

**MEMORANDUM D11-4-18**

Ottawa, February 28, 2002

**In Brief**

**SUBJECT**

**UNIFORM REGULATIONS  
CHAPTERS THREE AND FIVE OF NAFTA**

The attached D Memorandum has been revised by adding paragraph 32 to Article VI, *Origin Verifications*. This is to reflect that the Generally Accepted Accounting Principles, applicable when conducting a verification are those which are applicable in the territory of the party where the goods are produced or where the exporter is located, whichever the case may be.

# **MEMORANDUM D11-4-18**

Ottawa, September 29, 1995

## **SUBJECT**

### **UNIFORM REGULATIONS CHAPTERS THREE AND FIVE OF NAFTA**

This Memorandum contains the *Uniform Regulations* for Chapters Three and Five of NAFTA.

The *Uniform Regulations* for Chapters Three and Five of NAFTA have been agreed to by the governments of Canada, Mexico and the United States. The Uniform Regulations elaborate in detail how NAFTA Parties will interpret, apply and administer the obligations regarding customs procedures under Chapter Five, and national treatment and market access under Chapter Three, and are to be read in conjunction with these Chapters. They are designed to ensure consistent and uniform treatment of, and greater certainty for, importers, exporters and producers in all three countries.

The *Uniform Regulations* were implemented in Canada through Canadian legislation, regulations or departmental policy, all of which are reflected in departmental Memoranda.

## **APPENDIX**

### **UNIFORM REGULATIONS FOR THE INTERPRETATION, APPLICATION, AND ADMINISTRATION OF CHAPTERS THREE (NATIONAL TREATMENT AND MARKET ACCESS FOR GOODS) AND FIVE (CUSTOMS PROCEDURES) OF THE NORTH AMERICAN FREE TRADE AGREEMENT**

The Government of Canada, the Government of the United Mexican States, and the Government of the United States of America, pursuant of Article 511(1) of the North American Free Trade Agreement, adopt the following Uniform Regulations regarding the interpretation, application and administration of Chapters Three and Five of the North American Free Trade Agreement:

#### **Section A — Certification of Origin**

##### **Article I: Certificate of Origin**

1. The Certificate of Origin referred to in Article 501(1) of the North American Free Trade Agreement (hereinafter "the Agreement") shall be:

- (a) equivalent in substance to the Certificate of Origin set out in Annex I.1a;

- (b) in a printed format or in such other medium or format as may be approved by the customs administration of the Party into whose territory the good is imported;
- (c) completed by the exporter in accordance with these Uniform Regulations, including any instructions contained in the Certificate of Origin set out in Annex I.1a; and
- (d) at the option of the exporter, completed in either the language of the Party into whose territory the good is imported or the language of the Party from whose territory the good is exported in accordance with Annex I.1d.

2. For purposes of Article 501(5)(a) of the Agreement, a single Certificate of Origin may be used for :

- (a) a single shipment of goods that results in the filing of one or more entries on the importation of the goods into the territory of a Party; or
- (b) more than one shipment of goods that results in the filing of one entry on the importation of the goods into the territory of a Party.

## **Article II: Obligations Regarding Importations**

1. For purposes of Article 502(1)(a) of the Agreement, "valid Certificate of Origin" means a Certificate of Origin that the exporter of the good in a territory of a Party completes in accordance with the requirements set out in Article I of these Uniform Regulations.

2. For purposes of Article 502(1)(c) of the Agreement:

- (a) the importer shall, upon the request of the customs administration of the Party into whose territory the good is imported, provide a written translation of the Certificate of Origin in the language of that Party; and
- (b) where the customs administration of the Party into whose territory the good is imported determines that a Certificate of Origin is illegible, defective on its face or has not been completed in accordance with Article I of these Uniform Regulations, the importer shall be granted a period of not less than five working days to provide the customs administration with a copy of the corrected Certificate.

3. An importer that makes a corrected declaration of origin pursuant to Article 502(1)(d) and (2)(b) of the Agreement and pays any duties owing shall not, in accordance with Article 502(2)(b), be subject to penalties, as set out in Annex II.3.

4. Where as a result of an origin verification conducted under Article 506 of the Agreement, the customs administration of a Party determines that a good that is covered by a Certificate of Origin that is applicable to multiple importations of identical goods in accordance with Article 501(5)(b) does not qualify as an originating good, such Certificate may not be used to claim preferential tariff treatment for those identical goods after the date that the written determination is provided under Article 506(9).

### **Article III: Exceptions**

1. The statement referred to in Article 503(a) of the Agreement shall, where required by the customs administration of the Party into whose territory the good is imported, be attached to, or handwritten, stamped or typed on the commercial invoice covering the good.
2. For purposes of Article 503 of the Agreement, "series of importations" is defined in Annex III.2.

### **Article IV: Obligation Regarding Exportations**

1. For purposes of Article 504(1)(b) of the Agreement, "promptly" is defined in Annex IV.1.
2. For purposes of Article 504(3) of the Agreement, no Party may impose civil or administrative penalties on an exporter or producer of a good in its territory where the exporter or producer, prior to the commencement of an investigation by officials of that Party with authority to conduct a criminal investigation regarding the Certificate of Origin, provides the written notification referred to in Article 504(1)(b).
3. For purposes of Article 504(1)(b) of the Agreement, where the customs administration of a Party provides an exporter or producer of a good with a determination under Article 506(9) that the good is a non-originating good, the exporter or producer shall notify all persons to whom it gave a Certificate of Origin in respect of that good of the determination.

