



Ottawa, March 30, 2006

# MEMORANDUM D11-4-16

---

## **In Brief**

### **ADVANCE RULINGS UNDER FREE TRADE AGREEMENTS**

This Memorandum has been revised to include references to the Canada-Costa Rica Free Trade Agreement. Changes have also been made to the “Guidelines and General Information” section to clarify policy and procedural issues that have arisen since the last revision to this Memorandum.



Printed in Canada



Ottawa, March 30, 2006

# MEMORANDUM D11-4-16

## ADVANCE RULINGS UNDER FREE TRADE AGREEMENTS

This Memorandum outlines the Canada Border Services Agency's (Agency or CBSA) program for issuing advance rulings under paragraphs 43.1(1)(a) and (b) of the *Customs Act* pursuant to Article 509 of the North American Free Trade Agreement (NAFTA), Article 5.8 of the Canada-Israel Free Trade Agreement (CIFTA), Article E-09 of the Canada-Chile Free Trade Agreement (CCFTA) and Articles V.9 and IX.2 of the Canada-Costa Rica Free Trade Agreement (CCRFTA).

### TABLE OF CONTENTS

	Page
<b>Legislation</b>	1
<b>Regulations</b>	2
<b>Guidelines and General Information</b>	4
Definitions	4
General	4
Subject matter	5
Who may request an advance ruling	5
Manner of applying for an advance ruling	5
Processing of requests for advance rulings	6
Circumstances where an advance ruling will not be issued	6
Precedence	6
Application of an advance ruling	7
Reliance on advance rulings by others	7
Modification or revocation of an advance ruling	8
Effect of modification or revocation of an advance ruling	8
When penalties will not be applied	9
Confidentiality	9
Requesting a review of the advance ruling under Section 60 of the <i>Customs Act</i>	9
Additional information	9
Appendix A – Subject matter for advance rulings	10
Appendix B – Information required when submitting an advance ruling request	12
Appendix C – Form B227, <i>Request for a Free Trade Agreement Advance Ruling or for a Review of a Free Trade Agreement Advance Ruling</i>	17
Appendix D – CBSA regional Client Services and Headquarters offices	18

## Legislation – *Customs Act*

### ADVANCE RULINGS

43.1 (1) Any officer, or any officer within a class of officers, designated by the President for the purposes of this section shall, before goods are imported, on application by any member of a prescribed class that is made within the prescribed time, in the prescribed manner and in the prescribed form containing the prescribed information, give an advance ruling with respect to

- (a) whether the goods qualify as originating goods and are entitled to the benefit of preferential tariff treatment under a free trade agreement;
- (b) in the case of goods exported from a NAFTA country, from Chile or from Costa Rica, any other matter concerning those goods that is set out in paragraph 1 of Article 509 of NAFTA, paragraph 1 of Article E-09 of CCFTA or in paragraph 1 of Article V.9 or paragraph 10 of Article IX.2 of CCRFTA, as the case may be; and
- (c) the tariff classification of the goods.

### REGULATIONS

- (2) The Governor in Council may make regulations respecting advance rulings, including regulations respecting
- (a) the application of an advance ruling;
  - (b) the modification or revocation of an advance ruling, including whether the modification or revocation applies retroactively;
  - (c) the authority to request supplementary information in respect of an application for an advance ruling; and
  - (d) the circumstances in which the issuance of advance rulings may be declined or postponed.

### REQUEST FOR REVIEW

60. (2) A person may request a review of an advance ruling made under section 43.1 within ninety days after it is given to the person.

### HOW REQUEST TO BE MADE

(3) A request under this section must be made to the President in the prescribed form and manner, with the prescribed information.

## PRESIDENT'S DUTY ON RECEIPT OF REQUEST

(4) On receipt of a request under this section, the President shall, without delay,

- (a) re-determine or further re-determine the origin, tariff classification or value for duty;
- (b) affirm, revise or reverse the advance ruling; or
- (c) re-determine or further re-determine the marking determination.

## NOTICE REQUIREMENT

(5) The President shall without delay give notice of a decision made under subsection (4), including the rationale on which the decision is made, to the person who made the request.

### Regulations

#### *FREE TRADE AGREEMENT ADVANCE RULINGS REGULATIONS*

##### *INTERPRETATION*

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

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

“advance ruling” means an advance ruling given under paragraph 43.1(1)(a) or (b) of the Act. (*décision anticipée*)

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

#### *CLASSES OF PERSONS ELIGIBLE TO APPLY FOR AN ADVANCE RULING*

##### *Goods Imported From a Free Trade Partner*

2. An application for an advance ruling in respect of goods proposed to be imported from a free trade partner may be made by any member of the following classes of persons:

- (a) importers of those goods in Canada;
- (b) persons who are authorized to account for those goods under paragraph 32(6)(a) or subsection 32(7) of the Act;
- (c) exporters and producers of those goods in a free trade partner other than Canada;
- (d) where the goods are produced in a NAFTA country other than Canada, in Chile or in Costa Rica, producers in a NAFTA country other than Canada, in Chile or in Costa Rica, of a material that is used in the production of those goods; and

(e) where the goods are produced in Israel or another CIFTA beneficiary, producers in Israel or another CIFTA beneficiary or in the United States of a material that is used in the production of those goods.

## 3. Repealed

#### *APPLICATION FOR AN ADVANCE RULING*

4. An application for an advance ruling in respect of goods shall be made not less than 120 days before the date of importation of the goods.

5. An application for an advance ruling shall be made in English or French.

6. Where, during the course of an evaluation of an application for an advance ruling, an officer determines that the information contained in the application is insufficient to make a ruling, the officer may request supplemental information from the applicant and shall specify a period of not less than 30 days within which the information shall be provided.

#### *ADVANCE RULING*

##### *General*

7. An officer shall give consistent advance rulings with respect to applications for advance rulings that are based on facts and circumstances that are identical in all material respects.

8. An officer shall provide the applicant with a full explanation of the reasons for the advance ruling.

9. An advance ruling shall be made in writing, in the same language as the language of the application for the advance ruling, and given to the applicant.

##### *Application*

10. An advance ruling in respect of goods shall be effective

- (a) on the date on which it is given; or
- (b) on a later date specified in the advance ruling, which is not later than the date of importation of the goods.

11. An advance ruling shall apply to goods that are the subject of the advance ruling and are imported on or after the effective date of the advance ruling.

12. An advance ruling shall remain in effect and shall be honoured by the Minister if

- (a) there is no change in the material facts or circumstances on which it is based;
- (b) all of its terms and conditions are complied with; and

(c) it has not been revoked.

*Declining and Postponing the Issuance of an  
Advance Ruling*

13. (1) An officer may postpone the issuance of an advance ruling in respect of goods where goods other than those that are the subject of the advance ruling are the subject of one of the following processes the result of which is likely to affect the advance ruling:

(a) a verification of origin under section 42.1 of the Act;

(b) a re-determination or further re-determination of origin under section 59, 60 or 61 of the Act; or

(c) a hearing before the Canadian International Trade Tribunal or any court.

(2) An officer may decline or postpone the issuance of an advance ruling where the applicant fails to provide supplemental information requested under section 6 within the period specified.

