



Ottawa, June 29, 2005

MEMORANDUM D11-4-20

In Brief

PROCEDURES FOR VERIFICATIONS OF ORIGIN UNDER A FREE TRADE AGREEMENT

This Memorandum has been revised to reflect the implementation of the Canada-Costa Rica Free Trade Agreement. In addition, changes have been made to the “Guidelines and General Information” section to clarify policy or procedural issues that have arisen since its last revision.



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Ottawa, June 29, 2005

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PROCEDURES FOR VERIFICATIONS OF ORIGIN UNDER A FREE TRADE AGREEMENT

This Memorandum outlines and explains the verification procedures pursuant to section 42 of the *Customs Act*, Article 506 of the North American Free Trade Agreement (NAFTA), Article E-06 of the Canada-Chile Free Trade Agreement (CCFTA), Article 5.6 and Annex 5.6.2 of the Canada-Israel Free Trade Agreement (CIFTA), Article V.6 of the Canada-Costa Rica Free Trade Agreement (CCRFTA) and the Regulations of the NAFTA, CCFTA, CIFTA and CCRFTA.

TABLE OF CONTENTS

	Page		
Legislation	2	Denial or Withdrawal of Preferential Tariff Treatment	13
<i>Customs Act</i> – Section 42	2	Written Statement	13
Regulations	3	Pattern of Conduct by an Exporter or Producer Regarding False or Unsupported Origin Certification	13
<i>NAFTA and CCFTA Verification of Origin Regulations</i>	3	Interpretation of Tariff Classification and Valuation of Materials	14
<i>CIFTA Verification of Origin Regulations</i>	6	Modification or Revocation of a Ruling	14
<i>CCRFTA Verification of Origin Regulations</i>	7	Review and Appeal	14
Guidelines and General Information	9	Evidence of Fraud	14
Introduction	9	Appendix B – Guidelines for CIFTA Verifications	15
General	9	Regional and Headquarters Roles and Responsibilities	15
Additional Information	10	Scope of a Verification	15
Appendix A – Guidelines for NAFTA and CCFTA Verifications	11	Manner of Conducting a Verification of Origin	15
Regional and Headquarters Roles and Responsibilities	11	Verification of Goods Imported Into Canada	15
Scope of a Verification	11	Verification Questionnaires	15
Manner of Conducting a Verification of Origin	11	Conditions for Conducting a Verification Visit	15
Verification Letters and Questionnaires	11	Postponement of a Verification Visit	16
Other Methods of Communication	12	Observers	16
Verification Visits	12	Withdrawal of Preferential Tariff Treatment	16
Conditions for Conducting a Verification Visit	12	Written Statement	16
Postponement of a Verification Visit	12	Review and Appeal	16
Observers	12	Evidence of Fraud	16
Regional Value Content	12	Appendix C – Guidelines for CCRFTA Verifications	17
Generally Accepted Accounting Principles	13	Regional and Headquarters Roles and Responsibilities	17
		Scope of a Verification	17
		Manner of Conducting a Verification of Origin	17
		Verification Letters and Questionnaires	17
		Other Methods of Communication	17
		Verification Visits	17
		Conditions for Conducting a Verification Visit	18
		Postponement of a Verification Visit	18
		Observers	18
		Regional Value Content	18

Generally Accepted Accounting Principles	18
Denial or Withdrawal of Preferential Tariff Treatment	18
Written Statement	19
Pattern of Conduct by an Exporter or Producer Regarding False or Unsupported Origin Certification	19
Interpretation of Tariff Classification and Valuation Materials	19
Modification or Revocation of a Ruling	20
Review and Appeal	20
Evidence of Fraud	20

treatment under a free trade agreement may be denied or withdrawn from the goods.

Statement of Origin

STATEMENT OF ORIGIN

42.2 (1) On completion of a verification of origin under paragraph 42.1(1)(a), an officer designated under subsection 42.1(1) shall provide the exporter or producer whose goods are subject to the verification of origin with a statement as to whether the goods are eligible, under the *Customs Tariff*, for the preferential tariff treatment that was claimed.

BASIS OF STATEMENT

(2) A statement referred to in subsection (1) must include any findings of fact or law on which it was based.

LEGISLATION

Customs Act

Verifications under a Free Trade Agreement

Conduct of Verification

METHODS OF VERIFICATION

42.1 (1) Any officer, or any officer within a class of officers, designated by the Minister for the purposes of this section, or any person, or any person within a class of persons, designated by the Minister to act on behalf of such an officer, may, subject to the prescribed conditions,

(a) conduct a verification of origin of goods for which preferential tariff treatment under a free trade agreement is claimed

(i) by entering any prescribed premises or place at any reasonable time, or

(ii) in the prescribed manner; or

(b) enter any prescribed premises or place at any reasonable time to verify the amount, if any, of

(i) a relief under section 89 of the *Customs Tariff* from the payment of any duties payable in respect of imported goods that are subsequently exported to a NAFTA country, or

(ii) a drawback under section 113 of the *Customs Tariff* of duties paid in respect of imported goods that are subsequently exported to a NAFTA country.

WITHDRAWAL OF PREFERENTIAL TARIFF TREATMENT

(2) If an exporter or producer of goods that are subject to a verification of origin under paragraph (1)(a) fails to comply with the prescribed requirements or, in the case of a verification of origin under subparagraph (1)(a)(i), does not consent to the verification of origin in the prescribed manner and within the prescribed time, preferential tariff

Effective Date of Re-determination of Origin

DEFINITION OF CUSTOMS ADMINISTRATION

42.3 (1) In this section, “customs administration” has the meaning assigned to that expression by Article 514 of NAFTA, Article E-14 of CCFTA, or Article V.14 of CCRFTA, as the case may be.

EFFECTIVE DATE OF RE-DETERMINATION OR FURTHER RE-DETERMINATION

(2) Subject to subsection (4), a re-determination or further re-determination of origin does not take effect until notice of it is given to the importer of the goods and any person who completed and signed a Certificate of Origin for the goods if the result of the re-determination or further re-determination of origin made under subsection 59(1) in respect of goods for which preferential tariff treatment under NAFTA, CCFTA, or CCRFTA is claimed and that are the subject of a verification of origin under this Act is that

(a) the goods are not eligible for that preferential tariff treatment on the basis of the tariff classification or value of one or more materials used in their production; and

(b) that tariff classification or value differs from the tariff classification or value applied to those materials by the NAFTA country from which the goods were exported, from Chile or from Costa Rica, as the case may be.

LIMITATION

(3) A re-determination or further re-determination of origin referred to in subsection (2) shall not be applied to goods imported before the date on which the notice was

given if the customs administration of the NAFTA country from which the goods were exported, of Chile or of Costa Rica, as the case may be, has, before that date,

(a) given an advance ruling under Article 509 of NAFTA, Article E-09 of CCFTA, or Article V.9 of CCRFTA, as the case may be, or given another ruling referred to in paragraph 12 of Article 506 of NAFTA, paragraph 12 of Article E-06 of CCFTA or paragraph 15 of Article V.6 of CCRFTA, as the case may be, on the tariff classification or value of the materials referred to in subsection (2); or

(b) given consistent treatment with respect to the tariff classification or value of the materials referred to in subsection (2) on their importation into the NAFTA country, Chile or Costa Rica, as the case may be.

POSTPONEMENT OF EFFECTIVE DATE

(4) The date on which a re-determination or further re-determination of origin referred to in subsection (2) takes effect shall be postponed for a period not exceeding ninety days if the importer of the goods that are the subject of the re-determination or further re-determination, or any person who completed and signed a Certificate of Origin for the goods, establishes to the satisfaction of the Minister that the importer or the person, as the case may be, has relied in good faith, to the detriment of the importer or person, on the tariff classification or value applied to the materials referred to in that subsection by the customs administration of the NAFTA country from which the goods were exported, of Chile or of Costa Rica, as the case may be.

