the United States.

Operations that do not confer origin

Article 412 provides that goods will not be considered to originate if they are merely diluted with water or

another substance that does not materially alter the characteristics of the goods. Thus, mere dilution-even if it results in a change in tariff classification-is not sufficient to confer origin. However, dilution coupled with another process may be sufficient to materially alter the characteristic of the goods and thereby confer origin.

Article 412 also indicates that goods will not be considered to originate if most of the evidence establishes that any production or pricing practice has been used to circumvent the intent of the Chapter 4 origin rules. The rules of origin are designed to ensure that the processing and costs incurred for the products are commercially significant and appropriate to the goods, as defined by the tariff change rules and, when applicable, the value content rules.

Provisions for Specific Sectors

Textiles

Rules of origin

NAFTA provisions on trade in textiles and apparel are particularly detailed. The Annex 401 origin criteria aim to ensure that most of the production relating to textiles and apparel occurs in North America.

The basic origin rule for textile and apparel articles is **yarn forward**. This means that the yarn used to form the fabric (which may later be used to produce wearing apparel or other textile articles) must originate in a NAFTA country. Thus, a wool shirt made in Canada from fabric woven in Canada of wool yarn produced in Argentina is not considered originating, since the yarn does not originate within a NAFTA country. If, however, Argentine wool fibre was imported into Canada and spun into wool yarn, and was then used to produce the wool fabric, the shirt is considered originating.

Less demanding rules of origin govern certain knitted underwear, brassieres, and shirts made from fabric in short supply in North America, and textile and apparel articles made from fabric not commonly produced in North America. For example, silk and linen apparel articles follow a single-transformation instead of a yarn-forward rule. Thus, silk blouses are considered originating even if they are made from non-originating fabric, as long as the fabric is cut and sewn in one or more NAFTA countries. These exceptions give producers flexibility to import materials not widely produced in North America.

On the other hand, stricter rules of origin exist for certain textile and apparel articles made of fibres that are produced in abundance in Canada, Mexico, and the United States. For example, cotton yarn and cotton-knitted fabrics follow a **fibre-forward** rule for goods traded between the three countries, while man-made fibre sweaters follow a fibre-forward rule for trade between the United States and Mexico.

Tariff preference levels (TPLs).

To allow flexibility, textile and apparel exports will have access to tariff preference levels (TPLs). This means that specified quantities of certain fibres, yarns, and fabrics that do not meet the article 401 origin criteria, but which are subject to significant processing in one or more NAFTA countries, can still be eligible for preferential NAFTA rates. Amounts of these goods exceeding the tariff preference level will be subject to most-favoured-nation (MFN) rates of duty. Apparel goods made from non-originating fabric that is cut and sewn in North America may be eligible for TPLs.

Tariff elimination

The United States and Canada will continue to apply the rates of duty negotiated in the Canada-United States Free Trade Agreement for trade between them.

With respect to trade between Mexico and Canada, tariffs for most textile articles will be phased out over a period of eight years; for apparel, the adjustment period is 10 years.

With respect to trade between Mexico and the United States, tariffs for many textile and apparel articles will be completely eliminated when the Agreement enters into force (tariff staging category A). Others will be eliminated over a six-year period, and all tariffs on textile and apparel articles will be eliminated within 10 years. Moreover, Appendix 2.1 to Annex 300-B provides that duties for articles in the B6 (six-year) and C (10-year) tariff phase-out categories will at no time exceed 20% ad valorem. Although this maximum rate of 20% applies until the stipulated rate reductions result in an ad valorem rate (i.e., 20% or less), it does not serve as the basis for later rate reductions.

The U.S. tariff on Mexican babies' sweaters of synthetic fibres (HTS 6111.30.40) is scheduled for a B6 (six-year) phase-out. Applying Appendix 2.1, the phase-out will proceed as follows:

	Base Rate	Reduced Rate	Effective Rate
1994	34.6%	22.6%	20.0%
1995	22.6	18.0	18.0
1996	18.0	13.5	13.5
1997	13.5	9.0	9.0
1998	9.0	4.5	4.5
1999	4.5	0.0	0.0

Note that the calculated reduced rate column shows the rate that would apply for a six-year phase-out under the B6 staging schedule. However, since the phase-out rate cannot exceed 20%, the effective rate in 1994 is different, as shown in the effective rate column. Also, the effective rate for 1994 (20%) does not serve as the base rate for the later tariff reductions. The calculated reduced rate for 1994 becomes the base rate for calculating later reductions.

Quantitative restraints (quotas)

When the Agreement enters into force, all prohibitions, restrictions, and consultation levels on imports and exports will be eliminated for originating textile and apparel articles. Thus, all import quotas for originating textile articles will be eliminated immediately. The United States will maintain import quotas for non-originating goods from Mexico in 14 categories; 10 of them will be eliminated on the first day of the eighth phase-out year, and the last four categories on the first day of the tenth year.

Special regime (U.S. HTS 9802.00.8010)

The special regime provides bilateral access to the U.S. market for certain apparel articles assembled in Mexico of fabric formed and cut in the United States. This agreement is embodied in the U.S. tariff under HTS 9802.00.8010. Similar liberal access is also given to articles which are assembled in Mexico from fabric formed and cut in the United States, and then acid-washed, bleached, dyed, or permapressed. Under NAFTA, the United States will eliminate immediately all duties and quotas applied to both of these categories of goods. This new provision will be described by a new number in the U.S. tariff schedule.

De minimis

For textile goods classified in Chapters 50 through 63 of the Harmonized System, the *de minimis* amount is 7% by weight (instead of value) of the component of the good that determines its tariff classification.

Automotive products

Rules of origin

The NAFTA rules of origin for automotive products are based on either a tariff change alone, or a tariff change and a regional value content requirement. The Agreement requires that the regional value content for these products be calculated using the net cost method. The regional value content requirement for autos and light vehicles, and their engines and transmissions, will be 50% under the net cost method when the Agreement enters into force; this percentage will be increased to 62.5% over an eight-year transition period. The regional value content requirement for other vehicles (e.g., tractors, vehicles for the transport of 16 or more persons, trucks), and their engines and transmissions, as well as other auto parts, will be 50% under the net cost method; this percentage will be increased to 60% over an eight-year transition period. The ultimate regional value content requirements will be phased in as follows:

	Autos and light vehicles, their engines and transmissions, and auto parts for all types of vehicles	**Other vehicles, their engines and transmissions**
Jan. 1, 1994	50%	50%
Jan. 1, 1998	56%	55%
Jan. 1, 2002	62.5%	60%

Tracing

Tracing ensures greater accuracy in calculating the regional value content by tracking the value of major automotive components and subassemblies imported into the NAFTA region, so that the non-originating value of these components and subassemblies is reflected in the regional value content calculation of the motor vehicle or in auto parts destined for original equipment use. This significantly limits the phenomenon known as **roll-up** and **roll-down**, whereby the full value of goods is counted as originating or non-originating content, even though they may contain a mix of originating and non-originating materials. For those components subject to tracing, any non-originating (non-NAFTA) value will remain non-originating through all stages of assembly to the time of calculation of the regional value content of the motor vehicle (or auto part destined for original equipment use). A list of articles that must be traced for passenger vehicles and light vehicles is contained in Annex 403.1; the list of parts to be traced for other vehicles is in Annex 403.2. The value of traceable automotive components is determined at the time the non-originating components are received by the first person in Canada, Mexico, or the United States who takes title to them, after importation from outside the NAFTA region. The value of the components will be determined according to standard valuation norms, and will generally be the transaction value. Certain costs must be added to the transaction value if not included in it (e.g., packing, selling commissions).

