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MEMORANDUM D11-6-8

Ottawa, April 21, 2000

SUBJECT

**VERIFICATION OF ORIGIN,
TARIFF CLASSIFICATION, AND
VALUE FOR DUTY
OF IMPORTED GOODS**

1. This Memorandum provides information on a verification conducted under section 42.01 of the *Customs Act* (hereafter referred to as the Act) and explains the methods of verification, as provided for in the *Verification of Origin, Tariff Classification and Value for Duty of Imported Goods Regulations (Non-Free Trade Partners)*.
2. The verification provisions and guidelines contained in this Memorandum apply to all **commercial** goods that are imported **on or after January 1, 1998**.
3. For ease of reference, all legislative references (including regulations) referred to in this Memorandum are attached as Appendix A, Appendix B, and Appendix C.

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GUIDELINES AND GENERAL INFORMATION

Why Are Verifications Conducted?

1. Verification is used to ensure that the importer complies with customs requirements and programs.

What Are the Main Objectives of Conducting a Verification?

2. Verifications are used to:
 - (a) assess a client's compliance with customs administered legislation;
 - (b) determine the compliance within industry sectors;
 - (c) conduct a review of a client's liabilities and entitlements; and
 - (d) assess the integrity of the trade data received from importers.

Scope of Programs

3. Verifications carried out under the provisions of section 42.01 of the *Customs Act* apply to three program areas, specifically:
 - (a) origin (other than a verification of origin referred to in section 42.1 of the Act);
 - (b) tariff classification; or
 - (c) value for duty.

Scope of Origin Program Covered

4. A verification of origin under section 42.01 of the Act **may** be conducted on goods imported under:
 - (a) Most-Favoured-Nation Tariff;
 - (b) General Preferential Tariff;
 - (c) Commonwealth Developing Countries Remission Order;
 - (d) Commonwealth Caribbean Countries Tariff;
 - (e) Least Developed Country Tariff;
 - (f) Australia Trade Agreement; and
 - (g) New Zealand Trade Agreement.

Scope of Origin Program Excluded

5. A verification of origin under section 42.01 of the Act **may not** be conducted on goods imported under the following:

- (a) North American Free Trade Agreement (NAFTA)
- (b) Canada-Chile Free Trade Agreement (CCFTA); or
- (c) Canada-Israel Free Trade Agreement (CIFTA).

6. Information concerning verification of origin on goods imported under NAFTA, CCFTA, and CIFTA can be found in Memorandum D11-4-20, *Free Trade Agreement Origin Verification Procedures*, which contains the relative legislation, regulations, and guidelines for verification of origin under a free trade agreement.

Methods of Verification

7. Verification can be conducted by using one or more of the following methods:

- (a) questionnaire;
- (b) verification letter;
- (c) verification visit; or
- (d) a review of any other information or articles received from an importer, owner, or person who accounted for the goods under subsection 32(1), (3), or (5) of the Act.

8. The Canada Customs and Revenue Agency (CCRA) will select the verification method(s) to be used for reviewing imported goods, taking into account the specific program needs and the nature of the client's activities.

9. The CCRA will decide where the verification will be conducted, whether it will be on-site, from the officer's workplace, or a combination of the two, and the program(s) to be reviewed for each client.

10. The CCRA will use verification as one of the means of ensuring compliance with the legislation and regulations that customs administers. Some of the different types of verification include periodic (single or multi-program) and transactional.

11. Periodic verification (multi-program) assesses an importer's overall level of compliance of imported goods over an extended period of time and focuses on building compliance levels with the client. Periodic verification will allow the CCRA to view a client's business as a whole and to make decisions and offer client assistance on that basis.

12. Transactional verification will be used to serve, for example, infrequent importers; those sensitive commodities, programs, or obligations, where it is important that the time of the review be close to the time that the goods are released from customs or to the time the trade data is submitted.

Verification Questionnaire/Verification Letter

13. As part of the verification process, the CCRA may send a questionnaire or letter to the importer, owner, or person who accounted for the goods under subsection 32(1), (3), or (5) of the Act, which may identify the following:

- (a) start date of the verification;
- (b) scope of the verification (including the anticipated verification period);
- (c) name(s) of the verification team member(s);
- (d) legislative basis for the verification; and

(e) a request for certain documents or information.