Denial or Withdrawal of Benefit of Preferential Tariff Treatment under NAFTA, CCFTA or CCRFTA

DEFINITION OF IDENTICAL GOODS

42.4 (1) In this section, “identical goods” has the meaning assigned to that expression by Article 514 of NAFTA, Article E-14 of CCFTA or Article V.14 of CCRFTA, as the case may be.

DENIAL OR WITHDRAWAL OF BENEFIT: NAFTA COUNTRY, CHILE OR COSTA RICA

(2) Notwithstanding section 24 of the *Customs Tariff*, the Minister may, subject to the prescribed conditions, deny or withdraw preferential tariff treatment under NAFTA, CCFTA or CCRFTA in respect of goods for which that treatment is claimed if the exporter or producer of the goods has made false representations that identical goods exported or produced by that exporter or producer and for which that treatment was claimed were eligible for that treatment.

REGULATIONS

NAFTA AND CCFTA VERIFICATION OF ORIGIN REGULATIONS

INTERPRETATION

1. The definitions in this section apply in these Regulations.

“Act” means the *Customs Act. (Loi)*

“customs administration” means the competent authority that is responsible under the law of a NAFTA country or of Chile, as the case may be, for the administration of customs laws and regulations. (*administration douanière*)

“Generally Accepted Accounting Principles” has the meaning assigned to that expression by Schedule XII of the *NAFTA Rules of Origin Regulations* or by Schedule XI of the *CCFTA Rules of Origin Regulations*, as the case may be. (*principes comptables généralement reconnus*)

“goods” means goods for which preferential tariff treatment under NAFTA or preferential tariff treatment under CCFTA is claimed. (*marchandises*)

“material” means a good that is used in the production of another good, and includes a part or ingredient. (*matière*)

“verification letter” means a letter that requests information with respect to the origin of goods that are the subject of a verification of origin. (*lettre de vérification*)

“verification questionnaire” means a questionnaire that requests information with respect to the origin of goods that are the subject of a verification of origin. (*questionnaire de vérification*)

“verification visit” means the entry into a place or premises for the purposes of conducting a verification of origin of goods under paragraph 42.1(1)(a) of the Act. (*visite de vérification*)

MANNER OF CONDUCTING A VERIFICATION OF ORIGIN

2. In addition to a verification visit, an officer may conduct a verification of origin of goods in any of the following manners:

(a) by reviewing a verification questionnaire completed by

- (i) the exporter or producer of the goods, or
- (ii) a producer or supplier of a material that is used in the production of the goods;

(b) by reviewing a written response received from a person referred to in paragraph (a) to a verification letter; or

(c) by reviewing any other information received from a person referred to in paragraph (a).

PRESCRIBED PREMISES

3. The following premises of persons in a NAFTA country other than Canada or in Chile are prescribed premises for the purposes of a verification visit:

- (a) the premises of an exporter or a producer of goods; and
- (b) the premises of a producer or a supplier of a material that is used in the production of goods.

CONDITIONS FOR CONDUCTING A VERIFICATION VISIT

4. (1) An officer may conduct a verification visit on the condition that

- (a) the officer sends a written notice of the intention to conduct the verification visit to
 - (i) the person whose premises are the subject of the verification visit,
 - (ii) the customs administration of Chile or of the NAFTA country in the territory of which the verification visit is to occur, and
 - (iii) if requested by the customs administration of Chile or of the NAFTA country in the territory of which the verification visit is to occur, the embassy in Canada of Chile or of that NAFTA country, as the case may be; and

(b) the person whose premises are the subject of the verification visit consents to the verification visit.

(2) A notice referred to in paragraph (1)(a) shall specify

- (a) the identity of the customs administration of the officer sending the notice;
- (b) the name of the person whose premises are the subject of the verification visit;
- (c) the date and place of the verification visit;
- (d) the object and scope of the verification visit, including specific reference to the goods that are the subject of the verification of origin or to the materials that are used in the production of those goods;
- (e) the name and title of the officer; and
- (f) the legal authority for the verification visit.

POSTPONEMENT OF A VERIFICATION VISIT

5. (1) Any customs administration that receives a notice under subparagraph 4(1)(a)(ii) may postpone the verification visit by sending a written request to the officer

who sent the notice, within 15 days after receiving the notice.

(2) A postponement of a verification visit under subsection (1) shall be for a period not exceeding 60 days beginning on the date of receipt of the notice, or for a longer period, where the longer period is agreed to by the customs administration of Canada and the customs administration of Chile or the NAFTA country in the territory of which the verification visit is to take place, as the case may be.

OBSERVERS

6. Any person who receives a notice under subparagraph 4(1)(a)(i) may designate two observers to be present during the verification visit.

7. An observer designated under section 6 may not participate in the verification visit in a manner other than as an observer.

8. A person who designates an observer under section 6 shall identify that observer to the officer conducting the verification visit.

GENERALLY ACCEPTED ACCOUNTING PRINCIPLES

9. Where an officer determines, during the course of a verification of origin, that a producer of goods has failed to record costs in accordance with Generally Accepted Accounting Principles applied in the territory of the NAFTA country or Chile in which the goods that are the subject of the verification of origin are produced, the officer shall send a written notice to the producer stating that the producer has not recorded its costs in accordance with Generally Accepted Accounting Principles and that the producer must record those costs in accordance with those principles within 60 days after receiving that written notice.

VERIFICATION LETTERS AND VERIFICATION QUESTIONNAIRES

10. A verification letter or verification questionnaire shall specify

- (a) the identity of the customs administration of the officer sending the verification letter or verification questionnaire;
- (b) a description of the goods that are the subject of the verification of origin or of the materials that are used in the production of those goods; and
- (c) the period within which the verification letter must be answered or the verification questionnaire must be completed and returned, which period, except in the case of a verification letter under section 11, shall be not less than 30 days after the date on which the verification letter or the verification questionnaire was sent.

11. Where, pursuant to section 11 of the *NAFTA Rules of Origin Regulations* or pursuant to section 10 of the *CCFTA Rules of Origin Regulations*, a producer of a motor vehicle elects to average its regional value content calculation over the producer's fiscal year, an officer may, in a verification letter, request that a cost submission reflecting the actual costs incurred in the production of the category of motor vehicles for which the election was made be submitted to the officer by the producer not later than the later of

(a) 180 days after the end of the producer's fiscal year, and

(b) 60 days after the date on which the verification letter was sent.

SUBSEQUENT VERIFICATION LETTERS AND VERIFICATION QUESTIONNAIRES

12. Where a verification letter or verification questionnaire has been sent to a person and that person does not respond to the verification letter, or complete and return the verification questionnaire, within the period specified therein, an officer shall send a subsequent verification letter or subsequent verification questionnaire to that person.

DENIAL OR WITHDRAWAL OF PREFERENTIAL TARIFF TREATMENT UNDER NAFTA OR OF PREFERENTIAL TARIFF TREATMENT UNDER CCFTA

13. For the purposes of subsection 42.1(2) of the Act, preferential tariff treatment under NAFTA or preferential tariff treatment under CCFTA may be denied or withdrawn from the goods that are the subject of a verification of origin where the exporter or producer of the goods

(a) does not consent to a verification visit within 30 days after receiving a notice referred to in paragraph 4(1)(a);

(b) who is required to maintain records of goods in accordance with the applicable laws of the country in which the verification of origin is conducted

(i) fails to maintain those records in accordance with those laws, or

(ii) denies the officer conducting the verification of origin access to those records; or

(c) to whom a subsequent verification letter or subsequent verification questionnaire is sent under section 12 does not respond to the subsequent verification letter or complete the subsequent verification questionnaire and return it to an officer within 30 days after the date on which the subsequent verification letter or subsequent verification questionnaire is

(i) received, where the subsequent verification letter or subsequent verification questionnaire is sent in accordance with paragraph 18(a), or

(ii) sent, where the subsequent verification letter or subsequent verification questionnaire is sent in accordance with paragraph 18(b).