## **Section B — Administration and Enforcement**

### **Article V: Records**

1. The documentation and records required to be maintained under Article 505 of the Agreement shall be kept in such a manner as to enable an officer of the customs administration of a Party, in conducting a verification of origin under Article 506, to perform detailed verifications of the documentation and records to verify the information on the basis of which:
  - (a) in the case of an importer, a claim for preferential tariff treatment was made with respect to a good imported into its territory; and

(b) in the case of an exporter or producer, a Certificate of Origin was completed with respect to a good exported to the territory of another Party.

2. Importers, exporters and producers in the territory of a Party that are required to maintain documentation or records under Article 505 of the Agreement shall be permitted, in accordance with that Party's law, to maintain such documentation and records in machine-readable form, provided that the documentation or records can be retrieved and printed.

3. Exporters and producers that are required to maintain records pursuant to Article 505(a) of the Agreement shall, subject to the notification and consent requirements provided for in Article 506(2), make those records available for inspection by an officer of the customs administration of a Party conducting a verification visit and provide facilities for inspection thereof.

4. A Party may deny preferential tariff treatment to a good that is the subject of an origin verification where the exporter, producer or importer of the good that is required to maintain records or documentation under Article 505 of the Agreement:

(a) subject to paragraph 5, fails to maintain records or documentation relevant to determine the origin of the good in accordance with the requirements of the Agreement, these Uniform Regulations or the Uniform Regulations under Chapter Four of the Agreement; or

(b) denies access to the records or documentation.

5. Where the customs administration of a Party finds during the course of an origin verification that a producer of a good in the territory of another Party has failed to maintain its records in accordance with the generally accepted accounting principles applied in the territory of the Party in which the good is produced as required by Article 413(e) of the Agreement, the producer shall be given an opportunity to record its costs in accordance with those generally accepted accounting principles within 60 days of being informed in writing by the customs administration that the records have not been maintained in accordance with those generally accepted accounting principles.

6. For purpose of Article 505 of the Agreement and these Uniform Regulations, "records" include books as referenced in the Uniform Regulations under Chapter Four.

## **Article VI: Origin Verifications**

1. For purposes of Article 506(1)(c) of the Agreement, the customs administration of a Party may conduct a verification of origin with respect to a good that is imported into its territory by means of:

- (a) a verification letter that request information from the exporter or producer of the good in the territory of another Party, provided that it contains specific reference to the good that is the subject of the verification; or
- (b) any other method of communication customarily used by the customs administration of the Party in conducting a verification.

2. Subject to paragraph 3, where the customs administration of a Party conducts a verification under paragraph 1(b), it may, on the basis of a response of an exporter or producer to a communication referred to in paragraph 1(b), issue a determination under Article 506(9) of the Agreement:

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

3. Where the producer of a good chooses to calculate the regional value content of a good under the net cost method as set out in the Uniform Regulations under Chapter Four of the Agreement, the customs administration of the Party into whose territory the good was imported may not, during the time period over which the net cost has been calculated, verify the regional value content in respect of that good.

4. The customs administration of a Party, in conducting a verification visit under Article 506(1)(b) of the Agreement, shall send the notice referred to in Article 506(2)(a) by certified or registered mail, or any other method that produces a confirmation of receipt by the exporter or producer whose premises are to be visited.

5. Where the exporter or producer of a good that is the subject of a proposed verification visit by the customs administration of a Party has not given its written consent to a visit under Article 506(4) of the Agreement, the customs administration may determine that the good does not qualify as an originating good and may deny preferential tariff treatment to that good.

6. For purposes of Article 506(7) of the Agreement, an exporter or producer of a good shall identify to the customs administration conducting a verification visit any observers designated to be present during such visit.

7. Each Party shall identify to the other Parties, by January 1, 1994, the office to which notice shall be sent under Article 506(2)(a)(ii) of the Agreement.

8. For purposes of Article 506(5) of the Agreement, a notice of postponement of a verification visit shall be made in writing and shall be sent to the address of the customs office that sent the notice of intention to conduct a verification visit.

9. The common standards for the written questionnaires referred to in Article 506(1)(a) of the Agreement are set out in Annex VI.9.

10. Where, pursuant to Article 403(3) of the Agreement, a producer of a motor vehicle identified in Article 403(1) or (2) elects to average its regional value-content calculation over its fiscal year, the customs administration of the Party into whose territory the motor vehicle was imported may request, in writing, that the producer submit a cost submission reflecting the actual costs incurred in the production of the category of motor vehicles for which the election was made.

11. Where the customs administration of a Party requests that a cost submission be submitted by the producer of a motor vehicle under paragraph 10, such cost submission shall be submitted within 180 days after the close of that producer's fiscal year or within 60 days from the date on which the request was made, whichever is later.

12. Where the customs administration of a Party sends a written request under paragraph 10, such request shall constitute a verification letter under paragraph 1(a).

13. The customs administration of a Party may, for purposes of verifying the origin of a good, request that the importer of the good voluntarily obtain and supply written information voluntarily provided by the exporter or producer of the good in the territory of another Party, provided that the failure or refusal of the importer to obtain and supply such information shall not be considered as a failure of the exporter or producer to supply the information or as a ground for denying preferential tariff treatment.

14. Nothing in this Article shall limit any right accorded under Chapter Five of the Agreement to the exporter or producer of a good in the territory of a Party by virtue of the fact that such exporter or producer is also the importer of the good in the territory of the Party in which preferential tariff treatments is claimed.

15. Where a customs administration conducts a verification of origin of a good under Article 506(1)(a) of the Agreement or paragraph 1(a), it may send the verification letter or questionnaire by:

- (a) certified or registered mail, or any other method that produces confirmation of receipt by the exporter or producer; or
- (b) any other method, regardless of whether it produces proof of receipt from the exporter or producer of the good.