Election to average

Producers of automotive goods can elect to average their costs when calculating the regional value content. Motor-vehicle producers can average the calculation over their fiscal year, either by all motor vehicles or only those motor vehicles in a category that are exported to another NAFTA party. The four categories are:

- the same model line of motor vehicles in the same class of vehicles produced in the same plant;
- the same class of motor vehicles produced in the same plant;
- the same model line of motor vehicles produced;
- special averaging rules for CAMI Automotive, Inc.

Producers of components that must be traced can also average their costs. Producers can average their calculation:

- over the fiscal year of the motor-vehicle producer to whom the good is sold;
- over any quarter or month; or
- over its fiscal year, if the good is sold as an after-market part.

Producers can elect to calculate the average separately for any or all goods sold to one or more motor-vehicle producers, or to calculate separately those goods that are exported to Canada, Mexico, or the United States.

Other provisions

The provisions on accumulation, fungible goods, and intermediate materials can be used to integrate and rationalize production processes throughout Canada, Mexico, and the United States. Components that are subject to tracing for autos and light vehicles can be designated as intermediate materials. Producers cannot, however, designate as an intermediate material any traceable component for motor vehicles other than autos and light vehicles.

Liberalization of the Mexican market

NAFTA will significantly liberalize access to the Mexican market in automotive products, including:

- the immediate reduction by 50% of tariffs on passenger automobiles, with remaining tariffs phased out in equal stages over 10 years;
- the immediate reduction by 50% of tariffs on light trucks, with remaining tariffs phased out in equal stages over five years;
- tariffs on all other vehicles phased out in equal steps over 10 years;
- the immediate elimination of tariffs on certain auto parts, with duties on most other parts phased out over five years;
- restrictions on the import of used cars into Mexico phased out between 2009 and 2019.

Electronic products

Rules of origin

The rules of origin for a significant number of electronic products (e.g., computers, telecommunications equipment, televisions, machine tools, semiconductors) are based strictly on a tariff change. This tariff change is structured to require that key subassemblies of the product be produced in North America. Where necessary, the tariff schedules of Canada, Mexico, and the United States will be modified to accommodate these rules of origin.

> Television receivers with a picture tube of more than 14 inches in diameter can be considered originating only if the picture tube is produced or assembled in North America.

Other electronic products may originate in one of two ways: by satisfying a tariff change, or by meeting a less substantial tariff change **and** a regional value content requirement. The first tariff change is generally stricter (requiring the non-originating materials to be classified in another chapter) and therefore has no regional value content requirement. The alternative tariff change frequently involves a transformation of parts into a finished good. Since this alternate tariff change reflects a lesser degree of processing, the

regional value content requirement ensures significant North American content.

Harmonization of MFN rates

In one of the most unique features of NAFTA, the three countries will harmonize, in a series of staged reductions, their respective most-favoured-nation tariff rates on computers and computer peripherals. Once the duty rates for these articles are harmonized, duties on goods will be payable only once on entering the NAFTA territory. Once within the NAFTA territory, these articles are considered originating and can move among Canada, Mexico, and the United States without duty payment.

In addition, on the first day NAFTA enters into force, the three countries will change their most-favoured-nation tariff rates to free on virtually all semiconductors, all computer parts, and all local-area-network apparatus.

Agricultural products

Market access

The provisions for agricultural goods were negotiated bilaterally. As a result, there are different provisions for trade between Mexico and the United States than for trade between Canada and Mexico. For trade between the United States and Canada, NAFTA incorporates the provisions of the Canada-United States Free Trade Agreement.

Annex 703.2, Section A, of the Agreement applies to trade between the United States and Mexico. Mexico will replace import-licensing requirements on U.S. agricultural products with either a tariff-rate quota or an ordinary tariff, that will be phased out over a 10-year period, with the exception of corn, dry beans, and milk powder, which will be phased out over a 15-year period. Import quotas imposed under section 22 of the U.S. *Agricultural Adjustment Act* as amended (7 U.S.C. 624) will be replaced with tariff-rate quotas for Mexico, which will also be phased out over a 10-year period, with the exception of peanuts, which will be phased out over a 15-year period. Section 22 import quotas will remain in place for all imports from countries other than Mexico, including those from Canada. Quantities within the quota amounts will be subject to duty-free treatment, while quantities in excess of the tariff-rate quota will be subject to an over-quota tariff.

Mexico and the United States will gradually liberalize bilateral trade in sugar. Both countries will apply tariff-rate quotas of equivalent effect on third-country sugar by the sixth year after the Agreement enters into force. All restrictions on trade in sugar between the two countries will be eliminated by the end of the 15-year transition period. Details on the special provisions relating to market access for sugar during the transition period are provided in Annex 703.2, Sections A and B.

Section B of Annex 703.2 relates to trade between Canada and Mexico. Both countries will eliminate all tariff and non-tariff barriers on their agricultural trade, with the exception of those in the dairy, poultry, egg, sugar, and syrup sectors. Canada will immediately exempt Mexico from import restrictions covering wheat, barley, and their products, beef and veal, and margarine. Canada and Mexico will eliminate immediately, or phase out within five years, tariffs on many fruit and vegetable products, while tariffs on remaining fruit and vegetable products will be phased out over 10 years.

Safeguard provisions

Safeguard provisions were included in NAFTA to protect against import surges of certain sensitive goods while their tariffs are being phased out. A NAFTA country can invoke this safeguard mechanism in the form of a tariff-rate quota for agricultural goods specified in Annex 703.3 of the Agreement. This means that a designated quantity of imports will be allowed to enter at the NAFTA preferential tariff rate. Once the trigger level is met, the importing country can apply an over-quota rate which will be the lesser of the most-favoured-nation (MFN) rate in effect as of July 1, 1991, or the prevailing MFN rate. Tariffs on the

in-quota volume will be phased out over a 10-year period. However, there will be no phase-out period for the over-quota tariff until the tenth year of the Agreement, at which time the in-quota and the over-quota tariffs will be eliminated. These safeguard provisions apply bilaterally for trade between Canada and Mexico, and for trade between the United States and Mexico.

For trade between the United States and Canada, the **snap-back** provision under the Canada-United States Free Trade Agreement will remain in effect for those products designated under that Agreement. Snap-back is a mechanism that allows the United States or Canada to apply a temporary duty on certain fresh fruits and vegetables originating in the other country and imported into its territory when import prices fall below a certain percentage of the average monthly import price, and planted acreage of the agricultural product is within certain limits.

Agricultural marketing standards

NAFTA provides that, when either Mexico or the United States applies a measure regarding the classification, grading, or marketing of a domestic agricultural good, it will provide no less favourable treatment to like products imported from the other country for processing.