14. (1) An officer shall send a written notice of the intent to re-determine the origin of goods under subsection 59(1) of the Act with any statement that is provided to an exporter or producer of goods pursuant to subsection 42.2(1) of the Act and that states that the goods that are the subject of a verification of origin are not eligible for preferential tariff treatment under NAFTA or preferential tariff treatment under CCFTA, as the case may be.

(2) A notice referred to in subsection (1) shall include the date after which preferential tariff treatment under NAFTA or preferential tariff treatment under CCFTA, as the case may be, may be denied or withdrawn in respect of the goods that are the subject of the verification of origin and the period during which the exporter or producer of the goods may provide written comments or additional information regarding the origin of those goods.

15. A re-determination of the origin of goods shall not be made earlier than 30 days after the date on which the notice referred to in subsection 14(1) is

(a) received, where the notice is sent in accordance with paragraph 18(a); or

(b) sent, where the notice is sent in accordance with paragraph 18(b).

METHODS OF SENDING DOCUMENTS

16. A verification letter or verification questionnaire may be sent by any method.

17. A notice referred to in subparagraph 4(1)(a)(i) shall be sent by any method that produces a confirmation of receipt.

18. A subsequent verification letter, subsequent verification questionnaire or a notice referred to in section 14 shall be sent

(a) if requested by the customs administration of Chile or of a NAFTA country from whose territory the goods were exported as the case may be, by any method that produces a confirmation of receipt; or

(b) in any other case, by any method.

CIFTA VERIFICATION OF ORIGIN REGULATIONS

INTERPRETATION

1. The definitions in this section apply in these Regulations.

“Act” means the *Customs Act, (Loi)*

“customs administration” means the competent authority that is responsible under the law of Canada or Israel or another CIFTA beneficiary for the administration of customs laws and regulations; (*administration douanière*)

“goods” means goods for which preferential tariff treatment under CIFTA is claimed; (*marchandises*)

“verification questionnaire” means a questionnaire to be completed by the exporter or producer of goods that requests information with respect to the origin of goods that are the subject of a verification of origin; (*questionnaire de vérification*)

“verification visit” means the entry into a place or premises for the purposes of conducting a verification of origin of goods under paragraph 42.1(1)(a) of the Act. (*visite de vérification*)

MANNER OF CONDUCTING A VERIFICATION OF ORIGIN

2. In addition to a verification visit, a verification of origin of goods may be conducted by means of a verification questionnaire.

PRESCRIBED PREMISES

3. The premises of an exporter or producer of goods in Israel or another CIFTA beneficiary are prescribed premises for the purposes of a verification visit.

CONDITIONS FOR CONDUCTING A VERIFICATION VISIT

4. (1) An officer or any person acting on behalf of an officer, as designated by the Minister under subsection 42.1(1) of the Act, may conduct a verification visit on condition that

(a) the officer sends written notice of the intention to conduct the verification visit to the customs administration of Israel or the CIFTA beneficiary in whose territory the verification visit is to occur;

(b) the officer or the person acting on behalf of the officer, sends written notice of the intention to conduct the verification visit to the person whose premises are the subject of the verification visit; and

(c) the person whose premises are the subject of the verification visit provides written consent to the verification visit.

(2) A notice referred to in paragraph (1)(b) shall specify

(a) the identity of the customs administration on whose behalf the notice is being sent;

(b) the name of the person whose premises are the subject of the verification visit;

(c) the date and place of the verification visit;

(d) the object and scope of the verification visit and shall include specific reference to the goods that are the subject of the verification of origin;

(e) the name and title of the officer or person conducting the verification visit; and

(f) the legal authority for the verification visit.

POSTPONEMENT OF A VERIFICATION VISIT

5. (1) The customs administration that receives a notice referred to in paragraph 4(1)(a), may postpone the verification visit by sending a written request for postponement within 15 days after receiving the notice to the officer who sent the notice.

(2) A postponement of a verification visit under subsection (1) shall be for a period not exceeding 60 days beginning on the date on which the notice referred to in paragraph 4(1)(a) was received by the customs administration of Israel or another CIFTA beneficiary, or for a longer period, where the longer period is agreed to by the customs administration of Canada and the customs administration of Israel or another CIFTA beneficiary in the territory in which the verification visit will take place.

OBSERVERS

6. (1) Any person who receives a notice under paragraph 4(1)(b) may designate two observers to be present during the verification visit.

(2) An observer designated under subsection (1) may not participate in the verification visit in a manner other than as an observer.

(3) A person who designates an observer under subsection (1) shall identify that observer to the officer or person conducting the verification visit.

VERIFICATION QUESTIONNAIRES

7. (1) Where an officer or a person acting on behalf of an officer sends a verification questionnaire to an exporter or producer of goods in Israel or another CIFTA beneficiary, the officer or person shall also send a copy of the verification questionnaire to the customs administration of Israel or another CIFTA beneficiary.

- (2) A verification questionnaire shall specify
- (a) the identity of the customs administration on whose behalf the verification questionnaire is being sent;
 - (b) a description of the goods that are the subject of the verification of origin;
 - (c) the period within which the verification questionnaire must be completed and returned, which period shall be not less than 30 days after the date on which the verification questionnaire was sent; and
 - (d) the name and title of the officer or person acting on behalf of the officer sending the questionnaire.

WITHDRAWAL OF PREFERENTIAL TARIFF TREATMENT UNDER CIFTA

8. For the purposes of subsection 42.1(2) of the Act, preferential tariff treatment under CIFTA may be withdrawn from goods that are the subject of the verification of origin where an exporter or producer of goods

- (a) does not provide written consent to a verification visit within 30 days after receiving a notice referred to in paragraph 4(1)(b);
- (b) does not complete the verification questionnaire and return it to an officer, or a person acting on behalf of an officer, within the time period referred to in paragraph 7(2)(c), or fails to provide sufficient information in response to the questionnaire; or
- (c) who is required to maintain records of the goods in accordance with the applicable laws of the country in which the verification of origin is conducted,
 - (i) fails to maintain those records in accordance with those laws, or
 - (ii) denies the officer or person conducting the verification of origin access to those records.

CCRFTA VERIFICATION OF ORIGIN REGULATIONS

INTERPRETATION

1. The definitions in this section apply in these Regulations.

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

“customs administration” means the competent authority that is responsible under the law of Canada or of Costa Rica, as the case may be, for the administration of customs laws and regulations. (*administration douanière*)

“Generally Accepted Accounting Principles” has the meaning assigned to that expression by subsection 1(4) of the *CCRFTA Rules of Origin Regulations*. (*principes de comptabilité généralement reconnus*)

“goods” means goods for which preferential tariff treatment under the CCRFTA is claimed. (*marchandises*)

“material” means a good that is used in the production of another good, and includes a part or ingredient. (*matière*)

“verification letter” means a letter that requests information with respect to the origin of goods that are the subject of a verification of origin. (*lettre de vérification*)

“verification questionnaire” means a questionnaire that requests information with respect to the origin of goods that are the subject of a verification of origin. (*questionnaire de vérification*)

“verification visit” means the entry into premises or a place for the purpose of conducting a verification of origin of goods under paragraph 42.1(1)(a) of the Act. (*visite de vérification*)

MANNER OF CONDUCTING A VERIFICATION OF ORIGIN

2. An officer may verify the origin of goods in any of the following manners:

- (a) by conducting a verification visit;
- (b) by reviewing a verification questionnaire completed by
 - (i) the exporter or producer of the goods, or
 - (ii) a producer or supplier of a material;
- (c) by reviewing a written response received from a person referred to in paragraph (b) to a verification letter; and
- (d) by reviewing any other information received from a person referred to in paragraph (b).

PRESCRIBED PREMISES

3. The premises in Costa Rica of the following persons are prescribed premises for the purposes of a verification visit:

- (a) an exporter or a producer of goods; and
- (b) a producer or a supplier of a material.

