

NAFTA: 20 Years Later!

NAFTA. The North American Free Trade Agreement between the United States, Canada and Mexico was launched 20 years ago to reduce trading costs, increase business investment, and help North America to be more competitive in the global marketplace. Previous to that, a Canada U.S. Free Trade Agreement (for FTA) existed for 5 years. It's hard to conceive that importers and exporters have enjoyed the privileges of reduced or free rates of duty for this long, yet most people still do not understand the rules, regulations and the consequences of this agreement.

NAFTA CREATED THE WORLD'S LARGEST FREE TRADE AREA

In terms of Gross Domestic Product. It now links 450 million people producing \$17 trillion worth of goods and services. In January of 2008 all tariffs between the three countries were eliminated.

NAFTA ACHIEVEMENTS

NAFTA has achieved its objective since trade between the three countries has tripled from \$297 billion to \$1.6 trillion.

CANADA

U.S.A

MEXICO

\$1.6 TRILLION IN TRADE



ARTICLE 102 OF THE NAFTA AGREEMENT OUTLINES ITS PURPOSE:

- Grant the signatories national treatment, most-favored-nation treatment and transparency.
- Eliminate barriers to trade and facilitate the cross-border movement of good and services.
- Promote conditions of fair competition.
- Increase investment opportunities.
- Provide protection and enforcement of intellectual property rights.
- Create procedures for the resolution of trade disputes.

NAFTA IS A PRIVILEGE NOT A RIGHT

To participate in NAFTA, importers and exporters must abide by the rules and ensure that the goods covered by the Certificate of Origin actually qualify under the NAFTA rules of origin. Should they not, importers may be required to pay back the duty, which can have a substantial impact to the bottom line.

In order to receive the benefits of NAFTA all goods must be certified and declared on a NAFTA Certificate of Origin that must be completed and signed by the exporter. The certificate is a legal document with legal consequences. Prior to completing a certificate, an understanding of the rules and regulations is required. Unfortunately, a Certificate of Origin has devolved into a shipping document, with little or no credibility that the goods included actually qualify for preferential status.

The NAFTA rules of origin are lengthy and complex – they are difficult to interpret without extensive knowledge of the agreement.



There are many goods that are manufactured in the United States, Canada or Mexico which do not meet the rules and therefore do not qualify. A misconception persists that as long as a manufacturer has over 50% regional value content (RVC) then a good will qualify. This is not correct – in fact, there are many products with over 50% RVC which do not qualify. Most of the rules of origin within the agreement require a tariff shift. A tariff shift is a change in tariff classification as a result of substantial transformation within a NAFTA territory. As example – flour into a cake, bearings into a machine or paper into a book.

The interpretation is not always that simple. An example would be oranges grown in Brazil, shipped into the United States where they are squeezed into orange juice, then shipped to Canada. This is an example of a product that will not qualify as an originating good, as it has not undergone a substantial change based on the rule of origin.

Reviewing your bills of material, examining the rules of origin and making a proper determination prior to exporting your goods is critical.

If this process is not followed correctly, in the event of a NAFTA Audit by any of the three customs services, an importer could be facing a substantial retroactive payment of duty, plus penalties and interest.

By using the “privilege” of NAFTA over the past 20 years importers have saved an enormous amount of duty, but could incur unexpected penalties if preferential status is claimed incorrectly.

There is a cost to NAFTA, whether it be internal or external, to properly certify goods. It is a continuous process that must be completed each and every year.

**WOULD YOU LIKE MORE INFORMATION ABOUT
NAFTA REGULATIONS AND BENEFITS?**

EMAIL peaceofmind@farrow.com



Importers are encouraged
to get **qualified** help!