Certificate of Origin

Canada, Mexico, and the United States agreed to establish a uniform *Certificate of Origin* to certify that goods imported into their territories qualify for the preferential tariff treatment accorded by NAFTA. Only importers who possess a valid *Certificate of Origin* can claim preferential tariff treatment.

Language

A uniform *Certificate of Origin* will be used in all three countries, and will be printed in English, French, or Spanish. The certificate will be completed in the language of the country of export or the language of the importing country, at the exporter's discretion. Importers will submit a translation of the certificate to their own customs administration when requested.

Scope

A *Certificate of Origin* can cover a single importation of goods or multiple importations of identical goods. Certificates that cover multiple shipments are called blanket certificates, and can apply to goods imported within any 12-month period specified on the certificate. Although a *Certificate of Origin* can only cover goods imported over a 12-month period, it remains valid for NAFTA preference claims made up to four years from the date on which it was signed.

> A machine made in Canada qualifies for NAFTA tariff treatment and is exported with a *Certificate of Origin* signed on January 1, 1995. The U.S. importer does not enter the machine for consumption, but instead places it in a customs bonded warehouse. He overlooks the *Certificate of Origin* and fails to claim NAFTA treatment for the machine on entry into the warehouse. If the U.S. importer withdraws the machine from the warehouse for consumption on January 17, 1999, he will be barred from claiming NAFTA treatment on withdrawal, because the certificate is over four years old and is no longer valid.

Completing the certificate

The *Certificate of Origin* must be completed and signed by the exporter of the goods. When the exporter is not the producer, the exporter can complete the certificate on the basis of:

- knowledge that the good originates;

- reasonable reliance on the producer's written representation that the good originates; or
- a completed and signed *Certificate of Origin* for the good voluntarily provided to the exporter by the producer.

Importers' obligations

Importers claiming NAFTA preferential tariff treatment will make a declaration, based on a valid *Certificate of Origin* in their possession, on the import documentation. When no claim for preferential tariff treatment is made at the time of importation, importers can request preferential tariff treatment no later than one year after the date on which the good was imported, as long as a *Certificate of Origin* for the goods is obtained.

Importers must provide the certificate to the importing country's customs administration on request, and must submit a corrected declaration and pay the corresponding duties whenever there is reason to believe that the Certificate contained inaccurate information.

The customs administration of the importing country may deny preferential tariff treatment to the goods if the importer fails to comply with any of the customs procedures set out in Chapter 5 of NAFTA.

Importers must maintain records pertaining to the importation for five years, or any longer period that may be specified by their country.

Exporters' obligations

Exporters or producers that prepare *Certificate of Origin* will provide copies to their own customs administration on request.

Exporters or producers that provide a *Certificate of Origin* must maintain records pertaining to the exportation for five years, or any longer period that may be specified by their country.

Exporters or producers that complete a *Certificate of Origin* will notify all parties to whom the certificate was given of any change that could affect its accuracy or validity.

Entry Procedures

A claim for preferential NAFTA treatment is usually made on the customs documents used when the goods enter Canada, Mexico, or the United States. Procedures will vary because the forms and practices of each country are different.

Claims

A claim for preferential NAFTA treatment is usually made on the customs documents used when the goods enter Canada, Mexico, or the United States. Procedures will vary because the forms and practices of each country are different.

Procedures in Canada

To claim preferential tariff treatment under NAFTA, importers will make the written declaration of origin by completing field number 14 of the Revenue Canada Customs B3 accounting document, with the appropriate code for the tariff treatment claimed. Importers must have the *Certificate of Origin* in their possession at the time of declaration, but they do not have to present the certificate at that time. However, it must be available on request to present to Revenue Canada Customs.

Low-value commercial importations

To claim NAFTA preferential tariff treatment on commercial importations valued at less than US$1,000 (C$1,600), importers must have certification of origin in the form of a statement, either included in the invoice or attached to the invoice. The formal *Certificate of Origin* is not required, as long as the importation is not part of a series of importations arranged to circumvent the formal certification requirements.

Declaration of origin after importation

Importers can apply for a refund of duties when the imported goods would have qualified for preferential treatment at the time of entry, but no claim was made because the importer did not have a *Certificate of Origin* at that time.

Any person who paid the duties on the goods can apply for the refund no later than one year after the time the goods were originally accounted for. The application for refund will be:

- made using a Revenue Canada Customs Form B2, under legislative authority 74 (1) (c.1) of the *Customs Act*;
- supported by a valid and complete *Certificate of Origin*; and
- made at the customs office in the region where the goods were released or, where goods were imported by mail, at any Customs regional office in Canada.

Corrections to declaration of origin

Importers or owners of goods for which preferential tariff treatment under NAFTA was claimed, or any person authorized to account for those goods, will make a correction to the declaration of origin and pay any duties that may be owing on the amount. The correction must be made:

- no later than 90 days after the person has reason to believe that the original declaration is incorrect; and
- on a properly completed Revenue Canada Customs Form B2, under legislative authority 32.2(1) of the *Customs Act*.

Procedures in Mexico

Importers will use a customs broker (a private-sector provider of services) of choice to obtain release of the merchandise. The customs agent will provide to importers all necessary information relating to applicable duties and non-tariff regulations. The customs entry will be accompanied by:

- the commercial invoice, when the customs value of the merchandise is determined in accordance with transaction value and exceeds US$300, or the equivalent in another foreign currency (the invoice will be prepared in Spanish - in cases where it is not, a translation may be prepared on the reverse or in the body of the invoice);
- the bill of lading or airway bill of lading, endorsed by the transport company;
- documents evidencing compliance with requirements relating to restrictions and non-tariff regulations that apply to the importation;
- proof of the country of origin, and country of export, as appropriate; and
- the document demonstrating guarantee for the payment of additional amounts that may arise if the declared value is less than the estimated price established by the Secretary of the Treasury and Public Credit for the merchandise which has been undervalued.

Commercial invoices are not required for imports and exports made by foreign embassies and consulates or by their officials and employees, relating to electric energy, crude petroleum, natural gas, and their

derivatives when made by pipeline, or for personal effects. The importer will present a declaration in writing and under oath for the customs officials, with those elements that permit determination of the customs value of the merchandise. A copy of this declaration will be given to the customs broker or attorney to use in determining the customs value on the entry.

The customs agent prepares the import entry using information provided by the importer and pays monies owed to the private bank located within customs. The customs broker then presents the merchandise, accompanied by the previously paid customs entry, to the mechanism for random selection for examination.

The customs official activates the mechanism for random selection, which determines whether or not the shipment will be examined. If the shipment is designated for review, the examination will be made within a period not to exceed three hours. This period may be longer when discrepancies are discovered. If the shipment is not designated for review, it will be released immediately so it can proceed to its destination.

Importers will retain documentation that proves the legal importation of the merchandise, in case the fiscal authorities require clarification after customs clearance.

Procedures in the United States

Existing entry procedures will continue to be used under NAFTA. As with other trade preference programs, importers must claim NAFTA benefits to receive preferential duty treatment. In the United States, a claim is made by inserting "MX" or "CA," as appropriate, as a prefix to the tariff classification number on U.S. Customs Form 7501. The Importer of Record's signature on the CF 7501, in conjunction with this prefix, constitute the importer's written declaration that the good is entitled to benefits.