16. Where the customs administration of a Party has sent a verification letter or questionnaire to an exporter or producer of a good in the territory of another Party and such exporter or producer fails to respond within the period specified therein, which shall be no less than 30 days from the date on which the verification letter or questionnaire was sent, the customs administration:

- (a) shall send a subsequent verification letter or questionnaire:
  - (i) if requested by the Party from whose territory the good was exported, by the method set out in paragraph 15(a), or
  - (ii) if not requested by the Party from whose territory the good was exported, by the method set out in paragraph 15(a) or (b); and
- (b) may send, with that subsequent verification letter or questionnaire, the written determination referred to in Article 506(9) of the Agreement, including a notice of intent to deny preferential tariff treatment referred to in paragraph 19.

17. Where the customs administration of a Party sends a written determination under paragraph 16(b) and the exporter or producer fails to respond to the subsequent verification letter or questionnaire within 30 days:

- (a) from the date of its receipt by the exporter or producer, where it was sent in accordance with paragraph 16(a)(i); or
- (b) from the date of its receipt by the exporter or producer or from the date it was sent by the customs administration, as the case may be, in accordance with paragraph 16(a)(ii),

the customs administration may deny preferential tariff treatment to the good.

18. Where the customs administration of a Party does not send a written determination under paragraph 16(b) and the exporter or producer fails to respond to the subsequent verification letter or questionnaire within 30 days:

- (a) from the date of its receipt by the exporter or producer, where it was sent in accordance with paragraph 16(a)(i), or
- (b) from the date of its receipt by the exporter or producer or from the date it was sent by the customs administration, as the case may be, in accordance with paragraph 16(a)(ii),

the customs administration may deny preferential tariff treatment to the good in accordance with paragraph 19.

19. Where the customs administration of a Party determines, as a result of an origin verification, that a good that is the subject of the verification does not qualify as an originating good, the written determination provided for under Article 506(9) of the Agreement shall:

- (a) include a notice of intent to deny preferential tariff treatment with respect to that good that specifies the date after which preferential tariff treatment will be denied and the period during which the exporter or producer of the good may provide written comments or additional information regarding the determination; and
- (b) if requested by the Party from whose territory the good is exported, be sent by certified or registered mail or by any other method that produces confirmation of receipt by the exporter or producer of the good.

20. Where the customs administration of a Party determines on the basis of information obtained during a verification that a good does not qualify as an originating good:

- (a) the date on which preferential tariff treatment may be denied pursuant to the notice referred to in paragraph 19, shall be no earlier than 30 days from the date on which
  - (i) receipt of the written determination is confirmed by the exporter or producer, if a request has been made under subparagraph 19(b), and
  - (ii) the customs administration sends the written determination, if no such request has been made; and
- (b) before denying preferential treatment, the customs administration shall take into account any comments or additional information provided by the exporter or producer during the period referred to in subparagraph (a).

21. For purposes of Article 506(10) of the Agreement, "pattern of conduct" means repeated instances of false or unsupported representations by an exporter or producer of a good in the territory of a Party that are established by the customs administration of another Party on the basis of not fewer than two origin verifications of two or more importations of the goods that result in not fewer than two written determinations being sent to that exporter or producer pursuant to Article 506(9) that conclude, as a finding of fact, that Certificates of Origin completed by that exporter or producer with respect to identical goods contain false or unsupported representations.

22. For purposes of Article 506(12) of the Agreement, "consistent treatment" means the established application by the customs administration of a Party that can be substantiated by the continued acceptance by that customs administration of the tariff classification or value of identical materials on importations of the materials into its territory by the same importer over a period of not less than two years immediately prior to the date that the Certificate of Origin for the good that is the subject of the determination under Article 506(11) was completed, provided that with respect to those importations:

- (a) such materials had not been accorded a different tariff classification or value by one or more district, regional or local offices of that customs administration on the date of such determination; and

- (b) the tariff classification or value of such materials is not the subject of a verification, review or appeal by that customs administration on the date of such determination.

23. For purposes of Article 506(12) of the Agreement, a person shall be entitled to rely on a ruling or advance ruling in accordance with Annex VI.23.

24. A ruling or advance ruling referred to in paragraph 23 that is issued by the customs administration of a Party shall remain in force until modified or revoked.

25. No modification or revocation of a ruling referred to in paragraph 23, other than an advance ruling, may be applied to a good that was the subject of the ruling and that was imported prior to the date of such modification or revocation unless:

- (a) the person to whom the ruling was issued has not acted in accordance with its terms and conditions; or
- (b) there has been a change in the material facts or circumstances on which the ruling was based.

26. For purpose of Article 506(11) of the Agreement, reference to the phrase, "one or more materials used in the production of the good" means materials that are used in the production of the good or that are used in the production of a material that is used in the production of the good.

27. Article 506(12)(a) of the Agreement in relation to Article 506(11) includes:

- (a) a ruling or advance ruling that is issued with respect to a material that is used in the production of the good or that is used in the production of a material that is used in the production of the good; or
- (b) the consistent treatment given on the entry of a material that is used in the production of the good or that is used in the production of a material used in the production of the good.

28. Where the customs administration of a Party, in conducting a verification of origin of a good imported into its territory under Article 506 of the Agreement, conducts a verification of the origin of a material that is used in the production of the good, the verification of the material shall be conducted in accordance with the procedures set out in:

- (a) Article 506(1), (2), (3), (5), (7) and (8); and
- (b) paragraphs 1, 2, 3, 4, 6, 8, 13, 14, 15 and 16(a).

