

# NAFTA Verification

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## INTRODUCTION

### INTRODUCTION

- NAFTA review
- Verification Provisions
  - NAFTA provisions
  - Uniform Regulations
  - Canadian law and regulations
- Preparation for an Origin Verification
- Verification Procedures
  - time limits, consequences, penalties
- Questionnaires

This presentation will include a brief review of the structure and administration of the NAFTA rules of origin followed by a review of the various provisions of the agreement, uniform regulations, and Canadian law and regulations related to verification of origin.

We will also look at steps which can be taken by importers, exporters and producers to prepare for a verification audit

The presentation will examine the time limits imposed at various stages during a verification audit.

We will examine the consequences and penalties associated with non-compliance and, finally we will have a look at a standard NAFTA origin questionnaire.

## NAFTA Review

- Elimination of duties - Status Report
- Rules of Origin
- Tariff Terminology
- Example

Before beginning an in depth review of the verification provisions, we will begin with a brief refresher covering basic NAFTA issues. These will include the current status of duty rates in NAFTA countries, a review of how the rules of origin are structured and applied, some basic tariff terminology and we will examine a sample rule of origin to illustrate the some of the factors which must be verified during a NAFTA verification "audit".

## Elimination of Duty Phasing Periods

- U.S.A. - All Goods "Free" Jan. 1, 1998
- Mexican Phasing:

Becomes Duty Free:

<b>Category A:</b>	<b>Jan. 1, 1994</b>
<b>Category B:</b>	<b>Jan. 1, 1998</b>
<b>Category C:</b>	<b>Jan. 1, 2003</b>
<b>Category B+:</b>	<b>Variable to 2001</b>
<b>Category C+:</b>	<b>15 years (2008)</b>

The duty rates for goods traded between the parties are subject to phase out periods established during NAFTA negotiations. For goods traded between Canada and the USA, the phasing periods originally negotiated in the 1989 Canada-US Free Trade Agreement were continued. All "originating" goods will be "duty free" between the Parties on January 1, 1998.

A similar duty rate phase out system was negotiated for goods traded between Canada and Mexico or between the U.S. and Mexico, as follows:

Category A:	Became duty free immediately on implementation of the NAFTA on January 1, 1994.
Category B:	A five year phase out of duty rates which began on January 1, 1994 and the goods will become "duty free" on January 1, 1998.
Category C:	A ten year phase out of duty rates which began on January 1, 1994 and the goods will become "duty free" on January 1, 2003.
Category B+:	A variable phase out schedule of duty rates which began on January 1, 1994 and the goods will become "duty free" on January 1, 2001.
Category C+:	A variable phase out schedule of duty rates which began on January 1, 1994 and the goods will become "duty free" on January 1, 2008.

## Rules of Origin

- A. Goods wholly obtained or produced in the territory;

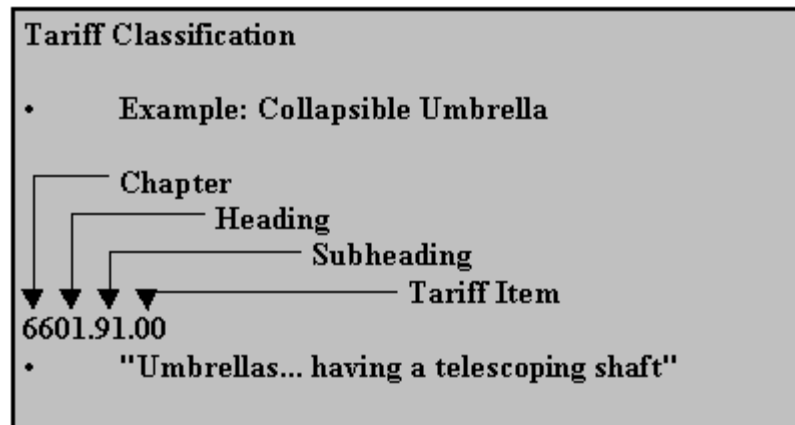
- B. Non-originating materials transformed;
- C. Goods produced exclusively from originating materials;
- D. Special case Involving Non-originating materials not transformed, but: Meet Regional Value Content

Chapter 4 of the NAFTA provides the rules of origin that must be met in order for finished products to qualify for the preferential tariff rates.