Verification Visit

14. As part of the verification process, a verification visit may be conducted by an officer. The officer will attend the place or premises of the importer, owner of the goods, or the person who accounted for the goods under subsection 32(1), (3), or (5) of the Act to conduct that part of the verification.

Verification of Other Information or Articles

15. As part of a verification, the CCRA may review any other information received from the importer, owner, or person who accounted for the goods under subsection 32(1), (3), or (5) of the Act during the verification. As well, information it may already have available (e.g., copies of Form B3, product information or analysis, and trade literature) may also be used in the verification process.

16. As part of the verification, the CCRA may review an article. This article may be something that was requested as part of the verification (e.g., a sample of a textile or a particular chemical), or it may be an article that is relevant to the verification, which the CCRA already has in its possession.

Re-Determination or Further Re-Determination

17. Subparagraph 59(1)(a)(i) of the Act, as it relates to section 42.01 of the Act, provides the legislative authority for an officer to **re-determine** the origin, tariff classification, or value for duty of imported goods under section 58 of the Act, at anytime, **within four years** after the date of the determination. This **re-determination** is done on the basis of an audit or examination under section 42, verification under section 42.01, or a verification of origin under section 42.1.

18. Paragraph 59(1)(b) of the Act, provides the legislative authority for an officer to make a **further re-determination** of origin, tariff classification, or value for duty of imported goods **within four years** after the date of the determination or, if the Minister deems it advisable, within such further time as may be prescribed. This **further re-determination** is done on the basis of an audit or examination under section 42, a verification under section 42.01, or a verification of origin under section 42.1.

19. Where a correction or a refund has been filed within the last year of the obligatory period (i.e., 37th to 48th month from the declaration), the CCRA will have five years from the date of accounting to further re-determine the goods, as outlined in section 2 of the *Determination, Re-determination and Further Re-determination of Origin, Tariff Classification and Value for Duty Regulations*. Section 2 of these Regulations is attached as Appendix C. The complete Regulations are published in Memorandum D11-6-7, *Importers' Dispute Resolution Process for Origin, Tariff Classification, and Value for Duty of Imported Goods*.

Disagreements With Decisions Resulting From Verifications

20. Once notice of the decision has been given under subsection 59(2) of the Act, an importer of the goods may file a request for further re-determination by the Commissioner, under section 60 of the Act, within 90 days after the date the notice was given under subsection 59(2). There is no discretion in the legislation to extend the 90-day filing period.

21. For more information on the requirements for contesting re-determinations and further re-determinations under section 60 of the Act, please refer to Memorandum D11-6-7.

Client Assistance

22. The verification process will include client assistance, which is one of the cornerstones that drives the process.

23. The CCRA will ensure that verification results, and the rationale for decisions, are fully explained to the client at the end of any verification through an exit interview, at a disclosure meeting, or through written correspondence.

Books and Records

24. Information pertaining to the records and books that must be maintained in Canada by importers is contained in Memorandum D17-1-21, *Maintenance of Records and Books in Canada by Importers*.

Confidentiality

25. Information obtained as a result of a verification will be maintained in accordance with the confidentiality sections of the Act, sections 107 and 108.

APPENDIX A

REFERENCES TO PROVISIONS OF THE *CUSTOMS ACT*

Verifications

METHODS OF VERIFICATION

42.01 An officer, or an officer within a class of officers, designated by the Minister for the purposes of this section, may conduct a verification of origin (other than a verification of origin referred to in section 42.1), verification of tariff classification or verification of value for duty in respect of imported goods in the manner that is prescribed.

Accounting and Payment of Duties

ACCOUNTING AND PAYMENT OF DUTIES

32. (1) Subject to subsections (2) and (4) and any regulations made under subsection (6), and to section 33, no goods shall be released until

(a) they have been accounted for by the importer or owner thereof in the prescribed manner and, where they are to be accounted for in writing, in the prescribed form containing the prescribed information; and

(b) all duties thereon have been paid.

ACCOUNTING AFTER RELEASE

(3) Where the goods are released under subsection (2), the person who made the interim accounting thereunder in respect of the goods shall, within the prescribed time, account for the goods in the manner described in paragraph (1)(a).