29. The customs administration of a Party, in conducting a verification of a material that is used in the production of a good pursuant to paragraph 28, may consider the material to be non-originating in determining whether the good is an originating good where the producer or supplier of that material does not allow the customs administration access to information required to make a determination of whether the material is an originating material by the following or other means:

- (a) denial of access to its records;
- (b) failure to respond to a verification questionnaire or letter; or
- (c) refusal to consent to a verification visit within 30 days of receipt of notification under Article 506(2) of the Agreement, as made applicable by paragraph 28.

30. A party shall not consider a material that is used in the production of a good to be a non-originating material solely on the basis of a postponement of a verification visit under Article 506(5) of the Agreement as made applicable by paragraph 28(a).

31. Where the customs administration of a Party conducts a verification under Article 506 of the Agreement, it may also verify:

- (a) the applicable rate of customs duty applied to an originating good in accordance with the rules set out in Annex 302.2 of the Agreement; and
- (b) whether a good is a qualifying good for the purpose of Annex 703.2 of the Agreement.

32. Each Party shall, through its customs administration when conducting a verification of origin to which Generally Accepted Accounting Principles may be relevant, apply and accept the Generally Accepted Accounting Principles applicable in the territory of the Party in which the good is produced or in which the exporter is located, as the case may be.

## **Section C — Advance Ruling**

### **Article VII: Advance Rulings**

1. For purposes of Article 509 of the Agreement, the customs administration of a Party shall issue an advance ruling to a producer in the territory of another Party of a material that is used in the production of a good in the territory of another Party, provided that the good is to be subsequently imported into the territory of the Party issuing the ruling, concerning any matter covered by Article 509(1)(a) through (e) and (g) with respect to that material.

2. The common standards regarding the information to be submitted in an application for an advance ruling are set out in Annex VII.2.

3. For purposes of Article 509 of the Agreement, an application to the customs administration of a Party for an advance ruling shall be completed in the language of that Party as set out in Annex I.1d.

4. Subject to paragraph 5 and 6, the customs administration to which the application is made shall issue an advance ruling within 120 days of its receipt of all information reasonably required to process the application, including any supplemental information that may be requested.

5. Each Party may provide that, where an application for an advance ruling is made to its customs administration that involves an issue that is the subject of:

- (a) a verification of origin,
- (b) a review by or appeal to the customs administration, or
- (c) judicial or quasi-judicial review in its territory,

the customs administration decline to issue the ruling.

6. For purpose of Article 509(3) of the Agreement, where the customs administration of a Party determines that an application for an advance ruling is incomplete, it may decline to further process the application provided that:

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

7. Nothing in paragraph 5 or 6 shall be construed so as to prevent a person from re-applying for an advance ruling.

8. For purposes of Article 509(7) of the Agreement, "importations of a good" is defined in Annex VII.8

## **Section D — Review and Appeal**

### **Article VIII: Review and Appeal**

1. A denial of preferential tariff treatment to a good by the customs administration of a Party under these Uniform Regulations may be appealed under Article 510 of the Agreement by the exporter or producer of the good who completed the Certificate of Origin for the good in respect of which a claim for preferential tariff treatment was denied, including a denial of preferential tariff treatment under Article 506(4).

2. Where an advance ruling is issued under Article 509 of the Agreement or paragraph 1 of Article VII of these Uniform Regulations, a modification or revocation of the advance ruling shall be subject to review and appeal under Article 510.

3. Where a Party denies preferential tariff treatment to a good on the basis:

- (a) that a corrected Certificate of Origin has not been provided within the period set out in Article II(2)(b) of these Uniform Regulations, or
- (b) of a failure to comply with a time limit under these Uniform Regulations or under the Agreement, except for the time limit under Article 502(3) of the Agreement, with respect to the furnishing of records or other information to the customs administration of that Party,

the decision rendered on review and appeal under Article 510(2)(a) of that determination shall be on the merits of whether the good qualifies as an originating good, provided that in the case of subparagraph (a) above, a corrected Certificate of Origin is provided to the customs administration of the Party.

## **Section E — Tariff Elimination**

### **Article IX: Tariff Elimination**

1. For purposes of Annex 302.2 and Annex 300-B of the Agreement, Annex 302.2(4), (5), (6), (8), (10), (11), (12), and (13) and Annex 300-B, Section 2, paragraph 2(b) do not apply where a Party gives duty free treatment to all other Parties in respect of an originating good imported into its territory.

2. For purposes of Annex 302.2 and Annex 300-B of the Agreement, the customs administration of the Party into whose territory an originating good is imported shall determine the applicable preferential tariff rate of duty under Annex 302.2(8), (10), (11), (12) and (13) and Annex 300-B, Section 2, paragraph 2(b) on the basis of the Marking Rules established under Annex 311 only where:

- (a) materials used in the production of the good are obtained from, or
- (b) processing of the good occurs in,

the territory of a Party other than the Party from whose territory the good is exported or the Party into whose territory the good is imported, provided that the good has been improved in condition or advanced in value in the territory of the Party from which it is exported. Otherwise, the customs administration shall apply the preferential tariff rate of duty that is applicable to the Party from whose territory the good is exported, provided that the good has been improved in condition or advanced in value in that territory.