Criterion A:	Goods that have 100% territorial content qualify for NAFTA preference rates.
Criterion B:	Goods that have some non-originating materials, but those materials have been sufficiently transformed in accordance with the "rules of origin" of Annex 401 of the NAFTA.
Criterion C:	Goods that are manufactured from "originating" goods. The producer must keep proof of origin for all materials used. Proof can be in the form of a letter, affidavit or a NAFTA certificate of origin.
Criterion D:	In certain special cases some materials cannot meet the tariff shift requirements contained in the specific rule of origin for technical reasons. In these limited cases, the finished product can still qualify if there is sufficient Regional Value Content.

## Tariff Terminology

### Tariff Classification



The NAFTA rules of origin are based on the Harmonized System ("HS") tariff. Each good named in the tariff has a specific rule of origin associated with it. Most of the rules require that non-originating materials contained in the finished goods must undergo a transformation such that they "shift" from one classification to another. In order to understand the change required, the tariff terminology must be understood.

The first two digits specify the **Chapter** of the HS tariff where the goods will be found. The first four digits describe the specific **Heading** within the Chapter. The first six digits provides the **Subheading**, and the first 8 digits provides the **Tariff Item**. Some countries (such as Canada and the US) require additional digits for statistical purposes. A complete HS classification number in Canada, including the statistical suffix requires 10 digits.

## Tariff Shift / RVC

**Product: Golf Club, H.S. 9-1-06.31**

**Origin Rule:** A change to subheading 9506.31 from any other chapter; or  
A change to subheading 9506.31 from 9506.39, whether or not there is a change from any other chapter, provided there is a RVC of not less than:

- 60% of Transaction Value
- 50% of Net Cost

Example of the specific rules of origin for a golf club of Subheading 9506.3 1.

## Bill of Materials: Golf club

	<u>H.S.</u>	<u>Origin</u>
Wood	4413.00	Brazil
Leather	4107.10	Korea
Steel	7228.30	Germany
Head	9506.39	U.S.A.
Shaft	9506.39	Taiwan

The purpose of the example is to illustrate some of the factors that must be verified to substantiate origin.

- tariff classification of finished goods and components
- that the correct rule of origin was applied
- Regional Value Content correctly calculated.

Each materials has been classified under the HS tariff and the country of origin for each material is listed. All of the materials listed undergo the required "tariff shift" described in the first part of the rule except for the head and the shaft which are classified in the same HS chapter as the golf club (95). The head is of US origin; therefore, it does not have to undergo the required tariff shift. The shaft is of Taiwan origin and is classified as a "part" in subheading 9506.39; therefore, we must use the second part of the rule to determine origin which requires an RVC calculation.

Other issues to consider include the routing of the goods to ensure that they are not transshipment in transit to Canada.

## Verification Provisions

## Related Provisions

### Related Provisions

- NAFTA Article 501
- Customs Tariff Act 25.2(5.1)
  - **Certificate of Origin ("CO") required to obtain preference rates**
  - **CO completed by Exporter or Producer**
  - "Blanket" Certificates allowed
  - Accepted by Customs for a period of 4 years

### Article 501 - NAFTA

The Parties agreed that a certificate of origin is required to obtain preferential duty rates. The certificate must be signed by the exporter or producer of the goods.

"Blanket" certificates may be used to cover "like" goods over a period of up to one year.

Once completed and signed a certificate will be accepted by Customs for up to four years from the date signed.

## Importer Obligations

### Importer Obligations

- NAFTA Article 502 / Customs Act Sec. 35.1
  - Written declaration on entry
  - Certificate of Origin must be "on hand"
  - provide CO to Customs on request (within 5 working days)
  - correct erroneous declarations
  - no penalty for voluntary correction
  - refund available for up to 1 year after import

### Article 502 - NAFTA

NAFTA article 502 establishes the obligations of an importer, including:

- A written declaration on the Customs entry (in Canada tariff treatment "10" is declared for US, "11" for Mexico and "12" for combined Mexican and US origin.
- The certificate of origin must be provided to Customs on request.
- Importer must correct erroneous declarations immediately.
- Importer will not be penalized for a voluntary correction of origin on an entry.
- Importer may claim a refund for up to one year after the date the goods are accounted for at Customs.

Section 35.1 of the Customs Act was enacted to fulfill the requirements of Article 502.

