MEMORANDUM D11-5-1

In Brief

Ottawa, April 16, 2003

SUBJECT

NAFTA RULES OF ORIGIN REGULATIONS

1. Effective March 1, 2000, the attached pages replace the same pages in the previous version of Memorandum D11-5-1, *NAFTA Rules of Origin Regulations*, of January 26, 1996. The amended sections reflect the changes necessary to comply with changes to the Customs Act and have been side-barred for your convenience. The following sections are amended: 2(1) "light-duty vehicle"; 5(4)*(a)*, *(b)*, *(d)* and *(i)*; 6(6)*(d)*(iv) and (9); 8 "class of motor vehicles" *(c)*; and Schedule IV.

2. Also attached are the replacement pages that amend references to the *Customs Act*, effective March 28, 2001. These amendments were recommended by the Standing Joint Committee for the Scrutiny of the Regulations and are side-barred for your convenience. The following sections are amended: 2(1) "verification of origin" *(a)*; and 7(9)*(a)* and (10)*(b)*.

3. Replacement pages are also included for amendments that were proposed by the Working Group on Rules of Origin and approved for implementation on December 28, 2001. These changes are introduced for clarification purposes and are also side-barred. The following sections are amended: 2(6)*(f)*; 5(4)*(c)*; 7(16), (16.1) and (16.2); 12(5)*(a)* and *(b)*; 16(3); Schedule IV; Schedule VII and Schedule X.

Memorandum D11-5-1

Locator No: **725a**

Ottawa, October 4, 1996

NAFTA RULES OF ORIGIN REGULATIONS

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MEMORANDUM D11-5-1

Ottawa, January 26, 1996

SUBJECT

NAFTA RULES OF ORIGIN REGULATIONS

1. These Regulations may be cited as the *NAFTA Rules of Origin Regulations*.

PART I

DEFINITIONS AND INTERPRETATION

2. (1) For purposes of these Regulations,

"accessories, spare parts or tools that are delivered with a good and form part of the good's standard accessories, spare parts or tools" means goods that are delivered with a good, whether or not they are physically affixed to that good, and that are used for the transport, protection, maintenance or cleaning of the good, for instruction in the assembly, repair or use of that good, or as replacements for consumable or interchangeable parts of that good; (*accessoires, pièces de rechange ou outils qui sont livrés avec le produit et qui en font normalement partie*)

"adjusted to an F.O.B. basis" means, with respect to a good, adjusted by

(a) deducting

(i) the costs of transporting the good after it is shipped from the point of direct shipment,

(ii) the costs of unloading, loading, handling and insurance that are associated with that transportation, and

(iii) the cost of packing materials and containers,

where those costs are included in the transaction value of the good, and

(b) adding

(i) the costs of transporting the good from the place of production to the point of direct shipment,

(ii) the costs of loading, unloading, handling and insurance that are associated with that transportation, and

(iii) the costs of loading the good for shipment at the point of direct shipment,

where those costs are not included in the transaction value of the good; (*rajusté en fonction d'une base FAB*)

"Agreement" means the *North American Free Trade Agreement*; (*Accord*)

"applicable change in tariff classification" means, with respect to a non-originating material used in the production of a good, a change in tariff classification specified in a rule set out in Schedule I for the tariff provision under which the good is classified; (*changement de classification tarifaire applicable*)

"automotive component" means a good that is referred to in column I of an item of Schedule V; (*composante d'automobile*)

"automotive component assembly" means a good, other than a heavy-duty vehicle, that incorporates an automotive component; (*montage de composantes d'automobile*)

"costs incurred in packing" means, with respect to a good or material, the value of the packing materials and containers in which the good or material is packed for shipment and the labour costs incurred in packing it for shipment, but does not include the costs of preparing and packaging it for retail sale; (*frais engagés pour emballer*)

"customs value" means

(a) in the case of Canada, value for duty as defined in the *Customs Act*, except that for purposes of determining that value the reference in section 55 of that Act to "in accordance with the regulations made under the *Currency Act*" shall be read as a reference to "in accordance with subsection 3(1) of these Regulations,"

(b) in the case of Mexico, the *valor en aduana* as determined in accordance with the *Ley Aduanera*, converted, in the event such value is not expressed in Mexican currency, to Mexican currency at the rate of exchange determined in accordance with subsection 3(1) of these Regulations, and

(c) in the case of the United States, the value of imported merchandise as determined by the Customs Service in accordance with section 402 of the *Tariff Act of 1930*, as amended, converted, in the event such value is not expressed in United States currency, to United States currency at the rate of exchange determined in accordance with subsection 3(1) of these Regulations; (*valeur en douane*)

"days" means calendar days, and includes weekends and holidays; (*jours*)

"direct labour costs" means costs, including fringe benefits, that are associated with employees who are directly involved in the production of a good; (*coûts de la main-d'oeuvre directe*)

"direct material costs" means the value of materials, other than indirect materials and packing materials and containers, that are used in the production of a good; (*coûts des matières directes*)

"direct overhead" means costs, other than direct material costs and direct labour costs, that are directly associated with the production of a good; (*frais généraux directs*)