CONDITIONS FOR CONDUCTING A VERIFICATION VISIT

4. (1) An officer may conduct a verification visit on the condition that

(a) the officer sends a written notice of the intention to conduct the verification visit to

(i) the person whose premises are the subject of the verification visit,

(ii) the customs administration of Costa Rica at least five working days before the person referred to in subparagraph (i) is notified, and

(iii) if requested by the customs administration of Costa Rica, the Embassy of Costa Rica located in Canada; and

(b) the person whose premises are the subject of the verification visit consents to the verification visit.

(2) A notice referred to in paragraph (1)(a) shall specify

(a) the identity of the customs administration of the officer sending the notice;

(b) the name of the person whose premises are the subject of the verification visit;

(c) the date and place of the verification visit;

(d) the object and scope of the verification visit, including a description of the goods or materials that are the subject of the verification of origin;

(e) the name and title of the officer; and

(f) the legal authority for the verification visit.

POSTPONEMENT OF A VERIFICATION VISIT

5. (1) When the customs administration of Costa Rica receives a written notice referred to in paragraph 4(1)(a), it may postpone the verification visit by sending a written request to the officer who sent the notice within 15 days of receiving the notice.

(2) A postponement of a proposed verification visit under subsection (1) shall be for a period not exceeding 60 days beginning on the date of receipt of the notice, or for a longer period, where the longer period is agreed to by the customs administration of Canada and the customs administration of Costa Rica.

(3) When a person receives written notice pursuant to paragraph 4(1)(a), the person may, on a single occasion, and within 15 days of receipt of the written notice, request the postponement, in writing, of the verification visit for a period that does not exceed 60 days from the date of the receipt of the notice, or for such longer period that is agreed to by the customs administration of Canada.

OBSERVERS

6. (1) Any person who receives a notice pursuant to subparagraph 4(1)(a)(i) may designate two observers to be present during the verification visit.

(2) An observer designated under subsection (1) may not participate in the verification visit in a manner other than as an observer.

(3) A person who designates an observer under subsection (1) shall identify that observer to the officer conducting the verification visit.

GENERALLY ACCEPTED ACCOUNTING PRINCIPLES

7. If an officer determines, during the course of a verification of origin, that a producer of goods has failed to record costs in accordance with Generally Accepted Accounting Principles applied in the territory of Costa Rica, the officer shall send a written notice to the producer stating that the producer must record those costs in accordance with those principles within 60 days after receiving that written notice.

VERIFICATION LETTERS AND
VERIFICATION QUESTIONNAIRES

8. A verification letter or verification questionnaire shall

(a) identify the customs administration of Canada and the name and title of the officer sending the verification letter or verification questionnaire;

(b) describe the goods or materials that are the subject of the verification of origin; and

(c) specify the period within which the verification letter must be answered or the verification questionnaire must be completed and returned, which period, shall be not less than 30 days after the date on which the verification letter or the verification questionnaire was received.

EXTENSION OF COMPLETION OF A VERIFICATION
LETTER OR VERIFICATION QUESTIONNAIRE

9. A person who receives a verification letter or verification questionnaire may, on a single occasion, make a written request, within 30 days of receipt of the verification letter or verification questionnaire, to the customs administration conducting the verification asking for an extension to the period referred to in paragraph 8(c). The extension shall be granted for a further period of not more than 30 days.

DENIAL OR WITHDRAWAL OF PREFERENTIAL TARIFF
TREATMENT UNDER CCRFTA

10. For the purposes of subsection 42.1(2) of the Act, preferential tariff treatment under CCRFTA may be denied or withdrawn from the goods that are the subject of a verification of origin where the exporter or producer of the goods

- (a) does not consent to a verification visit within 30 days of receipt of a notice pursuant to paragraph 4(1)(a);
- (b) who is required to maintain records with respect to goods in accordance with the applicable laws of the country in which the verification of origin is conducted
 - (i) fails to maintain those records in accordance with those laws, or
 - (ii) denies the officer conducting the verification of origin access to those records; or
- (c) does not answer the verification letter or complete and return the verification questionnaire to the officer within the time period specified in paragraph 8(c) or, in the case of an extension, section 9.

11. (1) An officer shall send a written notice of the intent to re-determine the origin of goods under subsection 59(1) of the Act with any statement that is provided to an exporter or producer of goods pursuant to subsection 42.2(1) of the Act and that states that the goods that are the subject of a verification of origin are not eligible for preferential tariff treatment under CCRFTA.

(2) A notice referred to in subsection (1) shall include the date after which preferential tariff treatment under CCRFTA, may be denied or withdrawn in respect of the goods that are the subject of the verification of origin and the period during which the exporter or producer of the goods may provide written comments or additional information regarding the origin of those goods.

12. A re-determination of the origin of goods shall not be made earlier than 10 days after the date on which the notice referred to in subsection 11(1) is received.

METHODS OF SENDING DOCUMENTS

13. A verification letter, a verification questionnaire, the notices referred to in paragraph 4(1)(a) and in sections 7 and 11 and the written request referred to in subsection 5(1) shall be sent by any method that produces confirmation of receipt.

**GUIDELINES AND
GENERAL INFORMATION**

INTRODUCTION

1. Verifications of origin determine whether goods claimed as originating under a free trade agreement satisfy the rules of origin and are entitled to a preferential tariff treatment accorded under that free trade agreement.
2. Verification procedures have been developed for each of the free trade agreements. The guidelines set out in the appendices outline and explain the procedures that customs administrations must follow when conducting a verification of origin. Appendix A outlines the procedures to be used for NAFTA and CCFTA verifications, Appendix B outlines the procedures for CIFTA verifications and Appendix C outlines the procedures for CCRFTA verifications.
3. These guidelines also provide exporters in Canada with an overview of the procedures that will take place should they be subject to a verification by the customs administrations of the United States, Mexico, Chile, Israel or Costa Rica. Should exporters in Canada require confirmation of procedures during a verification by an importing country, they are advised to contact the customs administration proposing to conduct the verification.
4. For purposes of the Appendices, “customs administration” means, for Canada, the Canada Border Services Agency (CBSA).

GENERAL

5. Where goods have been accounted for and a preferential rate of duty has been claimed under a free trade agreement, import accounting documents and exporter or producer records are reviewed during a verification to ensure that the goods do in fact qualify as originating in the corresponding territory.
6. This process requires that importers be in possession of a valid exporter’s Certificate of Origin. Information concerning the proof of origin requirements for commercial importations for which a preferential tariff treatment is claimed is contained in Memorandum D11-4-2, *Proof of Origin*.
7. Prior to initiating a verification, where a Certificate of Origin is not properly completed or additional details are needed, information may be requested from the importer, exporter, or producer to determine if the Certificate of Origin is valid. Refer to Memorandum D11-4-14, *Certification of Origin*, for instructions on the completion of the Certificate of Origin.

8. Record-keeping requirements for importers and exporters in:

- (a) Canada, are for a period of not less than six years;
- (b) the United States, are for a period of not less than five years;
- (c) Mexico, are for a period of not less than five years;
- (d) Chile, are for a period of not less than five years;
- (e) Israel, are for a period of not less than five years; and
- (f) Costa Rica, are for a period of not less than five years.

9. Information concerning the maintenance of records and books for importers and exporters in Canada is contained in Memorandum D17-1-21, *Maintenance of Records and Books in Canada by Importers*, and Memorandum D20-1-5, *Maintenance of Records and Books in Canada by Exporters and Producers*.

ADDITIONAL INFORMATION

10. For further information concerning the verification of origin procedures under a free trade agreement, contact:

Origin and Valuation Division
Admissibility Branch
Canada Border Services Agency
Ottawa ON K1A 0L8
Facsimile: (613) 954-5500

APPENDIX A – Guidelines for NAFTA and CCFTA Verifications

Regional and Headquarters Roles and Responsibilities

1. Regional Compliance Verification Officers are responsible for conducting all NAFTA and CCFTA verifications of origin where:

- (a) the goods are claimed as goods wholly obtained or wholly produced in one or more of the countries within the territory of the free trade agreement;
- (b) the goods are claimed to be produced entirely in the territory of one or more of the countries within the territory of the free trade agreement, exclusively from originating materials; or
- (c) the goods are subject to a specified tariff change.