## Exporter Obligations

### Exporter Obligations

- NAFTA Article 504 / Customs Act 97.1
  - Exporter must provide a CO for goods entering a NAFTA country under preferential duty rates
  - provide CO to Customs on request notify recipients of erroneous COs
  - penalties for false Export CO equivalent to import penalties
  - no penalty if recipients notified of errors

### Article 504 - NAFTA

NAFTA article 504 establishes the obligations of an exporter who provides a Certificate of Origin to importer in order for the importer to obtain beneficial duty rates, including:

- Must provide a copy of CO to Customs on request.
- Must notify Importer of any errors on certificates.
- Penalties for false certificates are equivalent to penalties issued for false statements on import entries.
- No penalties when errors are voluntarily corrected and all recipients of erroneous CO's are notified promptly.

Section 97.1 of the Customs Act was enacted to fulfill the requirements of Article 504.

## Record Keeping

### Record Keeping

- NAFTA Article 505
- Exporter or Producer must maintain records For 5 years, related to:
  - (i) the purchase of, cost of, value of, and payment for, the exported good
  - (ii) the purchase of, cost of, value of, and payment for, all materials, including indirect materials, used in the production of the exported good
  - (iii) the production of the exported good
- Importer must maintain records including CO

### Article 505 - NAFTA

The exporter must maintain records for at least 5 years related to all aspects of the finished goods and the production of the goods. This includes a complete "audit trail" to show the value of the goods and/or the value of the materials used to produce the goods exported. Documentation related to production costs including labour and overhead must also be maintained.

Similarly, importers must maintain entry documentation including a copy of the certificate of origin.

## Exporters

## **Record Keeping Exporters**

- Customs Act - Section 97.2
- Exporters' and Producers' Records; Regulations (SOR/97-71)
- Export and "every other person who has completed and signed a certificate" must maintain records for 6 years

Section 97.2 of the Customs Act and the Exporters' and Producers' Records Regulations (SOR/97-71) establish that Canadian exporters and any other person authorized to sign a CO must maintain records for 6 years in Canada.

## **Importers**

### **Record Keeping Importers**

- Customs Act - Section 40
- Imported Goods Records Regulations [SOR/86-101 1, as amended]
- Importer must maintain books and records (including CO) for 6 years

Section 40 of the Customs Act and the Imported Goods Records Regulations (SOR/86-101 1) provide that Canadian importers must maintain records for 6 years in Canada, including copies of certificates of origin.

## **Verification Procedures**

## **Legal Basis**

### **Verification Procedures Legal Basis**

- **NAFTA Article 506**
- **Customs Act Section 42.1 to 42.4**
- NAFTA Verification of Origin Regulations
- Customs Memo D 11-4-20

The authority for Customs to conduct a NAFTA origin verification audit is established in Article 506 of the NAFTA. Section 42.1 of the Customs Act allows Customs officers to verify origin of imported goods through using various methods including direct questioning, specific questionnaires, and site visits to the exporter or producer of the goods. The NAFTA Verification of Origin Regulations set out the scope and details surrounding an origin verification review. Customs Memorandum D 11-4-20 is an excellent reference since it provides the wording of the Act, regulations and Customs interpretation and policy surrounding origin verification reviews.

## **Verification Procedures**

- NAFTA Article 506 Customs may verify origin by:
  - Questionnaires

- Site visits to exporters or producers
- "other procedure"

Written Notice and Consent Required

- Preferential Tariff Treatment denied if consent not received within 30 days

#### Article 506 - NAFTA

In Article 506 of the NAFTA the Parties agree that Customs authorities may verify the origin of imported goods by using standard questionnaires, site visits or by "other means" as agreed.

Before Customs can initiate a site visit they must obtain written consent from the exporter/producer of the goods. If consent is not provided within 30 days of Customs written request, preferential tariff treatment can be denied.

## Verification Procedures

- NAFTA Article 506
  - "observers" may be designated by Exporter/producer
  - GAAP rules of the country of origin apply
  - Written determination provided
  - When goods are found not to qualify the Exporter/Producer AND the importer notified
  - No retroactive assessment where Prior Advance Ruling obtained or consistent treatment established

#### Article 506 - NAFTA (continued)

The exporter/producer that consents to a site visit may designate two observers to be present during the visit. The observers are not allowed to actively participate in the review.

If a "Regional Value Content" calculation is required to prove origin, the "Generally Accepted Accounting Principles" of the country of export must be applied.