*MODIFICATION OR REVOCATION OF AN  
ADVANCE RULING*

*Grounds for Modification or Revocation*

14. An officer may modify or revoke an advance ruling given in respect of goods that are the subject of the advance ruling

(a) if the advance ruling is based on an error

(i) of fact,

(ii) in the tariff classification of the goods or of the materials used in the production of the goods,

(iii) in the case of goods exported from a NAFTA country, from Chile or from Costa Rica, in the application of a regional value content requirement under Chapter Four of NAFTA, Chapter D of CCFTA or Chapter IV of CCRFTA, as the case may be,

(iv) in the case of goods exported from a NAFTA country, in the application of the rules for determining whether goods qualify as goods of a NAFTA country under Annex 300-B or 302.2 or Chapter Seven of NAFTA,

(v) in the case of goods exported from a NAFTA country, in the application of the rules for determining whether the goods are qualifying goods under Chapter Seven of NAFTA, or

(vi) in the case of goods exported from a NAFTA country, from Chile or from Costa Rica, in the application of the rules for determining whether the

goods that re-enter Canada after being exported from Canada to another NAFTA country, to Chile or to Costa Rica for repair or alteration qualify for treatment free of customs duty under Article 307 of NAFTA, Article C-06 of CCFTA, or Article III.6 of CCRFTA, as the case may be;

(b) in the case of goods exported from a NAFTA country, from Chile or from Costa Rica, if the advance ruling is not in accordance with an interpretation agreed to by

(i) the NAFTA countries regarding Chapter Three or Four of NAFTA,

(ii) Canada and Chile regarding Chapter C or D of CCFTA, or

(iii) Canada and Costa Rica regarding Chapter III or IV of CCRFTA;

(c) if there is a change in the material facts or circumstances on which the advance ruling is based;

(d) if preferential tariff treatment under a free trade agreement has been denied or withdrawn from the goods pursuant to subsection 42.1(2) of the Act;

(e) in the case of goods exported from a NAFTA country, from Chile or from Costa Rica, if the exporter or producer of the goods has not complied with the terms and conditions of the advance ruling with regard to the regional value content of the goods or any other terms or conditions of the advance ruling;

(f) in the case of goods exported from a NAFTA country, from Chile or from Costa Rica, if the operations of the exporter or producer of the goods are not consistent with the material facts and circumstances on which the advance ruling is based with regard to the regional value content of the goods;

(g) in the case of goods exported from a NAFTA country, from Chile or from Costa Rica, if for the purposes of the application for the advance ruling the supporting data and computations used in applying the basis or method for calculating value or allocating cost were incorrect in any material respect with regard to the regional value content of the goods;

(h) to conform with a modification of

(i) Chapter Three, Four, Five or Seven of NAFTA,

(ii) Chapter C, D or E of CCFTA,

(iii) Chapter Three of CIFTA or

(iv) Chapters III, IV and V of CCRFTA; or

(i) to conform with a decision of a Canadian court or tribunal or a change in Canadian law.

15. Repealed

*Notice of Modification or Revocation*

16. An officer shall give notice in writing of any modification or revocation of an advance ruling and of the effective date of the modification or revocation to the person to whom the advance ruling was given.

*Effective Date of Modification or Revocation*

17. A modification or revocation of an advance ruling shall be effective

- (a) on the date on which the modification or revocation is issued; or
- (b) on such later date as may be specified in the notice given under section 16.

*Application of Modification or Revocation*

18. (1) Subject to subsection (2), a modification or revocation of an advance ruling shall apply to goods that are the subject of the advance ruling and are imported on or after the effective date of the modification or revocation.

(2) A modification or revocation of an advance ruling shall apply to goods that are the subject of the advance ruling and are imported before the effective date of the modification or revocation where the modification or revocation is

- (a) to the detriment of the person to whom the advance ruling was given and that person has not acted in accordance with the terms and conditions of the advance ruling; or
- (b) to the benefit of the person to whom the advance ruling was given.

*Postponement of Effective Date*

19. (1) An officer shall postpone the effective date of a modification or revocation of an advance ruling for a period not exceeding 90 days where the person to whom the advance ruling was given demonstrates that the person has relied in good faith to the person's detriment on that advance ruling.

(2) An officer shall give, in writing, to the person to whom the advance ruling was given, notice of any postponement made under subsection (1).

**REPEAL**

20. The NAFTA Advance Rulings Regulations are repealed.

*COMING INTO FORCE*

21. These Regulations are deemed to have come into force on November 1, 2002.

---

**GUIDELINES AND  
GENERAL INFORMATION**

**Definitions**

1. An advance ruling is a written statement issued by the Canada Border Services Agency (Agency or CBSA) pursuant to paragraphs 43.1(1)(a) and (b) of the *Customs Act* and so designated by the Agency.
2. For purposes of these "Guidelines" and pursuant to section 1 of the Regulations, "material" means a good that is used in the production of another good, and includes a part or an ingredient.

**General**

3. Advance rulings are provided under the authority of paragraphs 43.1(1)(a) and (b) of the *Customs Act* which reflects Canada's agreement to provide advance rulings as outlined in Article 509 of the North American Free Trade Agreement (NAFTA), Article 5.8 of the Canada-Israel Free Trade Agreement (CIFTA), Article E-09 of the Canada-Chile Free Trade Agreement (CCFTA) and Articles V.9 and IX.2 of the Canada-Costa Rica Free Trade Agreement (CCRFTA).
4. The Agency will respond to all requests for advance rulings that fall within the parameters of the Advance Ruling program. Any written requests that fall outside the parameters of that program will be returned to the applicant with an explanation as to why a ruling cannot be issued.
5. Advance rulings must be based on complete and accurate information. The applicant must ensure that the Agency has all the relevant information. If insufficient information is provided, the Agency will not issue an advance ruling.
6. If an applicant is aware of any outstanding re-determination requests or outstanding advance rulings on a similar issue, the applicant must specifically inform the Agency of this in their request for the advance ruling.
7. An advance ruling issued by one Party to a free trade agreement will not be binding on another Party to that agreement.
8. In accordance with the confidentiality provisions of the *Customs Act*, any confidential business information contained in advance rulings will not be exchanged with other Parties to a free trade agreement.

9. Issuance of an advance ruling does not negate the requirement for an importer to have a certificate of origin in the importer's possession at the time goods are imported in order to claim a preferential tariff treatment.

10. To ensure receipt of the benefits of an advance ruling at the time of importation, importers must indicate the advance ruling number on Form C11, *Canada Customs Invoice*, the commercial invoice, or in the description field of Form B3, *Canada Customs Coding Form*.

11. Where exporters complete and sign a free trade agreement certificate of origin (CO), and they have been issued an advance ruling for the goods listed on the CO, the exporter should quote the advance ruling number on the CO.

### Subject matter

12. An advance ruling may only be issued with respect to those matters set out in the Advance Rulings provisions of the NAFTA, CIFTA, CCFTA and CCRFTA (see Appendix A). If the Parties to the NAFTA, CCFTA or CCRFTA agree to allow the issuance of advance rulings on other matters pursuant to paragraph 1(j) of Article 509 of the NAFTA, paragraph 1(h) of Article E-09 of the CCFTA, or paragraph 1(f) of Article V.9 of CCRFTA, a Customs Notice will be issued to announce such a change.