2. Headquarters Origin Auditors are responsible for conducting all NAFTA and CCFTA verifications of origin where there is a regional value content or complex inventory management systems.

Scope of a Verification

3. The purpose of a verification is to determine:

- (a) whether goods imported into a free trade country are entitled to a preferential rate of duty accorded under that free trade agreement;
- (b) whether the NAFTA preferential tariff treatment applied to originating goods complies with the regulations found in Memorandum D11-4-19, *Regulations Respecting the Determination of When Goods Are Entitled to the Benefit of the United States Tariff, Mexico Tariff or Mexico-United States Tariff*, and
- (c) whether agricultural goods are qualifying goods for the purposes of Annex 703.2 of the NAFTA.

Manner of Conducting a Verification of Origin

4. A verification may be conducted by way of:

- (a) verification questionnaires;
- (b) verification letters;
- (c) visits to the premises; or
- (d) any other method of communication, as the Parties may agree.

Verification Letters and Questionnaires

5. As part of the verification process, the customs administration may send, by regular mail or certified mail, to the exporter or producer of the goods or a producer or supplier of a material a verification questionnaire or letter identifying:

- (a) the customs administration requesting information;
- (b) the goods or materials that are subject to the verification; and
- (c) the period within which the verification letter must be answered or the verification questionnaire must be completed and returned.

The information requested in the verification questionnaire or letter is a consolidation of information that the exporter, producer or supplier would have on hand and use to determine whether the goods qualify for preferential tariff treatment under the NAFTA or the CCFTA.

6. The period mentioned in paragraph 5(c) shall not be less than 30 days after the date on which the verification letter or questionnaire was sent.

7. Where a response to an initial verification questionnaire or letter has not been received, within the specified time, from the exporter or producer in:

- (a) Mexico or Chile, the verification questionnaire or letter must be sent again by a method which produces confirmation of receipt, and may be accompanied with a written statement and the notice of intent to deny, described in paragraphs 25 to 30;
- (b) the United States or Canada, the verification questionnaire or letter must be sent again and may be accompanied with a written statement and the notice of intent to deny, described in paragraphs 25 to 30.

8. Where the exporter or producer fails to respond to a subsequent verification questionnaire or letter referred to in paragraph 7, and where the customs administration conducting the verification does not include the notice of intent to deny and the written statement, instructions provided under paragraphs 25 to 30 must be followed.

9. Where the producer or supplier of a material fails to respond to a subsequent verification questionnaire or letter, the origin of the material shall be considered unknown and therefore non-originating.

10. If it is found that the information provided in the verification questionnaire or letter is insufficient to support the exporter's Certificate of Origin, the customs administration can request additional information, by corresponding with the exporter or producer of a good or the producer or supplier of a material, or undertake a verification visit.

11. Where the customs administration is able to determine whether the goods qualify for preferential tariff treatment from the information provided, instructions provided under paragraphs 25 to 30 must be followed.

Other Methods of Communication

12. The customs administration may obtain information regarding the origin of the goods by any other method of communication (e.g., telephone) from the exporter or producer of a good or a producer or supplier of a material. Should any information obtained result in denial of preferential tariff treatment, that information must be confirmed in writing.

Verification Visits

13. Verification visits are performed at the premises of the exporter or producer of a good or the premises of a producer or supplier of a material to verify that the goods meet the rules of origin in accordance with the NAFTA or CCFTA.

Conditions for Conducting a Verification Visit

14. Prior to a visit from a customs administration at the premises of an exporter or producer of a good or of a producer or supplier of a material, the customs administration must send a written notification of the intent to conduct a verification visit by any method that produces a receipt to:

- (a) the customs administration of the country where the verification visit will take place (this notification function is controlled by the Origin and Valuation Division);
- (b) the person whose premises are the subject of the verification visit; and
- (c) where requested by the customs administration of the exporting party, that party's embassy located in Canada.

15. The notification referred to in paragraph 14 shall specify:

- (a) the customs administration issuing the notification;
- (b) the name of the person whose premises are to be visited;
- (c) the date and place of the proposed verification visit;
- (d) the object and scope of the verification visit, including a description of the goods and/or materials that are subject to the verification;
- (e) the names and titles of the officers conducting the verification visit; and
- (f) the legal authority for the verification visit.

16. The person whose premises are subject to the verification must give written consent for the customs administration to conduct the verification visit, within 30 days of receiving the notice.

17. Where the producer or supplier of a material does not consent to a verification visit or denies access to the books and records, the origin of the material shall be considered unknown and therefore non-originating.

Postponement of a Verification Visit

18. The customs administration of the country being visited may postpone the verification visit, by sending a written request to the officer who sent the notice. This request must be sent within 15 days of receipt of the notice. The postponement must not exceed 60 days from the date of receipt, unless a longer period is agreed to by the customs administrations of the importing and exporting countries. The goods will not be denied preferential tariff treatment on the basis that the verification visit has been postponed.

Observers

19. An exporter, producer or supplier subject to a verification visit is permitted to have two observers present during the verification visit. Each person designated as an observer must be identified to the customs official conducting the verification visit at any time prior to or at the commencement of their role as an observer. The observers are not to participate, only to observe. This provision does not preclude the exporter, producer or supplier from having persons available to participate during a verification.

Regional Value Content

20. Where a producer elects to average the regional value content of those goods over a time period, the customs administration conducting the verification will not verify the regional value content of those goods, until that time period has elapsed.

21. Should a producer of a motor vehicle elect to average its regional value content calculation over its fiscal year in accordance with paragraph 3 of Article 403 of the NAFTA or paragraph 2 of Article D-03 of the CCFTA, the customs administration conducting the verification may request in writing that a cost submission reflecting the actual costs, incurred in the production of the category of motor vehicles elected, be submitted no later than:

- (a) 180 days after the close of the producer's fiscal year; or
- (b) 60 days from the date on which the request was made.

22. Where the customs administration sends a written request for a cost submission to the producer of a motor vehicle, this written request will be considered to be a verification letter.

Generally Accepted Accounting Principles

23. Where the customs administration finds during a verification that a producer has failed to maintain books and records in accordance with the Generally Accepted Accounting Principles (GAAP) applicable in that country, the officer shall provide written notice to that producer stating that they have 60 days from receipt of the written notice to record those costs in accordance with the GAAP.

Denial or Withdrawal of Preferential Tariff Treatment

24. The customs administration may deny or withdraw the preferential tariff treatment from the goods that are subject to a verification, where:

- (a) the exporter or producer fails to consent to a verification visit within 30 days of confirmed receipt of the notification of the verification visit;
- (b) subject to paragraph 23, the exporter or producer fails to maintain books and records or provide sufficiently detailed information;
- (c) the exporter or producer denies access to books and records;
- (d) the exporter or producer fails to answer the subsequent verification letter or questionnaire within the specified time; or
- (e) the origin of the good is changed because a material used in the production of the good is determined to be non-originating as set out in paragraphs 9 and 17.

In such cases, the customs administration will send a written statement (as outlined below) with a notice of intent to deny to the person who signed the Certificate of Origin.

Written Statement

25. The customs administration conducting the verification will provide the exporter or producer with a written statement on whether the goods qualify for preferential tariff treatment, detailing the findings and legal basis on which the determination was made.

26. Should the goods qualify for preferential tariff treatment, the written statement may be sent by regular mail.

27. Where the written statement includes a determination that the goods are non-originating, a notice of intent to deny preferential tariff treatment must also be included. It will identify a time period in which further information can be provided and will include the date after which preferential tariff treatment will be withdrawn for the goods verified.

28. Where the written statement with the notice of intent to deny is being sent to an exporter or producer in:

- (a) Mexico or Chile, the method of sending must provide confirmation of receipt and the notice period given must be at least 30 days from the date of confirmed receipt; or
- (b) the United States or Canada, the notice period given must be at least 30 days from the date sent.