If Customs determine that the goods do not qualify for preferential rates they must notify the exporter/producer AND the importer in writing.

Customs cannot make retroactive assessments prior to the date of the notice in cases where the exporter/producer or the importer obtained a binding ruling of origin, tariff or value or in cases where the exporter/producer can establish that they received consistent treatment from their domestic Customs administration in respect to tariff, or value of materials.

## Verification Procedures

- NAFTA Article 506
  - Denial of Preferential Rates postponed for 90 days where the exporter/producer relied on tariff or value information provided their country's Customs Service
  - Confidentiality of Records
  - Each Party agrees to maintain criminal, civil and administrative penalties for violations

#### Article 506 - NAFTA (continued)

The denial of preferential duty rates may be postponed for 90 days after the date of notice in situations where the importer or the exporter/producer can demonstrate that they relied in good faith on information received from the Customs administration in the export country to their detriment.



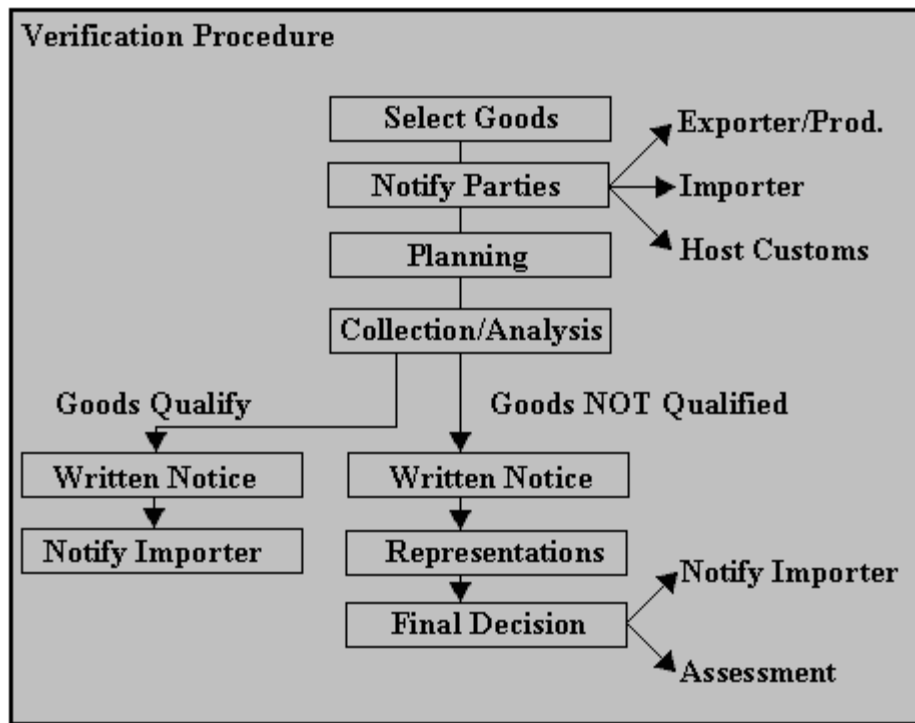
# Customs Procedures

## Customs Procedures

- Sequence of Events
- Importer
  - Preparation
  - Risk Management
- Exporter
  - Preparation
  - Questionnaires
  - Site Visit

The next section deals with the actual procedures followed by Customs during a verification audit. This section will cover the sequence of events and why each is necessary. We will examine ways in which the Importer and Exporter can prepare for a verification audit.

## Verification Procedure



Customs have developed a flow chart to demonstrate how the origin verification procedures are conducted.

Source: Revenue Canada Brochure:

"What to Expect From a NAFTA Verification"

## Importer

### Importer

- Customs Request a copy of CO
  - Time Limit 5 Days
  - If not provided, Preferential Treatment Denied
- Importer Preparations
  - All CO's filed in a Central Location
  - Assign a responsible person
  - Document procedures in a manual

## — Due Diligence Review

Customs will normally begin a NAFTA origin verification by requesting a copy of the CO from the importer. The CO should be provided immediately, however, as a courtesy, Customs will provide up to 5 days for an importer to provide the certificate.

Importers can prepare themselves for such requests by:

1. Filing all COs received from suppliers in a central location, in easily accessible order.
2. Clearly identify the person(s) responsible for Customs matters and ensure that Customs enquiries are immediately directed to the person responsible.
3. Procedures manuals should be amended to name the person(s) responsible and describe their responsibilities in regard to NAFTA certificates.
4. Due diligence procedures should be listed in the Customs procedure manual.