13. If requested in writing, and if the Agency has enough information to determine the tariff classification of the product, an advance ruling on the tariff classification will be issued in conjunction with an advance ruling on the origin of the product pursuant to D11-11-3, *Advance Rulings for Tariff Classification*.

14. An advance ruling may only be requested for future importations of goods that are the subject of a series of ongoing importations, if the future importations are contemplated to occur more than 120 days from the date of the Agency's receipt of the request for an advance ruling. Advance ruling requests relating to ongoing importations must be limited to subject matters involving the future contemplated importations.

**Example:** a request involving an ongoing series of importations will not be considered if the information filed only relates to discontinued models, or to past models with different sources or production methods than those to be used in future importations.

15. Requests for advance rulings must be restricted to an individual product or issue. The Agency will not accept or process a request that relates to more than five separate products produced by a single producer at any one time. However, a request involving the origin or marking of a range of goods will be considered if it can be shown that the goods in question are so similar that a decision on one model or style of the good can be considered a

representative decision for the other models or styles of the good. The decision to permit this type of advance ruling request will be at the discretion of the Agency.

**Example:** Goods are simple variations of each other and are produced from materials that are identical and sourced from the same suppliers and the goods are produced in the same plant during the same period using the same production methods.

### Who may request an advance ruling

16. Pursuant to section 2 of the *Free Trade Agreements Advance Rulings Regulations*, a request for an advance ruling may be filed by:

- (a) importers in Canada or persons authorized to account for the imported goods in question pursuant to paragraph 32(6)(a) or subsection 32(7) of the *Customs Act*;
- (b) exporters or producers of the goods in question in a free trade country;
- (c) producers in a NAFTA, CCFTA or CCRFTA country other than Canada, of a material used in the production of goods which are subsequently exported to Canada; and
- (d) producers in Israel or another CIFTA beneficiary or producers in the US, of a material that is used in the production of goods exported from Israel or another CIFTA beneficiary to Canada

### Manner of applying for an advance ruling

17. A request for an advance ruling must be submitted in writing in the form of a letter that contains all the required information set out in Appendix B. Different information is required for different types of advance rulings. The Agency may be able to issue a ruling with less information but it retains the right to request any of the information set out in Appendix B or other additional information before issuing a ruling.

18. Further information concerning advance ruling requirements can be found in "Common Standards for Information Required in the Application for an Advance Ruling" as set out in Memorandum D11-4-18, *Uniform Regulations – Chapters Three and Five of NAFTA*, Memorandum D11-4-24, *Uniform Regulations – Chapters C and E of the Canada-Chile Free Trade Agreement (CCFTA)*, and Memorandum D11-4-26, *Uniform Regulations – Chapter V of the Canada-Costa Rica Free Trade Agreement*.

19. Failure to provide all the necessary information will result in a delay of the issuance of the advance ruling or the inability to issue an advance ruling. Although not mandatory, it is suggested that a completed Form B227,

*Request for Advance Ruling or for a Review of an Advance Ruling* (see Appendix C), be attached to the letter to expedite processing.

20. All requests for an advance ruling must be submitted in English or French and must be signed by the applicant or a person authorized by the applicant to make the request. The person who signs the request must have knowledge of the issues raised in the request. The Agency retains the right to reject the request if these conditions are not fulfilled.

21. The request for an advance ruling should be marked "Attention: Advance Rulings Request" and be delivered or sent by registered mail to the **Client Services Division** in the CBSA region in which the bulk of the importations is expected to occur. If this cannot be determined, the request should be sent to the region in which the bulk of the importers or potential importers for the product is located. The Agency will redirect the request if required. Where the request involves goods which are subject to a regional value content (RVC), such requests must be sent directly to the Origin and Valuation Division at Headquarters. The addresses for the CBSA regional Client Services offices and Headquarters are listed in Appendix D.

#### **Processing of requests for advance rulings**

22. Where a request for an advance ruling does not comply with all of the provisions of this Memorandum, the applicant will be notified in writing and advised of the requirements that have not been met. At any time during the course of an evaluation of an advance ruling request, the Agency may notify the applicant that supplementary information is required. The applicant will be given a period of 30 calendar days from the date of the notice (or such longer period as the notice may provide) to provide any supplementary information or, otherwise, to conform to the requirements referred to in the notice. If no response to the notice is received within the period allotted, the advance ruling request will be administratively closed and treated as withdrawn.

23. Advance rulings will be issued within 120 days of receipt of **all** required information. Therefore, this time frame should be taken into consideration when submitting an advance ruling request. Where a request with complete information is submitted less than 120 days before the importation in question, an advance ruling may not be issued before the importation. Where all necessary information is not received with an application and further information is requested pursuant to paragraph 22, the time frame of 120 days will commence from receipt of all necessary information.

24. Where the Agency has received complete information, but fails to issue an advance ruling with 120 days, the Agency will administratively allow any importation, imported after 120 days from the receipt of complete

information and before an advance ruling is issued, to be accorded the treatment requested in the advance ruling request.

25. The Agency shall provide to any person requesting an advance ruling the same treatment as it provided to any other person to whom it issued an advance ruling on the same goods/materials, provided that the facts and circumstances are identical.

26. Any request for an advance ruling may be withdrawn by the applicant at any time before the issuance of an advance ruling. However, the Agency may inform its officers of the Agency's views in regard to the issue involved in the application.

27. The Agency will provide the applicant with a full explanation of the reasons for the ruling in the letter containing the advance ruling. The advance ruling will be issued in the language of the incoming request.

#### **Circumstances where an advance ruling will not be issued**

28. Advance rulings will not be issued in the following circumstances:

- (a) where the request involves solely the determination of who is the producer/exporter. Such a matter can only be dealt with in an advance ruling in relation to a specific importation of goods or materials;
- (b) where a verification of origin is being conducted on similar goods under section 42.1 of the *Customs Act*, and the outcome of the verification may affect the advance ruling request;
- (c) where a request for a re-determination of the origin or marking determination on identical goods has been made, and the re-determination decision is outstanding;
- (d) where the request involves a matter that is before the Canadian International Trade Tribunal, the courts, the Free Trade Commission or any group or sub-group established thereunder;
- (e) where it is not possible to determine all the material facts;
- (f) where the acceptance of the request would result in requests relating to more than five separate products produced by a single producer being processed by the Agency at any one time; and
- (g) where the request only relates to an importation or importations that have already occurred.

#### **Precedence**

29. An advance ruling will take precedence over any conflicting National Customs Ruling, advice, opinion, etc., issued either before or after the advance ruling.

30. A ruling request on a subject covered by the *Free Trade Agreement Advance Ruling Regulations* and the advance rulings provisions of any free trade agreement will be considered to be a request for an advance ruling rather than a request for a National Customs Ruling.

31. Every care will be taken to ensure that rulings issued to a person do not conflict with previous non-revoked rulings issued to that person. In the unlikely circumstance that a person has been issued conflicting non-revoked advance rulings, the one bearing the earliest date will take precedence. In instances where conflicting advance rulings, National Customs Rulings, decisions, or advice come to the attention of the Agency, officers will immediately undertake a review of the issue and will, upon conclusion of that review, issue, modify, or revoke an advance ruling or National Customs Ruling to resolve the matter, as appropriate.