Pursuant to article 503 of the Agreement, the U.S. does not require a *Certificate of Origin* for entries valued at U.S.$1,250 or less. For commercial shipments, however, the invoice accompanying the importation should include a statement certifying that the goods qualify as originating goods.

District directors may require a valid *Certificate of Origin* before allowing NAFTA treatment, if they determine that a series of importations was used instead of a single importation to evade the requirement to obtain a *Certificate of Origin*.

Claims after importation

Occasionally, claims for NAFTA treatment will not be made when merchandise is entered. In some cases, this may occur because the Agreement prohibits importers from claiming preferential treatment under NAFTA unless they possess a valid *Certificate of Origin*, which may not be obtained until after the goods are entered. In other cases, importers may simply not be aware that the goods qualify for preferential treatment.

When goods would have qualified for preferential treatment when imported but no claim was made at that time, importers can apply for a refund of any excess duties paid as a result of the goods not having been accorded NAFTA treatment. Requests for refunds must be made no later than one year after the importation date. Importers should request refunds from the customs district director of the port where the goods were entered. Requests must be in writing and will include:

- a declaration that the goods qualified as originating goods at the time of importation;
- a copy of the *Certificate of Origin*; and
- other supporting documentation as required.

Importers are required to promptly make corrected declarations and pay any duties owed if they determine that a certificate on which a declaration was based contained incorrect information.

Origin Verifications

Generally

NAFTA authorizes the importing country's customs administration to conduct verifications of the exporter or producer to determine whether goods qualify as originating as certified by the *Certificate of Origin*. Verifications are principally conducted by written questionnaires and verification visits. Additional verification can be done by telephone, facsimile, and information from the supplier.

Questionnaires

Questionnaires may be sent by the importing country to the exporter or producer who completed the *Certificate of Origin*. These questionnaires are used to help determine if the exporter's or producer's goods meet the NAFTA rules of origin. The information requested on the questionnaire should be information used by the exporters or producers to determine whether their goods qualify for NAFTA preferential treatment before signing the *Certificate of Origin*. If insufficient information is provided on the questionnaire to make a determination of origin, a customs officer may obtain additional information by undertaking a customs verification visit. After the customs authority of the importing country establishes whether the good originates, it must issue a written determination to the exporter or producer indicating its findings.

Verification visits

Verification visits are performed by the customs administration of the importing country in the territory of the exporting country, and are used to verify that the exporter's or producer's goods meet the NAFTA rules of origin.

Before conducting a verification visit, the customs administration must provide written notification of the intention to conduct the visit to the exporter or producer whose premises are to be visited, and to the customs administration in whose territory the visit will occur. Written consent from the exporter or producer whose premises are to be visited must be obtained before conducting the visit. The exporter or producer whose good is the subject of a verification visit has the right to designate two observers to be present during the visit.

If an exporter or producer of goods that are subject to a verification of origin does not consent to the verification visit within 30 days of receiving notification of the proposed visit, preferential NAFTA tariff treatment may be withdrawn from the goods. The exporter or producer will still have the right of review and appeal against this determination.

An origin determination is made once a verification visit is completed. This determination can be reviewed and appealed in the importing country. Any confidential business information that is collected can only be disclosed to authorities who are responsible for administering and enforcing determinations of origin, and customs and revenue matters.

Penalties

Canada, Mexico, and the United States maintain measures imposing criminal, civil, or administrative penalties for violations of their laws and customs procedures, including those relating to NAFTA. For example, an exporter or producer who falsely represents on a NAFTA *Certificate of Origin* that a good qualifies as originating may be penalized. An importer may also be penalized for making a false claim for preferential NAFTA treatment on the customs import documentation.

Exporters and producers may avoid such penalties if they promptly and voluntarily advise all concerned parties of the incorrect information contained in the *Certificate of Origin*. Importers may avoid penalties if they promptly and voluntarily submit a corrected customs declaration and pay any duties that are owed on learning of the incorrect information contained in the *Certificate of Origin*.

Importers, exporters, and producers who prepare a *Certificate of Origin* may also be penalized for failing to retain their records as required by NAFTA (generally five years).

Denial of Benefits

In some instances, the importing country's customs administration may choose to deny NAFTA benefits for failure to comply with its customs regulations. Examples of conduct which may result in the denial of preferential treatment include:

- failure to provide a *Certificate of Origin* for commercial importations valued at US$1,000 (US$1,250 for importations into the United States) or less, when there are reasonable grounds for believing that the importation forms part of a series of importations carried out with the purpose of evading the *Certification of Origin* requirement;
- failure by the person who signed a *Certificate of Origin* to consent in writing to a verification visit during the 30 days after notice of an intent to conduct such a visit is sent.

A country may also deny benefits once its customs administration verifies that a good does not qualify as originating. Where two or more verifications indicate a pattern of conduct by an exporter or a producer of false or unsupported representations that a good qualifies as originating, the customs administration of the importing country may withhold preferential tariff treatment from identical goods exported or produced by that person, until compliance with the rules of origin is established.

Advance Ruling Procedures

Generally

Importers, exporters, and producers of goods may obtain advance rulings from the customs administrations of Canada, Mexico, and the United States on how NAFTA applies to future importations of goods into each country. Advance rulings will be issued on a wide range of NAFTA related issues, including:

- whether an imported good qualifies as an originating good and thus qualifies for a preferential tariff treatment under NAFTA;
- whether a specific regional value content requirement or tariff classification change requirement is met (these types of rules are collectively known as rules of origin, and determine the eligibility of a good for a preferential tariff treatment under NAFTA); and
- whether the proposed marking of a good satisfies country of origin marking requirements.

Canada, Mexico, and the United States are bound by the rulings they issue. Rulings will be applied to importations covered by the ruling beginning on the date of issuance, or on such later date as specified in the ruling. An advance ruling may not be applied if it is determined that imported goods differ materially from the goods which were the subject of the ruling, or if the person requesting the ruling has failed to act according to the terms and conditions of the ruling.

If an advance ruling is no longer valid, it may be modified or revoked. Generally, the modification or revocation will only apply to importations that occur after the date of the modification or revocation. Reassessments will only be made retroactively in certain limited circumstances, such as when the person to whom the advance ruling was issued has not acted according to its terms and conditions, or when the modification or revocation is to the benefit of the person who requested the ruling. A person who has received an advance ruling has the right to appeal that ruling.

Procedures in Canada

Importers in Canada, and exporters and producers of goods in Mexico and the United States, may obtain an advance ruling on future importations. Requests should be made in writing to the Chief, Rulings and Appeals in the customs region in which most of the importations will occur. Customs will review all written applications and will advise the applicant of any additional information that is required. A standard has been set for issuing these rulings within 120 days of receiving complete information.

An advance ruling number can be noted on the *Certificate of Origin*, the Revenue Canada Customs invoice, or in the description field on the B3 accounting document. Although anyone importing the goods covered can use the number and is encouraged to do so, the ruling is only binding with regard to the person or persons to whom the ruling was issued. Since all information received is treated as confidential, details of the ruling will only be released to the person to whom the ruling was issued.