3. For purposes of Annex 302.2 of the Agreement, each Party may, notwithstanding that the requirements of Article 502 and any other legal requirements imposed under its law have been satisfied, deny the applicable preferential tariff rate of duty set out in that Annex to an originating good imported into its territory:

- (a) if, where contrary to the laws of that Party, the claim for preferential tariff treatment for the good is not supported by documentary evidence such as invoices, bills of lading or waybills that indicate the shipping route and all points of shipment and transshipment prior to the importation of the good into its territory; and
- (b) if, where the good is shipped through or transshipped in the territory of a country that is not a Party under NAFTA, the importer of the good does not provide, on the request of that Party's customs administration, a copy of the customs control documents that indicate, to the satisfaction of the customs administration, that the good remained under customs control while in the territory of such country.

## **Section F — Drawback and Duty Deferral Programs**

### **Article X: Drawback and Duty Deferral Programs**

1. For purposes of Article 303 of the Agreement, "identical or similar" means "identical" and "similar" as defined in Article 15, subsection 2(a) and (b) of the Customs Valuation Code, and as further defined in Annex IX.1.
2. For purposes of Article 303(1) of the Agreement, "the total amount of customs duties paid to another Party on the good that has been subsequently exported to the territory of the other Party" means the customs duties that are paid in respect of the entry for consumption of the good in the customs territory of a Party, including any change referred to under paragraph 7(b).
3. For purposes of Article 303(1) of the Agreement, where a good is exported from the territory of a Party to the territory of another Party and entered into a duty deferral program in that other Party:
  - a) the good shall not be considered to have been exported to the territory of that other party unless and until such time as the good is withdrawn from the duty deferral program for consumption in the customs territory of that other Party, and
  - b) where the good or another good incorporating that good is subsequently exported directly from the duty deferral program to a non-NAFTA country, Article 303 shall not apply to the good, and a refund waiver or reduction of duties may be granted upon presentation of satisfactory evidence of the exportation of the good or that other good to the non-NAFTA country.

4. In accordance with paragraph (d) of the definition of "satisfactory evidence" under Article 318, "satisfactory evidence" includes an affidavit from the person claiming, subject to Article 303 of the Agreement, a refund, waiver or reduction of customs duties, where such affidavit is based on information received from the importer of the good in the territory of the Party into which the good was subsequently exported.

5. Satisfactory evidence, in the form of one or more of the documents referred to in the definition in Article 318 of the Agreement and paragraph 4, shall contain:

- (a) the import entry number,
- (b) the date of importation,
- (c) the tariff classification number,
- (d) the rate of duty, and
- (e) the amount of duties paid,

in respect of the importation of the good into the territory of the Party to which the good was subsequently exported.

6. The Party to whom a claim for refund of the amount of customs duties paid, or a waiver or reduction of the amount of customs duties owed is made, may request that the Party to whose territory the good was subsequently exported examine the information referred to under paragraph 5(a) through (e) that was provided in connection with that claim.

7. The Party to whom a request was made under paragraph 6 shall:

- (a) where it determines that the information referred to under paragraph 5 is not correct at the time of the request, provide the requesting Party with the corrected information, and
- (b) monitor the importation in respect of the goods that were the subject of a request and notify the requesting Party of any change in respect of the duties paid in connection therewith.

8. For purposes of Article 303.6(b) of the Agreement, the circumstances under which a good shall be considered to be in same condition include the following:

- (a) mere dilution with water or another substance;
- (b) cleaning, including removal of rust, grease, paint or other coatings;
- (c) application of preservative, including lubricants, protective encapsulation, or

preservation paint;

(d) trimming, filing slitting or cutting;

(e) putting up in measured doses, or packing, repacking, packing or repackaging; or

(f) testing, marking, labelling, sorting or grading,

provided that such operations do not materially alter the characteristics of the good.

## **Section G — Final Provisions**

### **Article XI: Final Provisions**

1. For purposes of Chapter Five of the Agreement and these Uniform Regulations, "completed" means completed, signed and dated.
2. Each Party shall ensure that its customs procedures governed by the Agreement are in accordance with Chapter Five of the Agreement and these Uniform Regulations.
3. These Uniform Regulations shall enter into force on the date of the entry into force of the Agreement.
4. For purposes of Chapter Five of the Agreement and these Uniform Regulations, any reference to "materials that are used in the production of the good" or "that are used in the production of a material that is used in the production of the good" shall include materials that are incorporated into a good or material as defined in the Uniform Regulations for Chapter Four.

### **Annex I.1a**

#### **North American Free Trade Agreement CERTIFICATE OF ORIGIN**

[Form B232 E not reproduced here]

#### **NORTH AMERICAN FREE TRADE AGREEMENT CERTIFICATE OF ORIGIN INSTRUCTIONS**

For purposes of obtaining preferential tariff treatment, this document must be completed legibly and in full by the exporter and be in the possession of the importer at the time the declaration is made. This document may also be completed voluntarily by the producer for use by the exporter. Please print or type:

Field 1: State the full legal name, address (including country) and legal tax identification number of the exporter. Legal tax identification number is: in Canada, employer

number or importer/exporter number assigned by Revenue Canada; in Mexico, federal taxpayer's registry number (RFC); and in the United States, employer's identification number or Social Security number.

Field 2: Complete field if the Certificate covers multiple shipments of identical goods as described in Field 5 that are imported into a NAFTA country for a specified period of up to one year (balance period). "FROM" is the date upon which the Certificate becomes applicable to the good covered by the blanket Certificate (it may be prior to the date of signing this Certificate). "TO" is the date upon which the blanket period expires. The importation of a good for which preferential tariff treatment is claimed based on this Certificate must occur between these dates.