ACCOUNTING AND PAYMENT OF DUTIES

(5) Where goods are released under subsection (4),

(a) the person who is authorized under paragraph (6)(a) or subsection (7) to account for the goods shall, within the prescribed time, account for the goods in the manner described in paragraph (1)(a) and that person or the importer or owner of the goods shall, within the prescribed time, pay duties on the goods, or

(b) where there is no person authorized under paragraph (6)(a) or subsection (7) to account for the goods, the importer or owner of the goods shall, within the prescribed time, account for the goods in the manner described in paragraph (1)(a) and shall, within the prescribed time, pay duties on the goods.

Records

IMPORTERS' RECORDS

40. (1) Every person who imports goods or causes goods to be imported for sale or for any industrial, occupational, commercial, institutional or other like use or any other use that may be prescribed shall keep at the person's place of business in Canada or at such other place in Canada as may be designated by the Minister such records in respect of those goods in such manner and for such period of time as may be prescribed and shall, where an officer so requests, make them available to the officer and answer truthfully any questions asked by the officer in respect of the records.

AUDIT

42. An officer may at all reasonable times enter any premises or place where records are kept pursuant to section 40 and audit or examine such records.

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

DETERMINATION BY OFFICER

58. (1) Any officer, or any officer within a class of officers, designated by the Minister for the purposes of this section, may determine the origin, tariff classification and value for duty of imported goods at or before the time they are accounted for under subsection 32(1), (3) or (5).

DEEMED DETERMINATION

(2) If the origin, tariff classification and value for duty of imported goods are not determined under subsection (1), the origin, tariff classification and value for duty of the goods are deemed to be determined, for the purposes of this Act, to be as declared by the person accounting for the goods in the form prescribed under paragraph 32(1)(a). That determination is deemed to be made at the time the goods are accounted for under subsection 32(1), (3) or (5).

REVIEW OF DETERMINATION

(3) A determination made under this section is not subject to be restrained, prohibited, removed, set aside or otherwise dealt with except to the extent and in the manner provided by sections 59 to 61.

RE-DETERMINATION OR FURTHER RE-DETERMINATION

59. (1) An officer, or any officer within a class of officers, designated by the Minister for the purposes of this section may

(a) re-determine the origin, tariff classification or value for duty of imported goods under section 58 at any time within

(i) four years after the date of the determination, on the basis of an audit or examination under section 42, a verification under section 42.01 or a verification of origin under section 42.1, or

(ii) four years after the date of the determination, if the Minister considers it advisable to make the re-determination; and

(b) further re-determine the origin, tariff classification or value for duty of imported goods, within four years after the date of the determination or, if the Minister deems it advisable, within such further time as may be prescribed, on the basis of an audit or examination under section 42, a verification under section 42.01 or a verification of origin under section 42.1 that is conducted after the granting of a refund under paragraphs 74(1)(c.1), (c.11), (e), (f) or (g) that is treated by subsection 74(1.1) as a re-determination under paragraph (a) or the making of a correction under section 32.2 that is treated by sub-section 32.2(3) as a re-determination under paragraph (a).

NOTICE REQUIREMENT

(2) An officer who makes a determination under subsection 58(1) or a re-determination or further re-determination under subsection (1) shall without delay give notice of the determination, re-determination or further re-determination, including the rationale on which it is made, to the prescribed persons.

*Re-determination and
Further Re-determination by Commissioner*

REQUEST FOR RE-DETERMINATION OR FURTHER RE-DETERMINATION

60. (1) A person to whom notice is given under subsection 59(2) in respect of goods may, within ninety days after being given the notice, request a re-determination or further re-determination of origin, tariff classification or value for duty. The request may be made only after all amounts owing as duties and interest in respect of the goods are paid or security satisfactory to the Minister is given in respect of the total amount owing.

Disclosure of Information

COMMUNICATION OF INFORMATION

107. (1) Except as authorized by section 108, no official or authorized person shall

(a) knowingly communicate or knowingly allow to be communicated to any person any information obtained by or on behalf of the Minister for the purposes of this Act or the *Customs Tariff* or by an authorized person for the purpose of carrying out an agreement made under subsection 147.1(3);

(b) knowingly allow any person to inspect or to have access to any book, record, writing or other document obtained by or on behalf of the Minister for the purposes of this Act or the *Customs Tariff* or by an authorized person for the purpose of carrying out an agreement made under subsection 147.1(3); or

(c) knowingly use, other than in the course of the duties of the official or authorized person in connection with the administration or enforcement of this Act or the *Customs Tariff*, any information obtained by or on behalf of the Minister for the purposes of this Act or the *Customs Tariff* or by an authorized person for the purpose of carrying out an agreement made under subsection 147.1(3).