Procedures in Mexico

Importers in Mexico, and exporters and producers in Canada and the United States, can request an advance ruling from the General Direction of Revenue Policies and International Fiscal Affairs, Undersecretariat of Revenue, Ministry of Finance and Public Credit (Dirección de Política de Ingresos y Asuntos Fiscales Internacionales, Subsecretaría de Ingresos, Secretaría de Hacienda y Crédito Público).

Applications must be submitted in writing, according to the provisions established in articles 18 and 34 of the *Fiscal Code of the Federation*, and limited to matters described in article 509 of the Agreement.

The competent authority must treat the information received as confidential. Therefore, details of the ruling will only be released to the person to whom the ruling was issued. The same authority must issue the ruling within a period of four months.

Procedures in United States

Importers in the United States, and exporters and producers of goods in Canada and Mexico, may obtain advance rulings regarding application of the Agreement to prospective transactions from the U.S. Customs Service. Advance rulings may be requested in accordance with the procedures described in 19 Code of Federal Regulations, Part 177. Requests must be in writing and should be directed to the Area Director, National Import Specialist Division, U.S. Customs Service, 6 World Trade Center, Room 423, New York, New York, 10048. The U.S. Customs Service will begin issuing advance rulings once NAFTA enters into force.

Appeal Procedures

Generally

NAFTA grants various parties the right to appeal origin determinations, country of origin marking determinations, and advance rulings made by any NAFTA country. Each country must provide at least one level of administrative review independent of the official or office responsible for the determination that has been appealed. In addition, each country must ensure that judicial or quasi-judicial review is provided according to its domestic law for persons whose appeals are denied at the administrative level.

Origin determinations can be appealed by the person who completed and signed the *Certificate of Origin*, or by the importer claiming preferential NAFTA treatment. The person who signed the *Certificate of Origin* can appeal, whether or not an identical appeal on the origin of goods has been filed by the importer. Persons whose goods have been the subject of a country of origin marking determination or who have received an advance ruling may also appeal unfavourable decisions.

Procedures in Canada

In Canada, an appeal of an origin determination is known as a request for the redetermination of the origin of the goods, and can be requested by either the person who completed and signed the *Certificate of Origin*, or by the importer. A request by the person who completed and signed the *Certificate of Origin* should be made in writing to the Chief, Rulings and Appeals in the customs region in which most of the importations occurred. The application may contain multiple requests for goods imported under different transactions and line numbers, if all the requests involve the origin of a single product. The transaction and line number of the importation or importations in question must be submitted with the request.

The person who completed and signed the *Certificate of Origin* will be informed by letter of the outcome of the request for the redetermination of the goods. The decision made pursuant to a request for redetermination of the origin of goods can be further appealed by the person who requested the redetermination through the provisions set out in the *Customs Act*.

An appeal of an advance ruling or a marking determination may be requested in writing from the office that issued the ruling or made the marking determination.

Procedures in Mexico

Differences with final determinations issued by the customs authorities will proceed according to the recourses established in the *Federal Fiscal Code*, except that appeals will be made by the interested party before filing suit in the Federal Fiscal Court.

When an appeal is filed against determinations made in terms of article 31 of the *Customs Act*, the customs authority may reinstate the administrative procedure, as appropriate, before issuing the resolution that will conclude the appeal, as well as resolving the appeal and issuing a new determination to replace the contested one.

The appeal will be filed with the authority that issued or executed the contested determination, no later than 45 days after the effective date of the notification.

If the party's domicile is outside the town in which the customs authority that issued or executed the contested determination is located, the appeal may be filed in the nearest tax office or sent by certified mail with return receipt, as long as the mailing is made from the place where the appellant lives. The filing date will be the date on which the appeal is submitted or mailed, whatever the case may be.

If the decision of the fiscal authority is adverse, the party can appeal the decision to the Federal Fiscal Court, a quasi-judicial body. The decision of the Federal Fiscal Court can be appealed by either party to the Judicial Court. Decisions of this court may be appealed to the Supreme Court.

Procedures in the United States

Appeals must contain all necessary information for customs to review the facts and make a final decision. This includes the name and address of the appellant, a specific description of the merchandise affected by the determination, the date of the determination, and the nature and reasoning of the objection. Denials may be appealed to a second level independent of the initial reviewer.

In the United States, appeals of origin or marking determinations must be made in writing to the local customs district that made the determination.

Appeals of advance rulings must be directed to the Area Director, National Import Specialist Division, U.S. Customs Service, 6 World Trade Center, Room 423, New York, New York, 10048. The National Import Specialist Division will review the appeal and issue a written notice explaining its decision.

Country of Origin Marking

Country of origin markings notify the ultimate purchaser of where a good was made. NAFTA requires Canada, Mexico, and the United States to comply with certain standards in Annex 311 when goods are eligible to be marked as a product of a NAFTA country. Each country is to establish marking rules that set out the criteria to determine the country of origin. These rules can be based on tariff classification changes. Goods may be marked in English, Spanish, or French. However, each country may require that an imported good be marked with the country of origin in the same manner as prescribed for domestic goods. The Agreement permits a NAFTA country to require that goods be marked in a conspicuous place, legibly, and sufficiently permanently to reach the ultimate consumer of the good in the form in which it is imported. NAFTA allows any reasonable method of marking, including the use of stickers, labels, tags, or paint. The Agreement also contains exemptions to the marking requirements.

The marking rules can be used for other purposes besides indicating the country of origin of the article. For goods manufactured in multiple NAFTA countries, the rules can be used to determine whether the country of origin is Canada, Mexico, or the United States. Within the guidelines established by NAFTA, each country will adopt its own marking requirements.

Effect of NAFTA on:

Drawback and duty deferral programs

The NAFTA provisions on drawback and duty deferral will apply to imported goods later exported to the United States or Canada on or after January 1, 1996, or later exported to Mexico on or after January 1, 2001.

Drawback

Drawback is the refund, reduction, or waiver in whole or in part of customs duties assessed or collected on importation of an article or materials which are later exported.

Under NAFTA, the amount of customs duties that may be refunded, reduced, or waived is the lesser of the total amount of customs duties paid or owed on the goods or materials when imported into a NAFTA country and the total amount of customs duties paid or owed on the finished good in the NAFTA country to which it is exported.

No NAFTA country, on condition of export, will refund, reduce, or waive the following: antidumping or countervailing duties, premiums offered or collected pursuant to any tendering system with respect to the administration of quantitative import restrictions, tariff rate quotas or trade preference levels, a fee pursuant to section 22 of the U.S. *Agricultural Adjustment Act*, and duties on same condition substitution drawback.

Duty-deferral programs (inward processing)

Duty-deferral programs include foreign trade zones, temporary importations under bond, bonded warehouses, "maquiladoras," and inward processing programs. NAFTA provides a new method for duty remission with respect to importations of goods or materials under any of the above duty deferral programs that are later exported to another NAFTA country. On exportation, the goods and materials will be treated as if they are withdrawn for domestic consumption, thus subject to the applicable customs duties. The customs duties owed may be reduced or waived in an amount that is the lesser of the customs duties paid or owed on importation, and the total amount of customs duties paid to the other NAFTA country on import of the manufactured goods. Such reduction or waiver will be made when the claimant presents satisfactory evidence of the customs duties paid in the NAFTA country to which the article was exported. If the claimant has not presented this satisfactory evidence within 60 days, the customs administration of the exporting country will collect the duties. If a claimant later obtains satisfactory evidence, the duties may be refunded to the extent allowed, on timely presentation of the evidence according to the laws and regulations of each NAFTA country.