### **Application of an advance ruling**

32. An advance ruling will be honoured by the Agency with regard to a particular importation of goods:

- (a) as long as the material facts and circumstances surrounding the importation of the goods in question are the same as the material facts and circumstances presented in the request for the advance ruling;
- (b) if all conditions in the ruling have been met and if the ruling has not been modified, revoked, revised, or cancelled; and
- (c) if the importation of the goods is made by the person to whom the advance ruling was issued or someone importing the goods from that person.

33. It is the responsibility of the person to whom the ruling was issued to notify the Agency of changes in the material facts and circumstances surrounding the advance ruling. Where there is a change in the material facts and circumstances, then the Agency is not required to honour the advance ruling with respect to goods produced after that change. In these circumstances, the Agency may retroactively revoke or modify the advance ruling to reflect the change in material facts and circumstances.

34. The Agency must honour an advance ruling when making a decision on any importation of goods covered by the advance ruling that occurs while the advance ruling is in effect. If the Agency determines that an applicable advance ruling favourable to the person importing the goods is incorrect, and none of the circumstances set out paragraph 43 are applicable, then the Agency must assess the goods, or otherwise deal with the goods, pursuant to the advance ruling. Thereafter the Agency may issue a modification or revocation of the advance ruling, which will be effective with regard to goods imported after the date of issuance of the modification or revocation.

35. The Agency may retroactively modify or revoke an advance ruling that it has determined to be incorrect, if this action would benefit the importer. Such action can be taken by the Agency as an alternative to having the person request a review of the advance ruling, in those situations where the Agency is convinced the advance ruling would be revised or reversed on review. In such a case, the retroactive modification or revocation would be issued and the goods would be assessed or otherwise dealt with in accordance with the modification or revocation. The advance ruling would be considered modified or revoked, as appropriate, from the date of the importation of the goods being assessed or dealt with, or such earlier or later date as the modification or revocation may specify.

36. Advance rulings are in effect from the date of issue until such time as the Agency issues a modification or revocation of the advance ruling to the applicant or until the ruling is revised or reversed as a result of a review. Some advance rulings, due to the nature of the request, may be qualified with a time limit. If so, this will be stated in the advance ruling. The date of issuance, modification or revocation of an advance ruling shall be indicated in the letter containing the advance ruling, or modification or revocation of the advance ruling. The date the advance ruling is issued shall be the date the ruling is given for the purposes of the review rights in section 60 of the *Customs Act*. The effective date of the advance ruling, or modification or revocation of the advance ruling, shall be the date of issuance unless otherwise noted.

37. Importers must apply advance rulings to all relevant importations subsequent to the effective date of the ruling. If the advance ruling is not applied, retroactive re-assessment of duty and taxes will be considered in accordance with subsection 59(1) of the *Customs Act* and a penalty may be applied under the Administrative Monetary Penalty System (AMPS). Where advance rulings concerning country of origin marking are not followed, an AMPS penalty may be applied and the goods may be detained or refused at entry.

### **Reliance on advance rulings by others**

38. The benefits of an advance ruling accrue only to the applicant who requested the advance ruling or to the persons importing the goods in question from that applicant. However, any importer may quote the advance ruling number on an importation, even if the advance ruling was issued to another importer, as long as it specifically covers the goods being imported. It is the responsibility of an importer who is quoting the advance ruling number to ascertain that the goods being imported are covered by the advance ruling. The quoting of the advance ruling number in appropriate circumstances by an importer other than the importer to whom the ruling was issued does not bind the Agency to follow the ruling with regard to that importation,



but will make the Agency aware that there is an advance ruling on file which is applicable to the goods in question.

39. If an advance ruling issued to an exporter or producer of goods is not specifically limited to goods imported by a specific importer, then the goods covered by that advance ruling imported by any importer from that exporter or producer will be considered covered by the advance ruling. However, in these circumstances, the importer is not considered to have been issued an advance ruling and is therefore not entitled to request a review of the advance ruling or to be given notice of a modification or revocation of the advance ruling, etc.

40. Only the person who applied for the advance ruling may request a review of the advance ruling or any modification or revocation of the advance ruling, and only the applicant who applied for the advance ruling will be notified if the advance ruling is revoked or modified by the Agency. In addition, only the applicant may apply for the delay of up to 90 days of the effective date of the modification or revocation of that advance ruling. For these reasons it is recommended that individuals apply for their own advance ruling rather than rely on rulings issued to others.

#### **Modification or revocation of an advance ruling**

41. At any time, the Agency may review an advance ruling to establish its continued validity. An advance ruling may be revoked or modified if any of the circumstances listed in section 14 of the *Free Trade Agreement Advance Rulings Regulations* or the advance rulings provisions of any of the free trade agreements occur.

42. The advance ruling may be revoked or modified by the Agency's Headquarters, by the region that issued the advance ruling or by any other region, with the concurrence of the region that issued the advance ruling. The notice of the modification or revocation of an advance ruling shall, as required by section 16 of the *Free Trade Agreement Advance Rulings Regulations*, take the form of a further advance ruling, which will be issued to the person who requested the original ruling and shall have an advance ruling number issued with it. Upon issuance of the modification or revocation, the advance ruling that is replaced ceases to be valid.

#### **Effect of modification or revocation of an advance ruling**

43. A modification or revocation of an advance ruling issued may be applied retroactively to goods imported before the modification or revocation is issued in the following circumstances:

(a) There was a failure to act in accordance with the terms and conditions of the ruling, which might include, *inter alia*:

(i) a request for an advance ruling containing a misstatement or omission of material facts,

(ii) the ruling, although correct when issued, ceased to be correct at a later date because there was a change in the material facts or circumstances upon which the ruling was based and the Agency was not notified. In such a case, the advance ruling may be retroactively revoked or modified to the date of the change in the material facts or circumstances;

(b) the modification or revocation being to the benefit of the person who requested the ruling.

44. A revocation or modification of an advance ruling will be effective on the date it is issued. The Agency may, upon application or on its own initiative, delay the effective date of such a modification or revocation for a period of up to 90 calendar days from the date of issuance pursuant to section 19 of the *Free Trade Agreement Advance Rulings Regulations*. Such a delay shall be granted to the party to whom the advance ruling was issued on application by that party, provided such party can demonstrate to the satisfaction of the Agency that it relied on the advance ruling to its detriment. The delay shall apply with respect to goods covered by the advance ruling that are imported by the party who was issued the advance ruling or any other person importing those goods from that party.

45. The evidence of reliance shall include contracts, purchase orders, past importations, or other documentation tending to establish that contracts for, and production of goods to be imported after the modification or revocation, were arranged prior to the modification or revocation, with reliance on the prior ruling. It shall specifically identify the advance ruling on which reliance is claimed.

46. All persons applying for a delay of the effective date of an advance ruling, pursuant to section 19 of the *Free Trade Agreement Advance Rulings Regulations*, will be issued a separate ruling setting forth the delay period, if any. In appropriate circumstances, the Agency may decide to make its decision, with respect to a delay, applicable to all persons, irrespective of demonstrated reliance. In such a case, the Agency will not reassess any importations of the goods in question that are imported during the period of the delay.