29. If information is brought forward within 30 days of the date of receipt of the notice, the information will be reviewed to determine if the goods qualify for preferential tariff treatment.

30. Where a verification of a producer or supplier of a material has been conducted, the customs administration conducting the verification will inform the producer or supplier by letter whether or not the specific material under review is an originating material. This letter is sent as an informal courtesy and not as a result of obligations under any legislation or regulation.

Pattern of Conduct by an Exporter or Producer Regarding False or Unsupported Origin Certification

31. Pattern of conduct is established where it has been determined that the exporter or producer has made false or unsupported representations that goods imported in a free trade country qualify for preferential tariff treatment and has resulted in not less than two negative written statements with respect to identical goods, as a result of not less than two verifications of not less than two importations. Article 514 of NAFTA and Article E-14 of CCFTA define "identical goods" as:

... goods that are the same in all respects, including physical characteristics, quality, and reputation, irrespective of minor differences in appearance that are not relevant to a determination of origin of those goods.

32. Once a pattern of conduct is established, the customs administration may withhold preferential tariff treatment on identical goods until the exporter or producer establishes compliance.

33. If a pattern of conduct is established, the verification process does not need to be conducted on future imports of identical goods. However, the importer must be notified each time the goods are denied preferential tariff treatment. The exporter and/or producer must be notified that the goods have been denied preferential tariff treatment if they have provided the importer with a Certificate of Origin after a pattern of conduct has been established.

Interpretation of Tariff Classification and Valuation of Materials

34. This refers to materials used in the production of goods where the exporter or the importer has relied on a tariff classification or value applied to those materials by the customs administration of the country from which the goods were exported.

35. Where the customs administration of the country in which the goods were imported determines that goods do not qualify as originating goods based on a tariff classification or a value applied to one or more of the materials used in the production of those goods, which differs from that of the customs administration of the exporting country, the determination will not become effective until the importer and the person who signed the Certificate of Origin have been notified in writing of the determination by the customs administration of the country in which the goods were imported. This would apply where the exporter has:

(a) been issued an advance ruling or ruling on the tariff classification or value of the materials, or given consistent treatment to the entry of the materials under the tariff classification or value at issue by the customs administration; and

(b) the advance ruling or ruling or **consistent treatment**, as defined in the Uniform Regulations of the free trade agreement, was given prior to notification of the determination.

Note: This applies to a material that is used in the production of goods, or that is used in the production of a material that is used in the production of goods.

36. Where a customs administration denies preferential tariff treatment to goods, and the conditions described in paragraphs 37(a) and (b) exist, the effective date of the denial shall be postponed for a period not exceeding 90 calendar days, with the provision that the importer of those goods or the person who completed and signed the Certificate of Origin demonstrate that they relied in good faith to their detriment on the tariff classification or value applied to such materials by the customs administration.

37. **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 when the Certificate of Origin for the good which is the subject of the determination under paragraph 11 of Article 506 of NAFTA or paragraph 11 of Article E-06 of CCFTA, was completed, provided that with respect to those importations:

(a) the 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 the 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 the determination.

Modification or Revocation of a Ruling

38. Where the customs administration modifies or revokes a ruling other than an advance ruling, the modification shall not apply to goods, which are the subject of the ruling, that have been imported by the person who was given the ruling prior to the date of modification or revocation, if:

(a) all the terms and conditions specified in the ruling have been complied with; and

(b) there has been no change in the material facts or circumstances on which the ruling was based.

Review and Appeal

39. Where the origin of the goods has been re-determined and preferential tariff treatment has been denied or withdrawn, the CBSA shall notify the exporter or producer. A decision to deny preferential tariff treatment is appealable by the importer, and the exporter or producer who signed the Certificate of Origin.

40. Where a producer who is not the exporter signs a Certificate of Origin voluntarily for the exporter, the producer will also have the right to appeal the re-determination of origin.

41. Information concerning the supporting documentation requirements is contained in Memorandum D11-6-4, *Legislative Authorities and Supporting Documentation Requirements for Form B2, Canada Customs – Adjustment Request*, and information regarding appeals is contained in Memoranda D11-6-1, *Determination/Re-Determination and Appraisal/Re-Appraisal of Goods*, and D11-4-17, *Requests for Re-Determination and Further Re-Determination of Origin Filed by the Person Who Completed and Signed the Certificate of Origin*.

Evidence of Fraud

42. Should evidence of fraud or misrepresentation be uncovered regarding an exporter or producer, the customs administration will turn such evidence over to the customs administration of the exporting country and ask them to continue the investigation and, if warranted, undertake appropriate prosecution under the laws of the exporter's country.

43. Similarly, fraudulent certification by a Canadian exporter or producer is an offence in Canada, subject to prosecution under the laws of Canada.

APPENDIX B – Guidelines for CIFTA Verifications

1. CIFTA provides the customs administration of the exporting country the right to decide to collect the verification information themselves and to provide it to the customs administration of the importing country, who will then make the determination.
2. Israel has chosen to collect the information on behalf of Canada, while Canada has elected not to exercise its right to collect the information on behalf of the other Party.

Regional and Headquarters Roles and Responsibilities

3. Headquarters Origin Auditors will be responsible for the initiation of all CIFTA verifications of origin. Regional Compliance Verification Officers may form part of the verification team.

Scope of a Verification

4. The purpose of a verification is to determine whether goods imported in a free trade country are entitled to the preferential rate of duty accorded under that free trade agreement.

Manner of Conducting a Verification of Origin

5. A verification can be conducted by way of
 - (a) verification questionnaires; or
 - (b) visits to the premises.

Verification of Goods Imported Into Canada

6. Where the verification is conducted by verification questionnaire, the Origin Auditor may send the verification questionnaire directly to the exporter or producer, provided they also send a copy of the verification questionnaire to the customs administration of the exporting party.
7. Should the customs administration of Canada determine that a verification visit is necessary, the designated office in Israel will be contacted to conduct the verification on behalf of the customs administration of Canada.
8. Article 5.6 and Annex 5.6.2 of CIFTA detail the procedures that the customs administration of Israel or another CIFTA beneficiary will follow in performing a verification on behalf of the customs administration of Canada.
9. The customs administration of Canada may choose to be present at an office designated by the customs administration of Israel or another CIFTA beneficiary, for purposes of directing the manner in which the verification visit is to proceed.

Verification Questionnaires

10. The exporter or producer must complete and return the questionnaire within 30 days from the date the verification questionnaire was sent.
11. A verification questionnaire shall specify:
 - (a) the customs administration on whose behalf the verification questionnaire is being sent;
 - (b) the goods subject to verification;
 - (c) the period within which the verification questionnaire must be completed; and
 - (d) the name and title of the person from the exporting party's customs administration acting on behalf of the CBSA.

Conditions for Conducting a Verification Visit

12. Prior to a verification visit from a customs administration at the premises of an exporter or producer, the customs administration must send a written notification of the intent to conduct a verification visit by any method that produces a receipt to:
 - (a) the customs administration of the exporting country where the verification visit will take place (this notification function is controlled by the Origin and Valuation Division);
 - (b) the person whose premises are the subject of the verification visit (for the customs administration of Canada, the Israeli customs administration will be acting on its behalf).
13. The notice referred to in paragraph 12(b) shall specify:
 - (a) the customs administration conducting the verification and, when required, the identify of the customs administration on whose behalf the notice is being sent;
 - (b) the name of the exporter or producer whose premises are to be visited;
 - (c) the date and place of the proposed verification visit;
 - (d) the object and scope of the proposed verification visit, including specific reference to the goods that are the subject of the verification of origin;
 - (e) the names and titles of the officers or persons conducting the verification visit on behalf of the customs administration of Canada; and
 - (f) the legal authority for the verification visit.

14. The person whose premises are subject to the verification must give written consent for the customs administration to conduct the verification visit, within 30 days of receiving the notice.