Commercial samples and printed advertising materials

NAFTA provides for the duty-free importation of certain commercial samples and printed advertising materials. The commercial samples must be of negligible value (i.e., their value cannot exceed one U.S. dollar, or the equivalent in the currency of Mexico or Canada), or they must be marked torn, perforated, or otherwise unsuitable for sale or use except as commercial samples. Only printed advertising materials classified in Chapter 49 of the Harmonized Tariff Schedules can be imported duty-free under this provision. The list includes brochures, pamphlets, leaflets, trade catalogues, and yearbooks.

Temporary admissions

NAFTA requires Canada, Mexico, and the United States to grant duty-free temporary admission to certain classes of goods imported from another NAFTA country. Duty-free entry cannot be conditioned on whether or not directly competitive or substitutable goods are available in the importing country. In addition, the goods do not have to originate in a NAFTA country.

Certain professional equipment, sports goods, and goods for display

A person can temporarily import the following goods duty-free: professional equipment (tools of the trade); equipment for the press or for sound or television broadcasting; cinematographic equipment; goods for sports purposes; and goods for display or demonstration. As a condition of duty-free entry, a NAFTA country may require that these goods:

- not be sold or leased while in its territory;
- be accompanied by a bond if they are not originating goods, as defined in Chapter 4 of NAFTA;
- only remain in the importing country until the departure of the person, or within a reasonable time established by each country;
- be capable of identification when exported;
- be imported in no greater quantity than is reasonable for its intended use;
- be imported by a national or resident of another NAFTA country that seeks temporary entry;
- be used solely by or under the personal supervision of the person importing the good in the exercise of the business activity, trade, or profession.

Commercial samples and advertising films

Commercial samples and advertising films can also be imported temporarily without duties payment. As a condition of duty-free entry, a NAFTA country may require that these goods:

- be imported solely for soliciting orders for goods or services from another country;
- not be sold, leased, or put to any use other than exhibition or demonstration while in its territory;
- be capable of identification when exported;
- be exported within such period as is reasonably related to the purpose of the temporary admission; and
- be imported in no greater quantity than is reasonable for its intended use.

Repairs and alterations

Pursuant to a warranty

None of the NAFTA countries can assess customs duties on goods that are exported for repair or alteration in another NAFTA country pursuant to a warranty, and then reimported. This is true regardless of the origin of the goods and regardless of whether the goods could have been repaired or altered in the exporting country.

Not pursuant to a warranty

A NAFTA country may, however, choose to assess customs duties on the value of the repairs or alterations performed in another NAFTA country that are not pursuant to a warranty. The duty rate applied is the

preferential NAFTA rate, regardless of whether the goods repaired or altered are originating. Canada will assess duties on the value of such repairs or alterations performed in Mexico and the United States using the duty rate that applies under the Canada-United States Free Trade Agreement, as incorporated into Annex 307.1 of NAFTA, for goods from both countries. Mexico will not assess duties on repairs or alterations performed in the United States or Canada. The United States will not assess duties on repairs or alterations not pursuant to a warranty performed in Mexico, but will assess duties on those performed in Canada.

User fees

Canada

Revenue Canada Customs has no user fees.

Mexico

Mexico will eliminate its customs processing fee on June 30, 1999, for originating goods from both Canada and the United States. The fee will not be eliminated in stages-it will continue to apply until June 30, 1999, when it will be eliminated entirely.

United States

Goods originating in Canada, that qualify to be marked as Canadian goods according to the marking rules, are exempt from the merchandise processing fee as of January 1, 1994. For goods originating in Mexico that qualify to be marked as Mexican goods pursuant to Annex 311, the merchandise processing fee will be eliminated on June 30, 1999. There will not be any staged phase-out of the fee for Mexican goods-it will continue to apply until June 30, 1999, when it will be eliminated completely. Other fees are unaffected and will be collected whether the goods originate in Canada or Mexico. Other fees include harbour maintenance, cotton, beef, pork, honey, etc. Mail entries will continue to be subject to a US$5 processing fee.

Antidumping and countervailing duties

Under the Agreement, Canada, Mexico, and the United States retain the right to apply their antidumping and countervailing duty laws to goods imported from another NAFTA country. The Agreement also establishes a mechanism for independent binational panels to review final antidumping and countervailing duty determinations by administrative authorities in each country. Private parties that wish to contest an administrative decision on goods of a NAFTA country can request that a panel be established. In such cases, the panel process will substitute for domestic judicial review in the country where the administrative decision was made.

A binational panel will decide whether the antidumping or countervailing determination was made according to the domestic law of the importing country. If a binational panel finds that an error was committed in the antidumping or countervailing determination, it may send the decision back to the appropriate government agency for correction. Decisions by a panel are binding and cannot be appealed to a domestic court. In addition, the Agreement establishes safeguard mechanisms designed to guarantee the integrity of the panel process.

For example, if a Mexican exporter wishes to challenge a final determination rendered by the U.S. Department of Commerce before a binational panel, the Mexican exporter must file its complaint with the appropriate office in SECOFI. The Government of Mexico, in turn, may request binational panel review on behalf of the Mexican exporter.

Assembly operations (U.S. HTS 9802.00.80)

Many U.S. imports from Mexico and Canada are entered under U.S. tariff item 9802.00.80, which provides for a reduction in duties for articles assembled abroad in whole or in part of U.S. components. The duty on such articles is assessed on the full value of the article, minus the cost or value of the U.S. components.

The rate applied to the dutiable value is the rate that would have applied to the article as imported if it were not classified under HTS 9802.00.80. Therefore, the duty reduction does not result from using a different duty rate, but rather by deducting the cost or value of the U.S. components from the total value of the article. Under NAFTA, HTS 9802.00.80 may be used in conjunction with the preferential duty rate that would apply to the article if it were classified in Chapters 1-97 of the tariff, as long as the article originates and complies with all other requirements relating to NAFTA. (For information on how NAFTA will affect textile products under the Special Regime, see Chapter 5 of this publication).

Races (HTS 8482.99.10) made in the United States are exported to Mexico for incorporation into ball bearings (8482.10.50). The remaining components are all made in Mexico. The imported ball bearing is considered originating because it is produced entirely in Canada, Mexico, or the United States exclusively from originating materials (see Article 401(d)). Accordingly, it is entitled to the NAFTA preferential rate of duty-9.9% during the first year of the Agreement. Assuming the total value of each ball bearing is US$10.40 and the value of the U.S. races in each bearing is US$2.40, the dutiable value is US$8.00 (US$10.40 - US$2.40). The duty calculation is:

9802.00.80 $2.40

8482.10.50 $8.00 x 9.9% = 0.80

The duty liability using only the preferential NAFTA rate would be US$1.03 per bearing. By using HTS 9802.00.80 in conjunction with the preferential rate of duty, additional savings of US$0.23 per ball bearing are made.