**FORM: KPMG — North American Free Trade Agreement — Certificate of Origin**

## Due Diligence Review

### Due Diligence Review

- Complete Exporter Information
- Appropriate Blanket Period
- Complete description of goods
- Correct HS Classification
- Appropriate Origin Criterion
- Valid code in "Net Cost" field
- Complete signature block

Whenever the importer receives a certificate of origin from an exporter, it should be carefully reviewed before being filed as follows:

- The exporter information should be complete and accurate. The blanket period specified in field 2 should match the time period of the entry.
- The description of the goods must be detailed enough to allow tariff classification of the good.
- The HS classification should be checked for accuracy.
- The "Origin Criterion" should be reasonable.
- An appropriate "Net Cost" code should be used.
- An appropriate "Country of Origin" code should be used
- The signature block should be complete.

## Importer: Steps to Reduce Risk

### Importer Steps to Reduce Risk

- Shift liability to supplier through contractual agreements
- Confidential independent origin audit
- Communication with Suppliers

The importer can further reduce their risk of assessment by taking certain risk management measures.

For example if the potential liability if goods do not qualify is high, an importer may wish to amend their purchase agreement to make the supplier liable for duties, interest and penalties assessed as a result of an invalid certificate. If this is not possible, the importer may request an independent audit be conducted at their supplier. The supplier must be assured that information provided remains confidential and the customer receives only a report on origin. If an independent audit is not possible the importer should discuss the rules of origin to ensure that the supplier is conducting a proper and well documented origin determination.

## Exporter/Producer: Preparation

### Exporter/Producer Preparation

Establish "Audit Trail" by:

- Establish Tariff Classification of Product (Rulings?)
- Find the CORRECT rule of origin
- Find Tariff Classification of components (bill of materials classified)
- "DANGER ZONE" Approach

There are a number of steps that an exporter/producer can take in preparation for a NAFTA verification review, including:

1. Classify the finished product under the HS tariff. If there is any doubt, seek professional help, consider obtaining rulings. (Preferably from the destination country).
2. Find the correct rule of origin to apply, this includes ensuring that the latest version of the rules are referred to and determining which part of a two part rule applies.
3. Classify the non-originating (or origin unknown) materials under the HS tariff. If any doubts regarding any materials consider rulings.

An approach that tends to be very efficient when conducting an origin determination is to treat all materials as "unknown" origin. All materials on the "bill of materials" must be classified. Only the items that fail the tariff shift required by the rule or any materials that force an RVC calculation need be highlighted for further review. These highlighted materials fall in the "Danger Zone" and require detailed investigation to determine origin.

## Tariff Shift / RVC

### Tariff Shift / RVC

#### Product: Golf Club, HS. 9506-31

**Origin Rule:** A change to subheading 9506.31 from any other chapter,

A change to subheading 9506.31 from 9506.39, whether or not there is a change from any other chapter, provided there is a RVC of not less than:

- 60% of Transaction Value
- 50% of Net Cost

Example of a Rule of Origin for a Golf Club of Subheading 9506.31. The "danger zone" is any material classified in chapter 95.

**Exporter/Producer  
Preparation**

- Obtaining Certificates/Affidavits from NAFTA Suppliers when necessary (due diligence reviews)
- Does "De Minimis" apply?
- Determine RVC methods available
- Calculate RVC by applying GAAP
- Document calculations
- Responsible person to sign CO

The exporter must obtain certificates of origin and/or affidavits attesting to origin from suppliers of materials that fall in the "danger zone". Whenever there are non-originating materials that do not meet the tariff shift test, the "De Minimis" test should be applied.

If a Regional Value Content calculation is required, the alternative methods should be considered and the most suitable method available should be chosen. The GAAP of the country of export should be applied when calculating the RVC.

All calculations and tariff classification numbers should be fully documented and filed for use during a verification audit.

There should be specific individuals tasked with the responsibility of reviewing and signing certificates of origin.