DEFINITIONS

(2) In subsection (1),

AUTHORIZED PERSON

“authorized person” means any person engaged or employed, or formerly engaged or employed,

(a) by or on behalf of Her Majesty,

(b) as, by or on behalf of an agent of Her Majesty, or

(c) as, by or on behalf of an agent of an agent of Her Majesty,

to assist in carrying out the purposes and provisions of this Act or the *Customs Tariff* or an agreement made under subsection 147.1(3);

OFFICIAL

“official” means any person employed in or occupying a position of responsibility in the service of Her Majesty, or any person formerly so employed or formerly occupying such a position.

EXCEPTION

108. (1) An officer may communicate or allow to be communicated information obtained under this Act or the *Customs Tariff*, or allow inspection of or access to any book, record, writing or other document obtained by or on behalf of the Minister for the purposes of this Act or the *Customs Tariff*, to or by

- (a) any officer or any person employed by the Canada Customs and Revenue Agency;
- (b) any person, or any person within a class of persons, that the Minister may authorize, subject to such conditions as the Minister may specify; or
- (c) any person otherwise legally entitled thereto.

APPENDIX B

VERIFICATION OF ORIGIN, TARIFF CLASSIFICATION AND VALUE FOR DUTY OF IMPORTED GOODS REGULATIONS (NON-FREE TRADE PARTNERS)

INTERPRETATION

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

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

“verification” means a verification conducted under section 42.01 of the Act. (*vérification*)

“verification letter” means a letter that requests information with respect to the origin, tariff classification or value for duty of goods that are the subject of a verification. (*lettre de vérification*)

“verification questionnaire” means a questionnaire that requests information with respect to the origin, tariff classification or value for duty of goods that are the subject of a verification. (*questionnaire de vérification*)

“verification visit” means the entry into a place or premises of the importer or owner of the goods, or the person who accounted for the goods under subsection 32(1), (3) or (5) of the Act, for the purposes of conducting a verification. (*visite de vérification*)

METHODS OF CONDUCTING A VERIFICATION OF ORIGIN, TARIFF CLASSIFICATION OR VALUE FOR DUTY OF IMPORTED GOODS

2. (1) In addition to a verification visit, a designated officer may conduct a verification by one or more of the following methods:

- (a) a review of a verification questionnaire completed by;
 - (i) the importer or owner of the goods, or
 - (ii) the person who accounted for the goods under subsection 32(1), (3), or (5) of the Act;
 - (b) a review of a written response received from a person referred to in paragraph (a) to a verification letter; or
 - (c) a review of any other information or article received from a person referred to in paragraph (a).
- (2) A verification visit referred to in subsection (1) shall be conducted at a reasonable time.

COMING INTO FORCE

3. These Regulations come into force on January 1, 1998.

APPENDIX C

**REFERENCE TO THE *DETERMINATION,*
RE-DETERMINATION AND FURTHER
RE-DETERMINATION OF ORIGIN,
TARIFF CLASSIFICATION AND
*VALUE FOR DUTY REGULATIONS***

2. The time period within which an officer may further re-determine the origin, tariff classification or value for duty under paragraph 59(1)(b) of the Act is five years from the date of the determination under section 58 of the Act, where the granting of the refund or the making of a correction referred to in paragraph 59(1)(b) of the Act occurs within the period of time beginning on the first day of the 37th month and ending on the last day of the 48th month after the date on which the determination was made under section 58.

REFERENCES

ISSUING OFFICE –

Compliance Management Division
Trade Policy and Interpretation Directorate

LEGISLATIVE REFERENCES –

Customs Act

HEADQUARTERS FILE –

4563-10-4

SUPERSEDED MEMORANDA “D” –

N/A

OTHER REFERENCES –

D11-6-7, D17-1-21

Services provided by the Canada Customs and Revenue Agency are available in both official languages.

This Memorandum is issued under the authority of the Commissioner of Customs and Revenue.