47. An application for postponement of the effective date of the modification or revocation should be made in writing, to the office that issued the modification or revocation, within 90 days from the issuance of the modification or revocation, or within 90 days of receipt of a reassessment of goods imported in the 90-day period after the issuance of a modification or revocation.

### **When penalties will not be applied**

48. Where the person to whom an advance ruling was issued demonstrates that the person used reasonable care and acted in good faith in presenting the facts and circumstances on which the ruling was based, and where the Agency determines that the ruling was based on incorrect information, the person to whom the ruling was issued shall not be subject to civil or criminal penalties. In such a case, the person may be reassessed duties and taxes on past importations, if otherwise appropriate under this Memorandum, but will only be charged interest at the prescribed rate.

### **Confidentiality**

49. On April 23, 2003, a Memorandum of Understanding (MOU) for the Exchange of North American Free Trade Agreement (NAFTA)-Related Information was signed between Canada and the United States. This MOU allows these two Parties to exchange NAFTA advance rulings requested after that date. The exchange of information under the MOU is based on the principles of reciprocity and confidentiality of information.

50. In the case of Mexico and Canada's other free trade partners any confidential business information contained in a request for an advance ruling will remain confidential. The policy content of advance rulings which sets a precedent may ultimately be incorporated into the D Memoranda series or other publications. No information will be released which will directly identify the producer or requesting party or any confidential business information relating to those persons. The only specific information with respect to an advance ruling that will be released, other than to the person to whom the ruling was issued, is whether a particular advance ruling number remains in effect or has been modified or revoked. If further information on the ruling is needed, it must be obtained from the person to whom the ruling was issued. Alternately, if entitled to do so, a person may request issuance of their own ruling on the subject. However, the Agency will only issue an advance ruling that contains confidential business information obtained by the Agency from someone other than the applicant with the permission of the owner of the confidential business information.

### **Requesting a review of the advance ruling under Section 60 of the *Customs Act***

51. The person to whom an advance ruling is issued may request a review of the advance ruling within 90 days of its issuance. All requests for reviews of advance rulings must be filed either on Form B227, as shown in Appendix C, or in the form of a letter quoting the advance ruling number

being appealed and providing written arguments in support of the review. Any relevant information listed in Appendix B that was not provided in the original request for an advance ruling should be provided with the request for a review. All requests for reviews of advance rulings should be sent by registered mail to the office that issued the advance ruling.

52. All requests for review of an advance ruling must be submitted in English or French and must be signed by a person authorized by the requesting party to make the request. The person who signs the request must have knowledge of the issues raised in the request. The Agency retains the right to reject the request if these conditions are not fulfilled.

53. After reviewing all the filed information, the Agency shall, with all due dispatch, make a decision on the review of the advance ruling. The notice of the decision under paragraph 60(4)(b) of the *Customs Act* shall be in the form of a further advance ruling issued to the party who requested the review. The advance ruling, issued as a notice of the decision under paragraph 60(4)(b) of the *Customs Act*, will either confirm the original advance ruling or will render a retroactive revision or reversal favourable to the person requesting the review. Such a retroactive revision or reversal will be retroactive to the date of the issuance of the original advance ruling, unless otherwise noted.

54. If during the course of a request for a review of an advance ruling it is discovered that the advance ruling is incorrect, the circumstances in paragraph 43 do not apply, and a retroactive revision or reversal of the advance ruling is not favourable to the person requesting the review of the advance ruling, the CBSA officer must affirm the advance ruling and then issue a modification or revocation of the advance ruling which will be applicable to goods imported after the date of issuance of the modification or revocation.

55. A modification or revocation of an advance ruling, including a modification or revocation issued pursuant to paragraph 54, but not including an affirmation, revision, or reversal of an advance ruling made under paragraph 53, shall be considered an advance ruling under section 43.1 of the *Customs Act* in its own right with a date of issuance identical to the date of issuance of the modification or revocation. Therefore a modification or revocation can be the subject of a request for review under section 60 of the *Customs Act* and paragraphs 51 to 54 to apply with such modifications as the circumstances require.

### **Additional information**

56. For further information on this program, please contact the Client Services Division at any CBSA regional office. (see Appendix D)

**APPENDIX A****SUBJECT MATTER FOR ADVANCE RULINGS****Paragraph 1 of Article 509 of NAFTA**

1. Each Party shall, through its customs administration, provide for the expeditious issuance of written advance rulings, prior to importation of a good into its territory, to an importer in its territory or an exporter or a producer in the territory of another Party, on the basis of the facts and circumstances presented by such importer, exporter or producer of the good, concerning:

- (a) whether materials imported from a non-Party used in the production of a good undergo an applicable change in tariff classification set out in Annex 401 as a result of production occurring entirely in the territory of one or more of the Parties;
- (b) whether a good satisfies a regional value-content requirement under either the transaction value method or the net cost method set out in Chapter Four;
- (c) for the purposes of determining whether a good satisfies a regional value-content requirement under Chapter Four, the appropriate basis or method for value to be applied by an exporter or a producer in the territory of another Party, in accordance with the principles of the Customs Valuation Code, for calculating the transaction value of the good or of the materials used in the production of the good;
- (d) for the purpose of determining whether a good satisfies a regional value-content requirement under Chapter Four, the appropriate basis or method for reasonably allocating cost, in accordance with the allocation methods set out in the Uniform Regulations, for calculating the net cost of the goods or the value of an intermediate material;
- (e) whether a good qualifies as an originating good under Chapter Four;
- (f) whether a good that re-enters its territory after the good has been exported from its territory to the territory of another Party for repair or alteration qualifies for duty-free treatment in accordance with Article 307 (Goods Re-Entered after Repair or Alteration);
- (g) whether the proposed or actual marking of a good satisfies country of origin marking requirements under Article 311 (Country of Origin Marking);
- (h) whether an originating good qualifies as a good of a Party under Annex 300-B (Textile and Apparel Goods); Annex 302.2 (Tariff Elimination) or Chapter Seven (Agriculture and Sanitary and Phytosanitary Measures);
- (i) whether a good is a qualifying good under Chapter Seven; or
- (j) such other matters as the Parties may agree.

**Paragraph 1 of Article 5.8 of CIFTA**

1. Each Party, shall, through its customs administration provide for the issuance of written advance rulings, prior to the importation of a good into its territory, to an importer in its territory or an exporter or producer in the territory of the other Party, on the basis of the facts and circumstances presented by such importer, exporter or producer of the good, concerning whether the good qualifies as an originating good under the requirements of Chapter Three.