Postponement of a Verification Visit

15. The customs administration of the country being visited may postpone the verification visit, by sending a written request to the officer who sent the notice. This request must be sent within 15 days of receipt of the notice. The postponement must not exceed 60 days from the date of receipt, unless a longer period is agreed to by the customs administration of the importing and exporting countries. The goods will not be denied preferential tariff treatment on the basis that the verification visit has been postponed.

Observers

16. An exporter or producer subject to a verification visit is permitted to have two observers present during the verification visit. Each person designated as an observer must be identified to the customs official conducting the verification visit at any time prior to or at the commencement of their role as an observer. The observers are not to participate, only to observe. This provision does not preclude the exporter or producer from having persons available to participate during a verification.

Withdrawal of Preferential Tariff Treatment

17. The customs administration may withdraw preferential tariff treatment from the goods that are subject to a verification, where:

- (a) the exporter or producer fails to consent to a verification visit within 30 days of confirmed receipt of the notification of the verification visit;
- (b) the exporter or producer fails to complete and return the verification questionnaire within the specified time;
- (c) the exporter or producer fails to maintain records or provide sufficiently detailed information; or
- (d) the exporter or producer denies access to those records.

In such cases, the customs administration will send a written statement (as outlined below) with a notice of intent to deny to the person who signed the Certificate of Origin.

Written Statement

18. The customs administration conducting the verification will provide the exporter or producer with a written statement on whether the goods qualify for preferential tariff treatment, detailing the findings of fact and the legal basis on which the determination was made.

Review and Appeal

19. Where the origin of the goods has been re-determined and preferential tariff treatment has been withdrawn, the CBSA shall notify the exporter or producer. A decision to withdraw preferential tariff treatment is appealable by the importer, and the exporter or producer who signed the Certificate of Origin.

20. Where a producer who is not the exporter signs a Certificate of Origin voluntarily for the exporter, the producer will also have the right to appeal the re-determination of origin.

21. Information concerning the supporting documentation requirements is contained in Memorandum D11-6-4, *Legislative Authorities and Supporting Documentation Requirements for Form B2, Canada Customs – Adjustment Request*, and information regarding appeals is contained in Memoranda D11-6-1, *Determination/Re-Determination and Appraisal/Re-Appraisal of Goods*, and D11-4-17, *Requests for Re-Determination and Further Re-Determination of Origin Filed by the Person Who Completed and Signed the Certificate of Origin*.

Evidence of Fraud

22. Should evidence of fraud or misrepresentation be uncovered regarding an exporter or producer, the customs administration will turn such evidence over to the customs administration of the exporting country and ask them to continue the investigation and, if warranted, undertake appropriate prosecution under the laws of the exporter's country.

23. Similarly, fraudulent certification by a Canadian exporter or producer is an offence in Canada, subject to prosecution under the laws of Canada.

APPENDIX C – Guidelines for CCRFTA Verifications

Regional and Headquarters Roles and Responsibilities

1. Regional Compliance Verification Officers are responsible for conducting all CCRFTA verifications of origin where:
 - (a) the goods are claimed as goods wholly obtained or wholly produced in one or more of the countries within the territory of the free trade agreement;
 - (b) the goods are claimed to be produced entirely in the territory of one or more of the countries within the territory of the free trade agreement, exclusively from originating materials; or
 - (c) the goods are subject to a specified tariff change.
2. Headquarters Origin Auditors are responsible for conducting all CCRFTA verifications of origin where there is a regional value content or complex inventory management systems.

Scope of a Verification

3. The purpose of a verification is to determine whether goods imported into a free trade country are entitled to the preferential rate of duty accorded under the free trade agreement.

Manner of Conducting a Verification of Origin

4. A verification may be conducted by way of:
 - (a) verification questionnaires;
 - (b) verification letters;
 - (c) visits to the premises; or
 - (d) any other method of communication, as the Parties may agree.

Verification Letters and Questionnaires

5. As part of the verification process, the customs administration may send, to the exporter or producer of a good or a producer or supplier of a material, by any method that produces a confirmation of receipt, a verification questionnaire or letter identifying:
 - (a) the customs administration requesting the information;
 - (b) the name and title of the officer sending the verification letter or questionnaire;
 - (c) the goods or materials that are the subject of the verification; and
 - (d) the period within which the verification letter must be answered or the verification questionnaire must be completed and returned.

The information requested in the verification questionnaire or letter is a consolidation of information that the exporter, producer or supplier would have on hand and use to determine whether the goods qualify for preferential tariff treatment under the CCRFTA.

6. The period mentioned in paragraph 5(d) shall not be less than 30 days after the date on which the verification letter or questionnaire was received.
7. The person who receives the verification letter or questionnaire may, on a single occasion, make a written request within 30 days of receipt for an extension of not more than 30 days.
8. Where a response to an initial verification questionnaire or letter has not been received, within the specified time, from the exporter or producer and where no extension request referred to in paragraph 7 has been made, instructions provided under paragraphs 26 to 31 must be followed.
9. Where the producer or supplier of a material fails to respond to a verification questionnaire or letter, the origin of the material shall be considered unknown and therefore non-originating.
10. If it is found that the information provided in the verification questionnaire or letter is insufficient to support the exporter's certification of origin, the customs administration can request additional information by corresponding with the exporter or producer of a good or a supplier or producer of a material, or undertaking a verification visit.
11. Where the customs administration is able to determine whether the goods qualify for the preferential tariff treatment from the information provided, instructions provided under paragraphs 26 to 31 must be followed.

Other Methods of Communication

12. The customs administration may obtain information regarding the origin of the goods by any other method of communication (e.g., telephone) from the exporter or producer of a good or a producer or supplier of a material. Should any information obtained result in denial of preferential tariff treatment, that information must be confirmed in writing.

Verification Visits

13. Verification visits are performed at the premises of the exporter or producer of a good or the premises of a producer or supplier of a material to verify that the goods meet the rules of origin in accordance with the CCRFTA.

Conditions for Conducting a Verification Visit

14. Prior to a verification visit from a customs administration at the premises of an exporter or producer of a good or of a producer or supplier of a material, the customs administration must send a written notification of intent to conduct a verification visit to by any method that produces confirmation of receipt to:

- (a) the customs administration of Costa Rica;
- (b) the person whose premises are the subject of the verification visit; and
- (c) where requested by the customs administration of Costa Rica, the Embassy of Costa Rica located in Canada.

15. The written notice to the customs administration of Costa Rica must be sent at least 5 working days before it is sent to the person whose premises are subject to the verification visit. In all instances, the written notice shall be sent by any method that produces confirmation of receipt.

16. The written notification referred to in paragraph 14 must specify:

- (a) the identity of the customs administration issuing the notification;
- (b) the name of the person whose premises are to be visited;
- (c) the date and place of the proposed verification visit;
- (d) the object and scope of the verification visit, including a description of the goods and/or materials which are subject to the verification;
- (e) the names and titles of the officers conducting the verification visit; and
- (f) the legal authority for the verification visit.

17. The person whose premises are subject to the verification must give written consent for the customs administration to conduct the verification visit within 30 days of receiving the notice.

18. Where the producer or supplier of a material does not consent to a verification visit or denies access to the records, the origin of the material shall be considered unknown and therefore non-originating.

Postponement of a Verification Visit

19. The customs administration of Costa Rica may postpone the verification visit, by sending a written request to the officer who sent the notice. This request must be sent within 15 days of receipt of the notice. The postponement period must not exceed 60 days from the date of receipt, unless a longer period is agreed to by the customs

administration of the importing and exporting countries. The goods will not be denied preferential tariff treatment on the basis that the verification visit has been postponed.

20. A person who receives written notification, as described in paragraphs 14 to 16 above, may, on a single occasion, within 15 days of receipt of the notice, request a postponement of the verification visit. The request must be made in writing to the officer who sent the notice and may not exceed 60 days from the date of receipt of the notice, unless a longer period is agreed to by the customs administration conducting the verification.

Observers

21. An exporter, producer or supplier subject to a verification visit is permitted to have two observers present during the verification visit. Each person designated as an observer must be identified to the customs official conducting the verification visit at any time prior to or at the commencement of their role as an observer during the verification visit. The observers are not to participate, only to observe. This provision does not preclude the exporter, producer or supplier from having persons available to participate during a verification.