Field 3: State the full legal name, address (including country) and legal tax identification number, as defined in Field 1, of the producer. If more than one producer's good is included on the Certificate, attach a list of the additional producers, including the legal name, address(including country) and legal tax identification number, cross referenced to the good described in Field 5. If you wish this information to be confidential, it is acceptable to state " Available to Customs upon request". If the producer and the exporter are the same, complete field with "SAME". If the producer is unknown, it is acceptable to state "UNKNOWN".

Field 4: State the full legal name, address (including country) and legal tax identification number, as defined in Field 1, of the importer. If the importer is not known, state "UNKNOWN"; if multiple importers, state "VARIOUS".

Field 5: Provide a full description of each good. The description should be sufficient to relate it to the invoice description and to the Harmonized System (HS) description of the good. If the Certificate covers a single shipment of a good, include the invoice number as shown on the commercial invoice. If not known, indicate another unique reference number, such as the shipping order number.

Field 6: For each good described in Field 5, identify the HS tariff classification to six digits. If the good is subject to a specific rule of origin in Annex 401 that requires eight digits, identify to eight digits, using the HS tariff classification of the country into whose territory the good is imported.

Field 7: For each good described in Field 5, state which criterion (A through F) is applicable. The rules of origin are contained in Chapter Four and Annex 401. Additional rules are described in Annex 703.2 (certain agricultural goods), Annex 300-B, Appendix 6A (certain textile goods) and Annex 308.1 (certain automatic data processing goods and their parts). **NOTE: In order to be entitled to preferential tariff treatment, each good must meet at least one of the criteria below.**

## Preference Criteria

- A The good is "wholly obtained or produced entirely" in the territory of one or more of the NAFTA countries, as referred to in Article 415. NOTE: The purchase of a good in the territory does not necessarily render it "wholly obtained or produced". If the good is an agricultural good, see also criterion F and Annex 703.2. (Reference: Article 401(a) and 415)
- B The good is produced entirely in the territory of one or more of the NAFTA countries and satisfies the specific rule of origin, set out in Annex 401, that applies to its tariff classification. The rule may include a tariff classification change, regional value-content requirement or a combination thereof. The good must also satisfy all other applicable requirements of Chapter Four. If the good is an agricultural good, see also criterion F and Annex 703.2. (Reference: Article 401(b))
- C The good is produced entirely in the territory of one or more of the NAFTA countries exclusively from originating materials. Under this criterion, one or more of the materials may not fall within the definition of "wholly produced or obtained", as set out in Article 415. All materials used in the production of the good must qualify as "originating" by meeting the rules of Article 401(a) through (d). If the good is an agricultural good, see also criterion F and Annex 703.2 (Reference: Article 401(c))
- D Goods are produced in the territory of one or more of the NAFTA countries but do not meet the applicable rule of origin, set out in Annex 401, because certain non-originating materials do not undergo the required change in tariff classification. The goods do nonetheless meet the regional value-content requirement specified in Article 401(d). This criterion is limited to the following two circumstances:
1. the good was imported into the territory of a NAFTA country in an unassembled or disassembled form but was classified as an assembled good, pursuant to HS General Rule of Interpretation 2(a); or
  2. the good incorporated one or more non-originating materials, provided for as parts under the HS, which could not undergo a change in tariff classification because the heading provided for both the good and its parts and was not further subdivided into subheadings, or the subheading provided for both the good and its parts and was not further subdivided.

**NOTE: This criterion does not apply to Chapters 61 through 63 of the HS**  
(Reference: Article 401(d))

E Certain automatic data processing goods and their parts, specified in Annex 308.1, that do not originate in the territory are considered originating upon importation into the territory of a NAFTA country from the territory of another NAFTA country when the Most-Favoured-Nation tariff rate of the good conforms to the rate established in Annex 308.1 and is common to all NAFTA countries (Reference: Annex 308.1)

F The good is an originating agricultural good under preference criterion A, B, or C above and is not subject to a quantitative restriction in the importing NAFTA country because it is a "qualifying good" as defined in Annex 703.2, Section A or B (please specify). A good listed in Appendix 703.2.B.7 is also exempt from quantitative restrictions and is eligible for NAFTA preferential tariff treatment if it meets the definition of "qualifying good" in Section A of Annex 703.2.

**NOTE 1: This criterion does not apply to goods that wholly originate in Canada or the United States and are imported into either country. NOTE 2: A tariff rate quota is not a quantitative restriction.**

Field 8: For each good described in Field 5, state "YES" if you are the producer of the good. If you are not the producer of the good, state "NO" followed by (1), (2) or (3), depending on whether this certificate was based upon: (1) your knowledge of whether the good qualifies as an originating good; (2) your reliance on the producer's written representation (other than a Certificate of Origin) that the good qualifies as an originating good; or (3) a completed and signed Certificate for the good, voluntarily provided to the exporter by the producer.

Field 9: For each good described in Field 5, where the good is subject to a regional value content (RVC) requirement, indicate "NC" if the RVC is calculated according to the net cost method; otherwise, indicate "NO". If the RVC is calculated according to the net cost method over a period of time, further identify the beginning and ending dates (DD/MM/YY) of that period. (Reference: Articles 402.1, 402.5).

Field 10: Identify the name of the country ("MX" or "US" for agricultural and textile goods exported to Canada; "US" or "CA" for all goods exported to Mexico; or "CA" or "MX" for all goods exported to the United States) to which the preferential rate of customs duty applies, as set out in Annex 302.2, in accordance with the Marking Rules or in each Party's schedule of tariff elimination.