**Paragraph 1 of Article E-09 of CCFTA**

1. Each Party shall, through its customs administration, provide for the expeditious issuance of written advance rulings, prior to importation of a good into its territory, to an importer in its territory or an exporter or a producer in the territory of another Party, on the basis of the facts and circumstances presented by such importer, exporter or producer of the good, concerning:

- (a) whether materials imported from a non-Party used in the production of a good undergo an applicable change in tariff classification set out in Annex D-01 as a result of production occurring entirely in the territory of one or both of the Parties;
- (b) whether a good satisfies a regional value- content requirement under either the transaction value method or the net cost method set out in Chapter D (Rules of Origin);

- (c) for the purposes of determining whether a good satisfies a regional value-content requirement under Chapter D, the appropriate basis or method for value to be applied by an exporter or a producer in the territory of the other Party, in accordance with the principles of the Customs Valuation Code, for calculating the transaction value of the good or of the materials used in the production of the good;
- (d) for the purpose of determining whether a good satisfies a regional value-content requirement under Chapter D, the appropriate basis or method for reasonably allocating costs, in accordance with the allocation methods set out in the Uniform Regulations, for calculating the net cost of the good or the value of an intermediate material;
- (e) whether a good qualifies as an originating good under Chapter D;
- (f) whether a good that re-enters its territory after the good has been exported from its territory to the territory of the other Party for repair or alteration qualifies for duty-free treatment in accordance with Article C-06 (Goods Re-Entered after Repair or Alteration);
- (g) whether a good referred to in Annex C-00-B (Textiles and Apparel Goods) satisfies the conditions set out in Appendix 5.1 of that Annex regarding eligibility for a tariff preference level (TPL) referred to therein; or
- (h) such other matters as the Parties may agree.

#### **Paragraph 1 of Article V.9 of CCRFTA**

1. Each Party shall, through its customs administration, provide for the expeditious issuance of written advance rulings, prior to the importation of a good into its territory, to an importer in its territory or an exporter or a producer in the territory of the other Party, on the basis of the facts and circumstances presented by such importer, exporter or producer of the good, concerning:

- (a) whether materials imported from a non-Party country used in the production of a good undergo an applicable change in tariff classification set out in Annex IV.1 (Specific Rules of Origin) as a result of production occurring entirely in the territory of one or both of the Parties;
- (b) whether a good satisfies a regional value-content requirement set out in Chapter IV (Rules of Origin);
- (c) for the purpose of determining whether a good satisfies a regional value-content requirement under Chapter IV (Rules of Origin), the appropriate basis or method for value to be applied by an exporter or a producer in the territory of the other Party, in accordance with the principles of the Customs Valuation Agreement, for calculating the transaction value of the good or of the materials used in production of the good;
- (d) whether a good qualifies as an originating good under Chapter IV (Rules of Origin);
- (e) whether a good that re-enters its territory after the good has been exported from its territory to the territory of the other Party for repair or alteration qualifies for duty-free treatment in accordance with Article III.6 (Goods Re-Entered after Repair or Alteration); or
- (f) such other matters as the Parties may agree.

#### **Paragraph 10 of Article IX.2 of CCRFTA**

The Parties shall issue written rulings in advance of an importation in response to a written request by an importer, exporter or its representative. Rulings shall be issued for tariff classification, applicable rate of duty, any tax applicable upon importation, or whether goods are considered to be originating goods and entitled to tariff preferences under this Agreement. The rulings shall be as detailed as the nature of the request and the details provided by the person requesting the ruling permits. When a Party determines that a request for an advance ruling is incomplete, it may request additional information, including, where appropriate, a sample of the goods or materials in question from the person requesting the ruling. The advance ruling shall be binding upon the customs administration that issued the ruling at the time the goods are actually imported provided that the facts and circumstances that were the basis for the issuance of the advance ruling remain in effect. The customs administration of a Party may modify or revoke such a ruling at any time but only after notification to the person that requested the ruling and without retroactive application. The Parties may modify or revoke such rulings without notification and with retroactive application in circumstances where inaccurate or false information has been provided.

**APPENDIX B****INFORMATION REQUIRED WHEN SUBMITTING AN ADVANCE RULING REQUEST**

[NOTE: If using Form B227, the supporting letter need not include items 3, 4, 5(a), (b), (c), (d), (e), (f) and (h).]

**Definitions**

1. The “Interpretation” section of the *Free Trade Agreement Advance Rulings Regulations* (“*Regulations*”) contains definitions that are important in understanding the administration of the *Regulations*. For purposes of this Memorandum, the following terms are also important.

“applicant” means the importer, producer or exporter who is applying for an advance ruling.

“importer” means a person in Canada who imports the goods into Canada.

“producer” means the person who produced the goods in the final form in which they are imported into Canada and who may or may not also export the goods directly to Canada.

“exporter” means the person who exports the goods to Canada and is not the producer of the goods.

**General information required for all requests**

2. The information required for an advance ruling depends on the type of advance request as follows:

Type of Request	Paragraphs 3-6	Paragraphs 7-15	Paragraphs 16-17	Paragraphs 18-23
Rule of Origin	X	X		
Tariff Treatment *	X	X	X	
NAFTA Marking	X			X

\* Whether a new request or where an advance ruling has previously been issued.

3. At the top of the letter, state “The applicant is” and then state whether you or your client are an importer, a producer or an exporter as defined in paragraph 1 above.

4. If the request is for a review/appeal of an advance ruling, state “This is a request for the review/appeal of advance ruling number \_\_\_\_\_ (state the advance ruling number).”

5. The request shall include, where relevant:

(a) the name and address of the exporter, producer, or importer of the good, as the case may be;

(b) where the applicant is:

(i) the **exporter** of the good, the name and address of the producer and importer of the good, if known,

(ii) the **producer** of the good, the name and address of the exporter and importer of the good, if known,

(iii) the **importer** of the good, the name and address of the exporter and, if known, the producer of the good;

(c) where the request is made on behalf of an applicant, the name and address of the person requesting the issuance of the advance ruling, and a written statement from the person requesting the issuance of the advance ruling that indicates that the person is duly authorized to transact business as the agent of the applicant;

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

(i) a verification of origin,

(ii) an administrative review or appeal,

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

(iv) a request for an advance ruling,

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

- (e) a statement, on the basis of the applicant's knowledge, as to whether the good that is the subject of the request for an advance ruling has previously been imported into Canada;
- (f) a statement that the information presented is accurate and complete;
- (g) a complete description of all relevant facts and circumstances relating to the issue that is the subject of the request for the advance ruling, including:
  - (i) a concise statement, within the scope of Article 509(1) of NAFTA, E-09(1) of CCFTA, 5.8(1) of CIFTA and V.9(1) and IX.2(10) of CCRFTA, setting forth the issue on which the advance ruling is sought, and
  - (ii) a general description of the good;
- (h) the name, title, signature and telephone number of the person making the request;
- (i) if different from the person named in (h), the name and telephone number of a contact person, to whom the Agency may refer, who has full knowledge of the basis and rationale for the request.

6. Where relevant to the issue that is the subject for the request for an advance ruling, the request shall include, in addition to the information referred to in paragraph 5:

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

### **Rules of Origin Requests**

7. Where the request for an advance ruling involves the application of a rule of origin, the request must include the information set out in paragraphs 3 through 6 and 7 through 15.

8. Where the request for the advance ruling involves the application of a rule of origin that requires an assessment of whether materials used in the production of the good are subject to a change in tariff classification, the request shall include:

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

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

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

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

(b) information sufficient to calculate the value of each material that is a non-originating material, or the origin of which is unknown, that is used in the production of the good in accordance with section 7, and, where applicable, section 6(10) of the *NAFTA Rules of Origin Regulations* or the *CCFTA Rules of Origin Regulations* or sections 4 and 5 of the *CCRFTA Rules of Origin Regulations*, as the case may be;

(c) if not already provided, with respect to each material that is claimed to be an originating material that is used in the production of the good, a complete description of the material including the basis on which it is considered that the material originates; and

(d) if not already provided, a description of all processing operations employed in the production of the good, the location of each operation, and the sequence in which the operations occur.