GSP / GPT / MFN

Generalized System of Preferences (United States)

Products of Mexico that meet the requirements of the Generalized System of Preferences (GSP) can continue to enter the United States duty-free until September 30, 1994. Current statutory authorization for the GSP does not extend beyond September 30, 1994.

General Preferential Tariff (Canada)

Since different preferential tariff schemes each have unique rules of origin, it is possible that goods exported from Mexico which cannot be considered originating under NAFTA might still be eligible for the General Preferential Tariff (GPT) when imported into Canada. However, traders should be aware that the GPT is separate from NAFTA, and Canada is under no obligation to continue such benefits.

Most-favoured-nation duty rates

Generally, NAFTA will not affect the countries' most-favoured-nation (MFN) duty rates (i.e., each country will continue to assess duty on non-NAFTA goods, as they have done in the past). Products processed in Canada, Mexico, or the United States that do not qualify for NAFTA preferential treatment will also continue to be subject to MFN rates of duty (or, in the case of Mexican products, to GSP or GPT rates).

With limited exceptions, Canada, Mexico, and the United States will not harmonize their MFN duty rates. Canada, Mexico, and the United States will harmonize, in a series of staged reductions, their MFN tariff rates on computers and computer peripherals. Once the duty rates for these articles are harmonized,

duties on these goods will be payable only on entering the NAFTA territory. Once within the NAFTA territory, these articles can move among Canada, Mexico, and the United States without duty payment.

In addition, on the first day NAFTA enters into force, the three countries will change their MFN tariff rates to free on virtually all semiconductors, all computer parts, and all local-area-network apparatus.

Contacts for Additional Assistance

In Canada

NAFTA Information Desk
Revenue Canada - Customs, Excise and Taxation
6th floor
191 Laurier Avenue West
Ottawa, Ontario K1A 0L5

Telephone: 1-800-661-6121
Facsimile: (613) 954-4494

(For enquiries and client assistance on Canadian customs and NAFTA issues)

Revenue Canada Customs provides a NAFTA Help Desk telephone line with service available in Spanish

Telephone: (613) 941-0965

The Director
Policy and Administration
Antidumping and Countervailing Division
Revenue Canada - Customs, Excise and Taxation
191 Laurier Avenue West
Ottawa, Ontario K1A 0L5

Telephone: (613) 954-7251
Facsimile: (613) 941-2612

(For information on administrative procedures and investigations under Canada's antidumping and countervailing duty laws)

The Secretary
Canadian International Trade Tribunal
365 Laurier Avenue West
Ottawa, Ontario K1A 0G7

Telephone: (613) 993-4601
Facsimile: (613) 998-4783

(For information on the role of the Canadian International Trade Tribunal)

The Secretary, Canadian Section
NAFTA Secretariat
90 Sparks Street, Suite 705
Ottawa, Ontario K1P 5B4

Telephone: (613) 992-9380
Facsimile: (613) 992-9392

(For information on the binational panel review process)

InfoEx
External Affairs and International Trade Canada
125 Sussex Drive

Ottawa, Ontario K1A 0G2

Telephone: (613) 944-4000 (Ottawa area)
1-800-267-8376
Facsimile: (613) 996-9709

(For publications on NAFTA and information on export programs and services. InfoEx is a counselling and reference centre for Canadian exporters and companies interested in world markets)

Manager of Origin Audits
6th floor
Sir Richard Scott Building
191 Laurier Avenue West
Ottawa, Ontario K1A 0L5

Telephone: (613) 954-5641
Facsimile: (613) 954-4494

(For information on regional value content or audits)

Chief, Interdepartmental Programs
Commercial Operations
Revenue Canada - Customs, Excise and Taxation
5th floor
555 Mackenzie Avenue
Ottawa, Ontario K1A 0L5

Telephone: (613) 954-7129
Facsimile: (613) 952-1698

For information on the marking program)

In Mexico

Secretaría de Comercio y Fomento Industrial (SECOFI)
Subsecretaría de Negociaciones Comerciales Internacionales
Calle Alfonso Reyes No. 30
Colonia Condesa
C.P. 06140 México, D.F.

For calls from outside Mexico:
52-5-211-3545
52-5-211-3405
52-5-211-0872
52-5-211-3050
52-5-211-3301
52-5-211-0952

For calls within Mexico: 91-800-90415
Facsimile: 52-5-224-3000

SECOFI
Delegación Jalisco
Licenciado Héctor Rafael Pérez Partida
Avenida Mariano Otero 3431
Colonia Valle Verde
Guadalajara, Jalisco

Telephone: 6 21 06 94
6 21 16 42

6 21 11 15
Facsimile: 6 21 13 60
6 21 05 34

SECOFI
Delegación Nuevo León
Licenciado Carlos Alberto García Triana
Edificio Cintermex, Local 88
Avenida Fundidora y Adolfo P.
Monterrey, N.L.

Telephone: 6 96 480
6 96 481
6 96 482
Facsimile: 6 96 487

(For information on exporting from Mexico to the United States - exporters can also contact other regional SECOFI offices)

Secretaría de Hacienda y Crédito Público
Subsecretaría de Ingresos
Dirección General Fiscal Internacional
Avenida Hidalgo #77, Módulo 1
Planta Baja, Colonia Guerrero
Delegación Cuauhtemoc
06300 México, D.F.

(For import requirements relating to NAFTA)

Banco Nacional de Comercio Exterior, S.N.C.
Camino a Sta. Teresa 1679
01900 México, D.F.

Telephone: 52-5-227-9078

In the United States

NAFTA "FlashFAX" System
Automated Facsimile Delivery System

Telephone: (202) 927-1692 or 927-1694

(An automated system that transmits information on NAFTA directly to any facsimile machine in the United States-available 24 hours a day)

NAFTA Help Desk
U.S. Customs Service
1301 Constitution Avenue, N.W., Room 1325
Washington, D.C. 20229

Telephone: (202) 927-0066
Facsimile: (202) 927-0097

(For technical assistance on U.S. customs laws and NAFTA, as they relate to goods imported into the U.S.-available Monday to Friday, 8:00 a.m. to 5:00 p.m. Eastern Time)

U.S. Department of Commerce
Office of Mexico, Room 3022
14th Street and Constitution Avenue, N.W.
Washington, D.C. 2023

Telephone: (202) 482-0300

(For information on exporting from the United States to Mexico)

U.S. Department of Commerce
Office of Mexico
Flash Facts System
Automated Facsimile Delivery System
(Available in the U.S. only)

Telephone: (202) 482-4464

(An automated system, available 24 hours a day, that will transmit a wide range of information directly to your facsimile machine - topics include NAFTA's expected impact on the U.S. economy, trade, economic, and marketing data, Mexican regulatory requirements, and Mexico's investment climate)

U.S. Department of Commerce
Office of Canada, Room 3033
14th Street and Constitution Avenue, N.W.
Washington, D.C. 20230

Telephone: (202) 482-3101

(For information on exporting from the United States to Canada)

U.S. Department of Agriculture
The Interamerica Group
South Building, Room 5506
14th Street and Independence Avenue, SW
Washington, D.C. 20250

Telephone: (202) 720-1340

(For information (except phytosanitary norms) on importing agricultural products into the United States under NAFTA)

U.S. Department of Agriculture
Animal and Plant Health Inspection Service
Trade Support Group
South Building, Room 1128
14th Street and Independence Avenue, SW
Washington, D.C. 20250

Telephone: (202) 720-7677

(For information on phytosanitary norms affecting agricultural imports into the United States)

Other Useful Publications

Canada

The following publications are all free and are available from:

InfoEx
External Affairs and International Trade Canada
125 Sussex Drive
Ottawa, Ontario K1A 0G2

Telephone: (613) 944-4000 (Ottawa area)
1-800-267-8376
Facsimile: (613) 996-9709

Publications are available in English and French - publications denoted with an asterisk (*) contain both English and French.