For all other originating goods exported to Canada, indicate appropriately "MX" or "US" if the goods originate in that NAFTA country, within the meaning of the NAFTA Rules of Origin Regulations, and any subsequent processing in the other NAFTA country does not increase the transaction value of the goods by more

than 7%; otherwise indicated "JNT" for joint production. (Reference: Annex 302.2)

Field 11: This field must be completed, signed and dated by the exporter. When the Certificate is completed by the producer for use by the exporter, it must be completed, signed and dated by the producer. The date must be the date the Certificate was completed and signed.

### **Annex I.1d**

#### **Language of a Party**

For purposes of these Uniform Regulations the language of a Party shall be, in the case of:

- (a) Canada, English or French;
- (b) Mexico, Spanish; and
- (c) the United States, English.

### **Annex II.3**

#### **Corrected Declaration of Origin**

An importer shall not be subject to penalties if, in the case of:

- (a) Canada, the importer makes the corrected declaration within ninety days from the date on which the importer has reason to believe that the declaration is incorrect;
- (b) Mexico, the importer makes the corrected declaration before the customs administration begins an investigation regarding an incorrect declaration or initiates the exercise of its auditing powers on the accuracy of a declaration or an inspection pursuant to the application of the random selection procedures; and
- (c) United States, the importer makes the corrected declaration within thirty days from the date on which the importer has reason to believe that the declaration is incorrect and such corrected declaration is made before the commencement of a formal investigation of the incorrect declaration.

### **Annex III.2**

#### **Country-specific Definitions of "Series of Importations"**

For purposes of Article 503 of the Agreement, "series of importations" means, in the case of:

- (a) Canada, two or more importations of a good accounted for separately but covered by one commercial invoice issued by the seller of the good to the purchaser of the good;
- (b) Mexico, two or more customs entries covering a good arriving the same day or released the same day, and consigned to, or imported by any person, but covered by one commercial invoice; and
- (c) the United States, two or more customs entries covering a good arriving the same day from the same exporter and consigned to the same person.

#### **Annex IV.1**

##### **Country-specific Definitions of "Promptly"**

For purposes of Articles 504(1)(b) of the Agreement, "promptly" means, in the case of:

- (a) Canada, immediately;
- (b) Mexico, prior to the commencement of an investigation by officials with authority to conduct criminal investigations regarding the Certificate of Origin; and
- (c) the United States, within 30 days.

#### **Annex VI.9**

##### **Common Standards for Written Questionnaires**

1. For purposes of articles VI.9 of these Uniform Regulations, the Parties will seek to agree on uniform questions to be included in a general questionnaire.
2. Subject to paragraph 3, where the customs administration of a Party conducts a verification under Article 506(1)(a) of the Agreement, it shall send the general questionnaire referred to in paragraph 1 of this Annex.
3. For purposes of Article 506(1)(a) of the Agreement, where the customs administration of a Party requires specific information not reflected in the general questionnaire, it may send a more specific questionnaire, according to the information required to determine whether the good that is the subject to the verification is an originating good.
4. For purposes of Article VI of these Uniform Regulations, the verification questionnaires may, at the option of the exporter or producer, be completed in either the language of the Party into whose territory the good is imported, or the language of the Party in the territory in which the exporter or producer is located.

5. Nothing in this Annex shall be interpreted to constrain the customs administration of a Party from requesting additional information in accordance with Article 506(1)(a) of the Agreement and these Uniform Regulations.

### **Annex VI.23**

#### **Rulings and Advance Rulings**

A person shall be entitled to rely on a ruling or advance ruling that is issued, in the case of:

- (a) Canada, in accordance with departmental Memorandum D11-11-1, National Customs Rulings or pursuant to section 43.1(1) of the Customs Act (Advance Rulings);
- (b) Mexico, pursuant to Article 34 of the Código Fiscal de la Federación and to Article 30 of the Ley Aduanera or the applicable provision of Mexican law related to advance rulings under Article 509 of the Agreement; and
- (c) the United States, pursuant to 5 U.S.C. § 301, 19 U.S.C. § 66, or 19 U.S.C. § 1624.

### **Annex VII.2**

#### **Common Standards for Information Required in the Application for an Advance Ruling**

1. For purposes of Article 509(2) of the Agreement, each Party shall provide that a request for an advance ruling contain:

- (a) the name and address of the exporter, producer or importer of the good requesting the issuance of the ruling, as the case may be, hereinafter referred to as the applicant,
- (b) where the applicant is
  - (i) the exporter of the good, the name and address of the producer and importer of the good, if known,
  - (ii) the producer of the good, the name and address of the exporter and importer of the good, if known, or
  - (iii) the importer of the good, the name and address of the exporter and, if known, the producer of the good;

(c) where the request is made on behalf of an applicant, the name and address of the person requesting the issuance of the advance ruling and either

(i) a written statement from the person requesting the issuance of the advance ruling, or

(ii) upon the request of the customs administration of that Party, such person provide, in accordance with its laws, evidence from the applicant on whose behalf the ruling is being requested,

that indicates that the person is duly authorized to transact business as the agent of the applicant;

(d) a statement, on the basis of the applicant's knowledge, as to whether the issue that is the subject of the request for an advance ruling is, or has been, the subject of

(i) a verification of origin,

(ii) an administrative review or appeal,

(iii) a judicial or quasi-judicial review, or

(iv) a request for an advance ruling

in the territory of any Party, and if so, a brief statement setting forth the status or disposition of the matter;

(e) a statement, on the basis of the applicant's knowledge, as to whether the good that is the subject of the request for an advance ruling has previously been imported into the territory of the Party to whom the request for the advance ruling has been made;

(f) a statement that the information presented is accurate and complete, and

(g) a complete description of all relevant facts and circumstances relating to the issue that is the subject of the request for the advance ruling, including

(i) a concise statement, within the scope of Article 509(1) of the Agreement, setting forth the issue on which the advance ruling is sought, and

(ii) a general description of the good.