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

(a) a listing of all products, period, and other costs relevant to determining the total cost of the good referred to under the *NAFTA Rules of Origin Regulation*, the *CCFTA Rules of Origin Regulations*, or the *CCRFTA Rules of Origin Regulations*, as the case may be;

(b) a listing of all excluded costs to be subtracted from the total cost referred to under the *NAFTA Rules of Origin Regulations*, the *CCFTA Rules of Origin Regulations* or the *CCRFTA Rules of Origin Regulations*, as the case may be;

(c) information sufficient to calculate the value of each material that is a non-originating material or the origin of which is unknown that is used in the production of the good in accordance with section 7 of the *NAFTA Rules of Origin Regulations* and the *CCFTA Rules of Origin Regulations* or section 5 of the *CCRFTA Rules of Origin Regulations*, as the case may be;

(d) if not already provided, with respect to each material that is claimed to be an originating material that is used in the production of the good, a complete description of the material including the basis on which it is considered that the material originates;

(e) the basis for any allocation of costs in accordance with Schedule VII of the *NAFTA Rules of Origin Regulations* or Schedule VI of the *CCFTA Rules of Origin Regulations*, as the case may be;

(f) the period over which the net cost calculation is to be made; and

(g) if not already provided, a description of all processing operations employed in the production of the good, the location of each operation, and the sequence in which the operations occur.

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

13. Where the request for an advance ruling involves an issue with respect to an intermediate material or a self-produced material, the request shall contain sufficient information to determine the origin and value of the material.

14. Where the request for an advance ruling is limited to the calculation of an element of a regional value content formula, in addition to the information required under paragraph 3, only that information set out under paragraphs 9, 10 and 11 which is relevant to the issue that is the subject of the request for an advance ruling need be contained in the request.

15. Where the request for an advance ruling is limited to the origin of a material that is used in the production of a good, in addition to the information required under paragraphs 3-6, only that information set out under paragraphs 6-14 which is relevant to the issue that is the subject of the advance ruling need be contained in the request.

### **Tariff Treatment Requests**

16. Where the request for an advance ruling involves the issue of which is the correct tariff treatment to apply to goods imported into Canada which qualify as originating under a free trade agreement (i.e., NAFTA, CIFTA, CCFTA, CCRFTA) rules of origin, the request shall include:

- (a) all the information contained in paragraphs 3 through 15 where relevant to the request, or all the information contained in paragraphs 3 through 5 and a previously issued advance ruling for identical goods which indicates that the goods qualify as originating goods under the rules of origin of one of the free trade agreements;
- (b) for those materials used in the production of the good which were claimed to be originating materials, indicate from which beneficiary country each good originates (the applicant may be contacted to provide further information to confirm the origin and value of any materials that would have an effect on the outcome of the advance ruling);
- (c) where the goods are processed in more than one beneficiary country, a description of all processing operations employed in the production of the good, the country and location of each operation, and the sequence in which the operations occur; and
- (d) for goods which are processed in more than one beneficiary country, for example in both the United States and Mexico, for each time the goods or the work in progress crosses the U.S.-Mexico border indicate its tariff classification and value for duty at that stage in its production. If available, provide a copy of the United States or Mexican customs document showing the value and tariff classification.

17. Where the request for an advance ruling involves the issue of tariff treatment of textile and apparel goods listed in Appendix 1.1 of Annex 300-B or agricultural goods defined in Article 708 of NAFTA, the marking rules of origin will be used to determine the correct tariff treatment that applies. Accordingly, the information necessary to determine marking component number 2, as described under paragraph 21 below, will be required. Once this information is submitted, an advance ruling regarding the correct NAFTA tariff treatment will also be issued.

### **NAFTA Marking Requests**

18. Where the request for an advance ruling involves the issue of the marking of goods, the request shall include:

- (a) all the information contained in paragraphs 3 through 5 where relevant to the request; and
- (b) an indication as to which of the following component(s) of the marking program is being requested:
  - (i) whether the goods are required to be marked,
  - (ii) the correct country of origin to be marked on the goods, and/or
  - (iii) the acceptable method and manner of marking the goods (e.g., size, location, printing, stenciling).

19. It is mandatory that a request for an advance ruling on marking includes component number 1. Component numbers 2 and 3 will be considered as optional, however a request may be submitted which includes all three components.

20. For purposes of whether the goods are required to be marked (component number 1), the request shall include:

- (a) where the applicant is of the opinion that the goods may be exempt from marking as per the exemptions contained in Schedule II, Appendix C of Memorandum D11-3-1, *Marking of Imported Goods*, the specific exemption number and a detailed explanation outlining the rationale for the application; and
- (b) where possible, the item in the schedule of goods contained in Schedule I, Appendix A of Memorandum D11-3-1, that may be applicable.

21. Where the request for an advance ruling on the marking of the goods includes the issue of what country/countries are to be marked on the goods (component number 2), the request shall also include:

- (a) a listing of each material that is used in the production of the good;
- (b) with respect to each material referred to in paragraph (a) that is claimed to be a domestic material, a complete description of the material, including the basis on which it is considered that the material is domestic;



(c) with respect to each material referred to in paragraph (a) that is a foreign material or the origin of which is unknown, a complete description of the material, including its tariff classification, if known; and

(d) a description of all processing operations employed in the production of the good, the location of each operation, and the sequence in which the operations occur.

22. Where the request for an advance ruling on the marking of the goods includes the issue of the method and manner of marking the goods (component number 3), e.g., size, location, legibility, etc., the request shall include:

(a) if the goods are currently being produced, and there is some form of marking on the product, the following specific details regarding the method and manner of marking:

(i) size of the country of origin marking contained on the goods in measurement of inches or millimeters,

(ii) specific description as to where the country of origin marking is located on the good,

(iii) the method of marking being used (e.g., stamping, etching, engraving),

(iv) legibility of the country of origin marking used (e.g., colour of marking and background),

(v) if applicable, where abbreviations are used to represent the country of origin, provide the specific wording used, and

(vi) the language of the country of origin marking;

(b) any reasons, due to the nature of the goods, that certain methods of marking would not be suitable;

(c) an indication as to how the good will be packaged and provide a specific description of the container to be used for shipping purposes;

(d) if known at the time of importation, the name and address of the ultimate purchaser, and a brief explanation as to what happens to the goods after importation, i.e., how the goods will be sold or distributed. If the name of the ultimate purchaser is not known at the time of importation, provide a brief explanation as to what happens to the goods after importation, i.e., how the goods will be sold or distributed;

(e) if the words "Canada" or "Canadian" or any abbreviations thereof, or the name of any country or place other than the name of the country of origin of the goods appears on the goods:

(i) indicate the wording used, and

(ii) indicate the location(s) of all such wording on the goods;

(f) if the goods are iron or steel pipes or tubes, the following information should be provided:

(i) the inside diameter measurement of the goods in inches or millimeters,

(ii) the method of packaging that will be used, and

(iii) where the goods described have a critical surface finish, provide a description of the finish.