**Questionnaires**

- Five Questionnaires developed depending on the specific rule(s) of origin
  1. Criterion A — Wholly Obtained or Produced
  2. Criterion C — All "Originating" materials
  3. Criterion B — Tariff Shift Only Rule
  4. Criterion B — Tariff Shift & RVC (Transaction Value Method)
  5. Criterion B — Tariff Shift & RVC (Net Cost Method)

Customs have developed a set of five Questionnaires for use in specific situations depending on the type of rule applicable to the goods being reviewed. The questionnaires cover the following situations:

1. Goods claimed as "Criterion A" wholly obtained or produced.
2. Goods that are produced from originating materials.(Criterion C).
3. Goods having a rule of origin which requires a "tariff shift" only and no regional value content.
4. Goods having a rule of origin which requires a "tariff shift" AND an regional value content calculation using the Transaction Value method.
5. Goods having a rule of origin which requires a "tariff shift" AND an regional value content calculation using the Net Cost approach.

**Questionnaires**

- Time limit for return of complete questionnaires specified in letter
- If no response a second questionnaire sent with confirmation of receipt required

- If no response to second request, preferential rate denied
- If questionnaire result inconclusive - site visit may be conducted

When Customs elect to gather information using a questionnaire, they specify the time limit to complete the form and return it Customs. The Uniform Regulations state that the time limit will not be less than 30 days. If the questionnaire is not completed within the time limits a second copy must be sent by registered mail or some other method that confirms receipt of the for-in. In situations where the second questionnaire is not completed, Customs will deny preferential tariff treatment.

If the questionnaire results are inconclusive, Customs may elect to conduct a site visit.

## Verification Site Visit

### Verification Site Visit

- Customs must send Notice to:
  - Exporter/Producer
  - Customs Administration in Country of Export
  - Embassy of Export Country (if requested)
- Customs Admin. receiving notice may postpone the visit within 15 days of receipt
- Exporter/Producer has 30 days to provide consent for visit

Before a site visit commences, Customs must notify the exporter, the Customs authority in the country of export and in some cases the Canadian embassy of the destination country must be informed. The Customs administration in the country of export has 15 days to request that the visit be postponed. The exporter has 30 days to consent to a site visit.

### Verification Site Visit

- Preferential duty rates denied when:
  - Consent for visit not provided
  - Inadequate/incomplete records
  - Incomplete access to information
- Exporter may designate observers
- All queries and records requested should relate to origin verification

Preferential duty rates will be denied when:

1. The exporter does not consent to a visit (in writing).
2. Inadequate or incomplete records maintained.
3. Lack of access to all information requested.

Exporter may designate observers to be present to oversee Customs during the course of an origin verification audit. The observers may not directly participate in the review proceedings.

Consenting to a NAFTA verification audit does not give Customs the right to look at books and records which are not directly related to origin. Questions concerning Customs matters other than NAFTA origin are not appropriate and should be reserved for separate proceedings.

### Scope of Review

- Verify Non-qualifying Operations do not exist (e.g. dilution, specific practice)
- Transshipment
- Tariff Change
- Regional Value Content
- Tariff Treatment (i.e. UST, MT, MUST)
- Period - up to 2 years in most cases

Customs require documentation to prove that non-qualifying operations were not involved during the processing of goods. (e.g. dilution in water or other practices to circumvent the agreement.) Customs will examine shipping documents to ensure that the goods were not transshipped since one of the conditions of claiming preferential rates requires direct shipment from one NAFTA country to another. They will classify the finished product and the materials to ensure that each non-originating materials undergoes the required tariff shift. Interpretation of tariff is a major consideration during a NAFTA verification audit. Customs will ensure that the appropriate tariff treatment was applied to the goods.

## Preparation for Origin Verification

### Denial of Preferential Rates

#### Denial of Preferential Rates

- Rates Can be denied for:
  - Failure to produce a certificate
  - Failure to complete a Questionnaire within the time period specified
  - Failure to consent to a site visit
  - Failure to establish that rule(s) of origin has been met.
  - Inadequate records.

The most common causes of denial of NAFTA preference rates are:

1. Failure to produce a CO.
2. Failure to complete and return questionnaires during the time period specified.
3. Failure to consent to a verification site visit.
4. Failure to prove that the goods comply with the rule(s).
5. Inadequate records.

#### Denial of Preferential Rates

- In cases where Origin Verification results in denial of benefits the Exporter/Producer may make representations:
  - within 30 days of confirmed receipt the notice for Mexico
  - within 30 days of the date notice sent for USA

- Where producer is not the Exporter, the producer may appeal the decision

When Customs intend to deny NAFTA benefits they will provide a written report. The Exporter or Producer has 30 days to make representations to dispute the decision. For goods shipped from the USA, the 30 days begins when the notice is mailed. For goods shipped from Mexico, the 30 day limit begins on the day the notice is received by the exporter.