2. Where relevant to the issue that is the subject of the request for an advance ruling, the request shall include, in addition to the information referred to in paragraph 1:

- (a) a copy of any advance ruling or other ruling with respect to the tariff classification of the good that has been issued to the applicant by the Party to whom the request for an advance ruling is made; and
- (b) if no previous advance ruling or other ruling with respect to the tariff classification of the good has been issued by the Party to whom the request for the advance ruling is made, sufficient information to enable the customs administration of that Party to classify the good, including
  - (i) a full description of the good, including, where relevant, the composition of the good, a description of the process by which the good is manufactured, a description of the packaging in which the good is contained, the anticipated use of the good and its commercial, common or technical designation, product literature, drawings, photographs, or schematics, and
  - (ii) where practical and useful, a sample of the good.

3. Where the request for the advance ruling involves the application of a rule of origin that requires an assessment of whether materials used in the production of the good undergo an applicable change in tariff classification, the request shall include;

- (a) a listing of each material that is used in the production of the good;
- (b) with respect to each material referred to in paragraph (a) that is claimed to be an originating material, a complete description of the material, including the basis on which it is considered that the material originates;
- (c) with respect to each material referred to in paragraph (a) that is a non-originating material or the origin of which is unknown, a complete description of the material, including its tariff classification, if known; and
- (d) a description of all processing operations employed in the production of the good, the location of each operation, and the sequence in which the operations occur.

4. Where the request for an advance ruling involves the application of a regional value-content requirement, the applicant shall indicate whether the request is based on the use of the transaction value or the net cost method, or both.

5. Where the request for an advance ruling involves the use of the transaction value method, the request shall include:

- (a) information sufficient to calculate the transaction value of the good in accordance with Schedule II of NAFTA Rules of Origin Regulations with respect to the transaction of the producer of the good, adjusted to an FOB basis;

- (b) information sufficient to calculate the value of each material that is a non-originating material or the origin of which is unknown that is used in the production of the good in accordance with Section 7, and, where applicable, section 6(10) of NAFTA Rules of Origin Regulations; and
- (c) with respect to each material that is claimed to be an originating material that is used in the production of the good, a complete description of the material including the basis on which it is considered that the material originates.

6. Where the request for an advance ruling involves the use of the net cost method, the request shall include:

- (a) a listing of all products, period, and other costs relevant to determining the total cost of the good referred to under NAFTA Rules of Origin Regulations;
- (b) a listing of all excluded costs to be subtracted from the total cost referred to under NAFTA Rule of Origin Regulations;
- (c) information sufficient to calculate the value of each material that is a non-originating material or the origin of which is unknown that is used in the production of the good in accordance with section 7 of NAFTA Rules of Origin Regulations;
- (d) the basis for any allocation of costs in accordance with Schedule VII of NAFTA Rules of Origin Regulations; and
- (e) the period over which the net cost calculation is to be made.

7. Where the request for an advance ruling involves an issue of whether, with respect to a good or a material that is used in the production of a good, the transaction value of the good or the material is acceptable, the request shall include information sufficient to permit an examination of the factors enumerated in Schedules III or VIII of NAFTA Rules of Origin Regulations, as applicable.

8. Where the request for an advance ruling involves an issue with respect to an intermediate material under Article 402(10) of the Agreement, the request shall contain sufficient information to determine the origin and value of the material in accordance with Article 402(11).

9. Where the request for an advance ruling is limited to the calculation of an element of a regional value content formula, in addition to the information required under paragraph 1, only that information set out under paragraph 4, 5, and 6 which is relevant to the issue that is the subject of the request for an advance ruling need be contained in the request.

10. Where the request for an advance ruling is limited to the origin of a material that is used in the production of a good in accordance with Article VII.1 of these Uniform

Regulations, in addition to the information required under paragraph 1, only that information, set out under paragraphs 2 and 3, which is relevant to the issue that is the subject of the advance ruling need be contained in the request.

#### **Annex VII.8**

##### **Country-specific Definitions of "Importations of a Good"**

For purposes of Article 509(7) of the Agreement, "importations of a good" means importations of a good:

- (a) which, in the case of Canada, has been released pursuant to section 31 of the Customs Act;
- (b) for which, in the case of Mexico, an entry document has been presented pursuant to Article 25 of the Ley Aduanera (Customs Act); and
- (c) which, in the case of the United States, has been entered pursuant to section 1484 of title 19, United States Code.

#### **Annex IX.1**

##### **United States definition of "identical or similar"**

For purposes of Article 303 of the Agreement, in the case of the United States "identical or similar" shall have the same meaning as "same kind and quality" as set forth in 19 U.S.C. § 1313 (b).

## **REFERENCES**

### **ISSUING OFFICE —**

Origin and Valuation Division  
Trade Policy and Interpretation Directorate

### **LEGISLATIVE REFERENCES —**

N/A

### **HEADQUARTERS FILE —**

4571-11

### **SUPERSEDED MEMORANDA "D" —**

D11-4-18, February 25, 1994

### **OTHER REFERENCES —**

N/A

SERVICES PROVIDED BY THE DEPARTMENT ARE AVAILABLE IN BOTH  
OFFICIAL LANGUAGES.

THIS MEMORANDUM IS ISSUED UNDER THE AUTHORITY OF THE DEPUTY  
MINISTER OF NATIONAL REVENUE, CUSTOMS AND EXCISE.