23. Applicants should refer to Memorandum D11-3-1 to obtain additional information regarding the marking of iron or steel pipes and tubes.

APPENDIX C

**FORM B227, REQUEST FOR A FREE TRADE AGREEMENT ADVANCE RULING  
OR FOR A REVIEW OF A FREE TRADE AGREEMENT ADVANCE RULING**



Canada Border Services Agency / Agence des services frontaliers du Canada

**REQUEST FOR ADVANCE RULING OR FOR A REVIEW OF AN ADVANCE RULING  
DEMANDE DE DÉCISION ANTICIPÉE OU RÉEXAMEN D'UNE DÉCISION ANTICIPÉE**

<p><b>The applicant is:</b> <input type="checkbox"/> An importer (a Canadian person importing goods) <b>Le demandeur est:</b> <input type="checkbox"/> Un importateur (un Canadien qui importe des marchandises)</p> <p><input type="checkbox"/> A producer (the producer of the final form of the goods in question) <input type="checkbox"/> Un fabricant (le fabricant des marchandises finies en question)</p> <p><input type="checkbox"/> An exporter (a person exporting goods to Canada who is not the producer of those goods) <input type="checkbox"/> Un exportateur (la personne qui exporte les marchandises au Canada, sans en être le fabricant)</p>	<p align="right"><b>Date received - Date de réception</b></p>
<p>Name and address of the importer, producer, or exporter, and the agent, if applicable – Nom et adresse de l'importateur, du fabricant ou de l'exportateur et de son mandataire, s'il y a lieu.</p> <hr/> <hr/>	
<p>Brief description of the issue and the goods (e.g., the origin of a computer) – Brève description de la question en litige et des marchandises (par exemple l'origine d'un ordinateur)</p>	

**If you are applying for a review of an advance ruling, please provide the advance ruling number:**  
**Si vous demandez un réexamen d'une décision anticipée, vous devez fournir le numéro de la décision anticipée :** \_\_\_\_\_

Attach a copy of the advance ruling and all other information required for the review. You may request a review of only one advance ruling per application.  
 Veuillez annexer une copie de la décision anticipée ainsi que tous les renseignements requis pour le réexamen. Une seule décision anticipée est permise par demande de réexamen.

For all requests, you must attach a supporting letter and any other information required, as stipulated in **Memorandum D11-4-16, Advance Rulings Under Free Trade Agreements**. If not provided above, you must also include in the letter the name and address of the producer, exporter, and importer, if known.  
 Pour toutes les demandes, veuillez annexer une lettre à l'appui ainsi que tout autre renseignement requis selon le **Memorandum D11-4-16, Décisions anticipées découlant d'un accord de libre-échange**. Si vous n'avez pas inscrit plus haut le nom et l'adresse du fabricant, de l'exportateur ou de l'importateur (s'il est connu) vous devez les indiquer dans la lettre.

To the applicant's knowledge, has the issue in question been the subject of a verification of origin, review, or request for an advance ruling in any signatory country of a free trade agreement? If "yes", provide details.  
 À la connaissance du demandeur, la question en litige a-t-elle fait l'objet d'une vérification de l'origine, d'un réexamen, ou d'une demande de décision anticipée dans n'importe quel pays signataire d'un des accords de libre échange? Si « oui », précisez.

Yes / Oui     No / Non

To the applicant's knowledge, has the good that is the subject of this request ever been imported into Canada?  
 À la connaissance du demandeur, la marchandise qui fait l'objet de cette demande a-t-elle déjà été importée au Canada?

Yes / Oui     No / Non

**Certification / Attestation**

I, \_\_\_\_\_ of \_\_\_\_\_  
 Je \_\_\_\_\_ Print name and title – Nom et titre en lettres moulées de Importer, exporter, producer, or agent – Importateur, exportateur, fabricant ou mandataire

certify that the information given on this form and any attachments is true, accurate, and complete. If an agent, I am authorized to transact business on behalf of the applicant.  
 atteste que les renseignements fournis dans ce formulaire, ainsi que toutes pièces jointes, sont exacts. Si je suis le mandataire du demandeur, j'atteste que je suis autorisé à faire des transactions à ce titre.

<p>_____ Signature</p>	<p>Date</p>	<p>Telephone No. – N° de téléphone</p>	<p>Fax No. – N° de télécopieur</p>
----------------------------	-------------	--	------------------------------------

B227 (05)



**APPENDIX D****CBSA REGIONAL CLIENT SERVICES AND HEADQUARTERS OFFICES****ATLANTIC REGION**

P.O. Box 638  
 Purdy's Tower 2, 5th Floor  
 1969 Upper Water Street  
 Halifax NS B3J 2T5  
 CANADA

**QUEBEC REGION**

(QUÉBEC)

P.O. Box 2267  
 130 Dalhousie Street  
 Québec QC G1K 7P6  
 CANADA

(MONTRÉAL)

400 Place d'Youville, 5th Floor  
 Montréal QC H2Y 2C2  
 CANADA

**NORTHERN ONTARIO REGION**

(OTTAWA)

1st floor  
 2270 St. Laurent Blvd  
 Ottawa ON K1G 6C4  
 CANADA

**SOUTHERN ONTARIO REGION**

(TORONTO)

P.O. Box 10, Station "A"  
 1 Front Street West  
 Toronto ON M5W 1A3  
 CANADA

(HAMILTON)

26 Arrowsmith Road  
 Hamilton ON L8E 4H8  
 CANADA

**SOUTHERN ONTARIO REGION**

(WINDSOR)

1215 Ouellette Avenue, 4th Floor  
 Windsor ON N9A 4H7  
 CANADA

(LONDON)

451 Talbot Street, 10th Floor  
 London ON N6A 4T9  
 CANADA

**PRAIRIE REGION**

(WINNIPEG)

Federal Building  
 269 Main Street  
 Winnipeg MB R3C 1B3  
 CANADA

(CALGARY)

Bay 32  
 3303 34 avenue, N.E.  
 Calgary AB T1Y 6X2  
 CANADA

**PACIFIC REGION**

503 – 333 Dunsmuir Street  
 Vancouver BC V6B 5R4  
 CANADA

**HEADQUARTERS**

150 Isabella Street, 11th Floor  
 Ottawa ON K1A 0L8  
 CANADA

## REFERENCES

<p><b>ISSUING OFFICE –</b></p> <p>Origin and Valuation Division Trade Programs Directorate Admissibility Branch</p>	<p><b>HEADQUARTERS FILE –</b></p> <p>4571-11-1</p>
<p><b>LEGISLATIVE REFERENCES –</b></p> <p><i>Customs Act</i>, section 43.1</p>	<p><b>OTHER REFERENCES –</b></p> <p>North American Free Trade Agreement, Article 509 Canada-Israel Free Trade Agreement, Article 5.8 Canada-Chile Free Trade Agreement, Article E-09 Canada Costa Rica Free Trade Agreement, Articles V.9 and IX.2 D11-4-18, D11-4-24, D11-4-26, D11-3-1 and D11-11-3</p>
<p><b>SUPERSEDED MEMORANDA “D” –</b></p> <p>D11-4-16, August 24, 1998 and D11-4-16, September 14, 2001</p>	

Services provided by the Canada Border Services Agency are available in both official languages.