#### **Denial of Preferential Rates**

- After the 30 day period elapsed or after consideration of representations received, Customs will make a Final Decision on origin.
- If Preferential Rates Denied Assessments may be issued

After the 30 day period has expired Customs will consider all of the representations received and issue a final origin determination.

If preferential rates are denied, Customs may assess prior entries.

## **Re-determination of Origin**

#### **Re-determination of Origin**

- in case of automotive goods using "averaging" to calculate RVC, assessment may be retroactive for 4 years
- Other goods, assessment may be retroactive for a period of 2 years
- Assessment periods may vary.

Customs may decide to assess duty on all imported non-originating goods that were claimed under preferential rates. In cases where the goods exported are automotive goods and the exporter has elected to use averaging to calculate the net cost of the goods, the retroactive assessment period is 4 years pursuant to Section 61(d) Customs Act and SOR/97-334. Section 61(c) provides for an assessment period of two years for all other goods.

#### **Re-determination of Origin**

- No retroactive assessment prior to date of notice where:
  - exporter received advance ruling on tariff or value prior to notification
  - exporter received "consistent treatment" from their Customs Administration prior to notification
- Consistent Treatment - acceptance of tariff or value over 2 years of imports

Retroactive assessments are specifically prohibited where:

1. The exporter/producer received an advance ruling pertaining to origin, tariff or value of the goods being denied preferential rates.
2. The exporter/producer received "consistent treatment"

"Consistent Treatment" as defined in the Uniform Regulations to NAFTA 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."

#### **Re-determining of Origin**



- Denial of preferential treatment may be delayed for up to 90 days after notice provided where exporter demonstrates that they relied on tariff or value applied by their own Customs service to their detriment

In cases where the exporter demonstrates that they have relied on tariff or valuation information provided by their domestic Customs Service to their detriment, the denial of NAFTA benefits may be delayed for 90 days.

## Verification Procedures

### Time Limits Summary

#### Time Limits Summary

- Produce or correct CO - 5 days
- Customs Service request postponement of visit - 15 days from receipt of notice
- Response to request for site visit - 30 days
- Response to Questionnaire - varies
- Appeal notice of denial - 30 days

#### Summary of Time Limits

1. Time allowed to produce a valid certificate of origin when requested by Customs - 5 days
2. Time allowed for the Customs Service in the country of export to request a postponement of a site visit - **within 15 days of receiving the notice.**
3. Time allowed for the Exporter to provide written consent for a site visit. - **30 days from the date of receiving a request for a site visit**
4. The time period provided for completion of origin questionnaires is specified in the cover letter.
5. The time allowed for the exporter/producer to make representations to dispute a denial of preferential duty rates.
  - **USA - 30 days from date notice is sent.**
  - **Mexico - 30 days from date of receipt of notice**

## Other Penalties

#### Other Penalties

- Importer may be assessed interest (prescribed or specified) on retroactive assessments
- Customs in country of export may issue penalties to exporter/producer for false CO
- Importer may receive penalties for negligence, gross negligence,
- Fraud - civil and criminal penalties
- AMPS - ??

In addition to the importer of the goods being assessed additional duties when preferential duty rates are denied, other penalties may apply as follows:

- 1 Importers may be assessed interest at the prescribed rate or the specified rate.
- 2 Customs in the country of export may issue a penalty to the exporter/producer for issuing a false certificate of origin. The penalty is equivalent to penalties issued for false statements on import entries.
- 3 Importer or Exporter may face negligence or gross negligence penalties
- 4 In cases of Fraud, civil and/or criminal penalties may apply
- 5 The proposed Administrative Monetary Penalty System will likely have penalties for origin violations.

## Questionnaire

# NORTH AMERICAN FREE TRADE AGREEMENT ORIGIN VERIFICATION QUESTIONNAIRE

## REGIONAL VALUE CONTENT - NET COST METHOD

NORTH AMERICAN FREE TRADE AGREEMENT ORIGIN VERIFICATION QUESTIONNAIRE — REGIONAL VALUE CONTENT — NET COST METHOD — B 228E (94/05)

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