Regional Value Content

22. Where a producer of goods elects to average the regional value content of those goods over a time period, the customs administration conducting the verification will not verify the regional value content of those goods, until that time period has elapsed.

Generally Accepted Accounting Principles

23. Where the customs administration finds during a verification that producer has failed to maintain records in accordance with the Generally Accepted Accounting Principles (GAAP) applicable in the territory of Costa Rica, the officer shall provide written notice to that producer stating that they have 60 days from receipt of the written notice to record those costs in accordance with the GAAP. The written notice shall be sent by any method that produces confirmation of receipt.

Denial or Withdrawal of Preferential Tariff Treatment

24. The customs administration conducting the verification may deny or withdraw the preferential tariff treatment from the goods that are the subject of a verification where:

- (a) the exporter or producer fails to answer the verification letter or complete the verification questionnaire within 30 days of confirmed receipt or extension date, if requested;
- (b) the exporter or producer does not consent to a verification visit within 30 days of confirmed receipt of

the notification of visit or such longer period, if a postponement of the verification visit has been requested, within the time limitations specified in paragraph 20;

(c) subject to paragraph 23, the exporter or producer fails to maintain records or provide sufficiently detailed information;

(d) the exporter or producer denies access to those records; or

(e) the origin of the good is changed because a material used in the production of the good is determined to be non-originating as set out in paragraphs 9 and 18.

In such cases, the customs administration will send a written statement (as outlined below) with a notice of intent to deny to the person who signed the Certificate of Origin.

Written Statement

25. The customs administration conducting the verification will provide the exporter or producer with a written statement on whether the goods qualify for preferential tariff treatment, detailing the findings and the legal basis on which the determination was made.

26. Should the goods qualify for the preferential tariff treatment claimed the written statement may be sent by regular mail.

27. Where the written statement includes a determination that the goods are non-originating, a notice of intent to deny preferential tariff treatment must also be included. It will identify a time period in which further information can be provided and will include the date after which preferential tariff treatment will be withdrawn for the goods verified.

28. The written statement and notice of intent to deny may be sent by any method that produces confirmation of receipt.

29. If information is brought forward within 10 days of the date of receipt of the notice, the information will be reviewed to determine if the goods qualify for preferential tariff treatment.

30. Where a verification of a producer or supplier of a material has been conducted, the customs administration conducting the verification will inform the producer or supplier by letter whether or not the specific material under review is an originating material. This letter is sent as an informal courtesy and not as a result of obligations under any legislation or regulation.

Pattern of Conduct by an Exporter or Producer Regarding False or Unsupported Origin Certification

31. Pattern of conduct is established where it has been determined that the exporter or producer has made false or unsupported representations that goods imported into a free trade country qualify for preferential tariff treatment and has resulted in not less than two negative written statements with respect to identical goods, as a result of not less than two verifications of not less than two importations.

Article V.14 of the CCRFTA defines "identical goods" as:

goods that are the same in all respects, including physical characteristics, quality and reputation, irrespective of minor differences in appearance that are not relevant to a determination of origin of those goods.

32. Once a pattern of conduct is established, the customs administration may withhold preferential tariff treatment on identical goods until the exporter or producer establishes compliance.

33. If a pattern of conduct is established, the verification process does not need to be conducted on future imports of identical goods. However, the importer must be notified each time the goods are denied preferential tariff treatment. The exporter and/or producer must be notified that the goods have been denied preferential tariff treatment if they have provided the importer with a Certificate of Origin after pattern of conduct has been established.

Interpretation of Tariff Classification and Valuation of Materials

34. This refers to materials used in the production of goods where the exporter or the importer has relied on a tariff classification or value applied to those materials by the customs administration of the country from which the goods were exported.

35. Where the customs administration of the country into which the goods were imported determines that goods do not qualify as originating goods based on a tariff classification or a value applied to one or more of the materials used in the production of those goods, which differs from that of the customs administration of the exporting country, the determination will not become effective until the importer and the person who signed the Certificate of Origin have been notified in writing of the determination by the customs administration of the country in which the goods were imported. This would apply where the exporter has:

(a) been issued an advance ruling or ruling on the tariff classification or value of the materials, or given consistent treatment to the entry of the materials under the tariff classification or value at issue by the customs administration; and

(b) the advance ruling or ruling or **consistent treatment**, as defined in the Uniform Regulations of the free trade agreement, was given prior to notification of the determination.

Note: This applies to a material that is used in the production of goods, or that is used in the production of a material that is used in the production of goods.

36. Where a customs administration denies preferential tariff treatment to goods, and the conditions described in paragraphs 37(a) and (b) exist, the effective date of the denial shall be postponed for a period not exceeding 90 calendar days, with the provision that the importer of those goods or the person who completed and signed the Certificate of Origin demonstrate having relied in good faith to their detriment on the tariff classification or value applied to such materials by the customs administration.

37. **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 when the Certificate of Origin for the good which is the subject of the determination under paragraph 14 of Article V.6 of CCRFTA, was completed, provided that with respect to those importations:

(a) the 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 the 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 the determination.

Modification or Revocation of a Ruling

38. Where the customs administration modifies or revokes a ruling other than an advance ruling, the modification shall not apply to goods, which are the subject of the ruling, that have been imported by the person who was given the ruling prior to the date of modification or revocation, if:

(a) all the terms and conditions specified in the original ruling have been complied with; and

(b) there has been no change in the material facts or circumstances on which the ruling was based.

Review and Appeal

39. Where the origin of the goods has been re-determined and preferential tariff treatment has been denied or withdrawn, the CBSA shall notify the exporter or producer. A decision by the CBSA to deny preferential tariff treatment is appealable by the importer, and the exporter or producer who signed the Certificate of Origin.

40. Where a producer who is not the exporter signs a Certificate of Origin voluntarily for the exporter, the producer will also have the right to appeal the re-determination of origin.

41. Information concerning the supporting documentation requirements is contained in Memorandum D11-6-4, *Legislative Authorities and Supporting Documentation Requirements for Form B2, Canada Customs – Adjustment Request*, and information regarding appeals is contained in Memoranda D11-6-1, *Determination/Re-Determination and Appraisal/Re-Appraisal of Goods*, and D11-4-17, *Requests for Re-Determination and Further Re-Determination of Origin Filed by the Person Who Completed and Signed the Certificate of Origin*.

Evidence of Fraud

42. Should evidence of fraud or misrepresentation be uncovered regarding an exporter or producer, the customs administration will turn such evidence over to the customs administration of the exporting country and ask them to continue the investigation and, if warranted, undertake appropriate prosecution under the laws of the exporter's country.

43. Similarly, fraudulent certification by a Canadian exporter or producer is an offence in Canada, subject to prosecution under the laws of Canada.

REFERENCES

<p>ISSUING OFFICE –</p> <p>Admissibility Branch</p>	<p>HEADQUARTERS FILE –</p> <p>N/A</p>
<p>LEGISLATIVE REFERENCES –</p> <p><i>Customs Act</i> North American Free Trade Agreement, Article 506 Uniform Regulations of Chapter Three and Five of the North American Free Trade Agreement Canada-Chile Free Trade Agreement, Article E-06 Uniform Regulations of Chapters C and E of the Canada-Chile Free Trade Agreement Canada-Israel Free Trade Agreement, Article 5.6, Annex 5.6.2 Canada-Costa Rica Free Trade Agreement, Article V.6 Uniform Regulations of Chapter V of the Canada-Costa Rica Free Trade Agreement</p>	<p>OTHER REFERENCES –</p> <p>D11-4-2, D11-4-14, D11-4-17, D11-4-18, D11-4-19, D11-4-24, D11-4-26, D11-6-1, D11-6-4, D17-1-21, and D20-1-5</p>
<p>SUPERSEDED MEMORANDA “D” –</p> <p>D11-4-20, May 14, 1999</p>	

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