NAFTA: What's It All About (99 pages)

(This handbook provides a comprehensive guide to NAFTA) (1993)

The North American Free Trade Agreement at a Glance (24 pages)

(This booklet provides a basic overview of the benefits of NAFTA) (1993)

North American Free Trade Agreement (about 3,000 pages)

(The agreement between the governments of Canada, the United Mexican States, and the United States of America) (December 1992)

*The North American Free Trade Agreement--Errata** (39 pages)

(The errata table to the December 17 NAFTA text) (April 1993)

Highlights of the North American Free Trade Agreement (4 pages)

(This document outlines the key issues addressed in the Agreement) (March 1993)

*North American Free Trade Agreement-Media Kit** (40 pages)

(This publication contains copies of the press release, backgrounder, ministerial statement, highlights of NAFTA, and the chronology) (February 1993)

*North American Free Trade Agreement-Canadian Environmental Review** (28 pages)

(This executive summary provides an analysis of the potential environmental effects of Canada's participation in NAFTA)

The following publication is available in English or French from the nearest Revenue Canada Customs regional office.

Importing Goods into Canada (62 pages)

(A general guide to preparing the documents required for importing commercial goods into Canada)

Mexico

The following documents are available from:

SECOFI
Piso 18
Coordinación Sectorial
Alfonso Reyes No. 30
06179 México, D.F.

U.S. Exports to Mexico: A State-By-State Overview, 1987-90
TLC 001

U.S. Department of Commerce (U.S.A. 1991)

Las relaciones comerciales de México con el mundo
TLC 001.1

Secretaría de Comercio y Fomento Industrial (México D.F. 1990)

Tratado de libre comercio en América del Norte: Reglas de origen (Monografía 1)
TLC 003.1

Secretaría de Comercio y Fomento Industrial (México 1991)

Tratado de libre comercio en América del Norte: Solución de controversias (Monografía 3)
TLC 003.3

Secretaría de Comercio y Fomento Industrial (México 1991)

Tratado de libre comercio en América del Norte: Prácticas desleales de comercio (Monografía 6)
TLC 003.6

Secretaría de Comercio y Fomento Industrial (México 1991)

Tratado de libre comercio en América del Norte: Normas (Monografía 8)
TLC 003.8

Secretaría de Comercio y Fomento Industrial (México 1991)

Tratado de libre comercio en América del Norte: Servicios (Monografía 9)
TLC 003.9

Secretaría de Comercio y Fomento Industrial (México 1991)

Tratado de libre comercio en América del Norte: Sector automotriz (Monografía 10)
TLC 003.10

Secretaría de Comercio y Fomento Industrial (México 1991)

Tratado de libre comercio en América del Norte: Enseres domésticos (Monografía 11)
TLC 003.11

Secretaría de Comercio y Fomento Industrial (México 1991)

Tratado de libre comercio en América del Norte: La industria textil (Monografía 13)
TLC 003.13

Secretaría de Comercio y Fomento Industrial (México 1991)

Tratado de libre comercio: Bases de la negociación del tratado de libre comercio entre México, Canadá y Estados Unidos
TLC 010

Jaime Serra Puche, Secretaría de Comercio y Fomento Industrial (México 1991)

La adhesión de México al GATT (Repercusiones internas e impacto sobre las relaciones México-Estados Unidos)
TLC 028

Blanca Torres, El Colegio de México (México 1989)

La cuenca del pacífico
TLC 029

Banco Nacional de México (México D.F.)

El acuerdo marco de cooperación entre los Estados Unidos Mexicanos y la Comunidad Económica Europea
TLC 035

S.R.E., SECOFI, BANCOMEX, CEMAI (México 1991)

Tratado de libre comercio entre México y Chile
TLC 047

Secretaría de Comercio y Fomento Industrial (México 1992)

A North American Free Trade Agreement: The Elements Involved
TLC 062

Michael Hart, University of Ottawa (Canada 1990)

Algunos efectos del acuerdo de libre comercio en la administración de las empresas y el apoyo de asesores externos en economía

TLC 063

Mauricio Mobarak Gonzalez. (México 1991)

Las relaciones comerciales de México con el mundo: desafíos y oportunidades
TLC 064

Secretaría de Comercio y Fomento Industrial (México 1990)

Canada and a Mexico-United States Trade Agreement Working Paper
TLC 068

Department of Finance (Canada 1990)

United States

Documents published by the U.S. government can be purchased from:

Superintendent of Documents
U.S. Government Printing Office
Washington, D.C. 20402-9328
Attn: Order Desk

Telephone: (202) 783-3238

North American Free Trade Agreement, Volumes I & II

Cost: U.S.$41.00
Stock number: 041-001-00376-2
(The text of the Agreement, with the specific rules of origin)

Annex 302.2: Schedule of the United States

Cost: U.S.$34.00
Stock number: 041-001-00377-1
(The preferential NAFTA duty rates that will apply to products imported into the United States)

Annex 302.2: Schedule of Canada

Cost: U.S.$30.00
Stock number: 041-001-00390-8
(The preferential NAFTA duty rates that will apply to products imported into Canada)

Annex 302.2: Schedule of Mexico

Cost: U.S.$34.00
Stock number: 041-001-00391-6
(The preferential NAFTA duty rates that will apply to products imported into Mexico)

Importing into the United States

Cost: U.S.$4.75
Stock number: 048-002-00112-5
(A comprehensive guide to the procedures, laws, and regulations governing imports into the United States)

Importar en los Estados Unidos

Cost: U.S.$6.75
Stock number: 048-002-00115-0
(Spanish translation of Importing into the United States)

Harmonized Tariff Schedule of the United States

Cost: U.S.$52.00
Stock number: 949-009-00000-9
(A list of all the tariff classifications and accompanying duty rates that apply to goods imported into the United States)

Title 19, Code of Federal Regulations

Cost: U.S.$46.00
Stock number: 869-019-00061-5
(The Customs Regulations of the United States)
(Prices are as of May 1993 and are subject to change. Add 25% for international orders.)

Technical Assistance

To access the Portable Document Format (PDF) version you must have a PDF reader installed. If you do not already have such a reader, there are numerous PDF readers available for free download or for purchase such as:

- Adobe Reader
- Foxit Reader
- Xpdf
- eXPert PDF Reader

Date Modified:2009-05-05