"enterprise" means any entity constituted or organized under applicable laws, whether or not for profit and whether privately owned or governmentally owned, including any corporation, trust, partnership, sole proprietorship, joint venture or other association; (*entreprise*)

"excluded costs" means sales promotion, marketing and after-sales service costs, royalties, shipping and packing costs and non-allowable interest costs; (*coûts exclus*)

"fungible goods" means goods that are interchangeable for commercial purposes and the properties of which are essentially identical; (*produits fongibles*)

"fungible materials" means materials that are interchangeable for commercial purposes and the properties of which are essentially identical; (*matières fongibles*)

"Harmonized System" means the Harmonized Commodity Description and Coding System, including its General Rules of Interpretation, Section Notes and Chapter Notes, as set out in

(a) in the case of Canada, the *Customs Tariff*,

(b) in the case of Mexico, the *Tarifa de la Ley del Impuesto General de Importación*, and

(c) in the case of the United States, the *Harmonized Tariff Schedule of the United States*; (*Système harmonisé*)

"heavy-duty vehicle" means a motor vehicle of any of heading No. 87.01, tariff item Nos. 8702.10.10 and 8702.90.10, subheading Nos. 8704.10, 8704.22, 8704.23, 8704.32 and 8704.90 and heading Nos. 87.05 and 87.06; (*véhicule de gamme lourde*)

"identical goods" means, with respect to a good, goods that

(a) are the same in all respects as that good, including physical characteristics, quality and reputation but excluding minor differences in appearance,

(b) were produced in the same country as that good, and

(c) were produced

(i) by the producer of that good, or

(ii) by another producer, where no goods that satisfy the requirements of paragraphs *(a)* and *(b)* were produced by the producer of that good; (*produits identiques*)

"identical materials" means, with respect to a material, materials that

(a) are the same as that material in all respects, including physical characteristics, quality and reputation but excluding minor differences in appearance,

(b) were produced in the same country as that material, and

(c) were produced

(i) by the producer of that material, or

(ii) by another producer, where no materials that satisfy the requirements of paragraphs *(a)* and *(b)*

(*d*) were produced by the producer of that material; (*matières identiques*)

"incorporated" means, with respect to the production of a good, a material that is physically incorporated into that good, and includes a material that is physically incorporated into another material before that material or any subsequently produced material is used in the production of the good; (*incorporée*)

"indirect material" means a good used in the production, testing or inspection of a good but not physically incorporated into the good, or a good used in the maintenance of buildings or the operation of equipment associated with the production of a good, and includes

(a) fuel and energy,

(b) tools, dies and moulds,

(c) spare parts and materials used in the maintenance of equipment and buildings,

(d) lubricants, greases, compounding materials and other materials used in production or used to operate equipment and buildings,

(e) gloves, glasses, footwear, clothing, safety equipment and supplies,

(f) equipment, devices and supplies used for testing or inspecting the other goods,

(g) catalysts and solvents, and

(h) any other goods that are not incorporated into the good but the use of which in the production of the good can reasonably be demonstrated to be part of that production; (*matière indirecte*)

"interest costs" means all costs paid or payable by a person to whom credit is, or is to be advanced, for the advancement of credit or the obligation to advance credit; (*frais d'intérêt*)

"intermediate material" means a self-produced material that is used in the production of a good and is designated as an intermediate material under subsection 7(4); (*matière intermédiaire*)

"light-duty automotive good" means a light-duty vehicle or a good of a tariff provision listed in Schedule IV that is subject to a regional value-content requirement and is for use as original equipment in the production of a light-duty vehicle; (*produit automobile de gamme légère*)

"light-duty vehicle" means a motor vehicle of any of tariff item Nos. 8702.10.20 and 8702.90.20 and subheading Nos. 8703.21 through 8703.90, 8704.21 and 8704.31; (*véhicule de gamme légère*)

"listed material" means a good that is referred to in column II of an item of Schedule V; (*matière répertoriée*)

"location of the producer" means,

(a) where the warehouse or other receiving station at which a producer receives materials for use by the producer in the production of a good is located within a radius of 75 km (46.60 miles) from the place at which the producer produces the good, the location of that warehouse or other receiving station, and

(b) in any other case, the place at which the producer produces the good in which a material is to be used; (*emplacement du producteur*)

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

"month" means a calendar month; (*mois*)

"motor vehicle assembler" means a producer of motor vehicles and any related person with whom, or joint venture in which, the producer participates with respect to the production of motor vehicles; (*monteur de véhicules automobiles*)

"NAFTA country" means a Party to the Agreement; (*pays ALÉNA*)

"national" means a natural person who is a citizen or permanent resident of a NAFTA country, and includes

(a) with respect to Mexico, a national or citizen according to Articles 30 and 34, respectively, of the Mexican Constitution, and

(b) with respect to the United States, a "national of the United States" as defined in the *Immigration and Nationality Act* on the date of entry into force of the Agreement; (*ressortissant*)

"net cost method" means the method of calculating the regional value content of a good that is set out in subsection 6(3); (*méthode du coût net*)

"non-allowable interest costs" means interest costs incurred by a producer on the producer's debt obligations that are more than 700 basis points above the yield on debt obligations of comparable maturities issued by the federal government of the country in which the producer is located; (*frais d'intérêt non admissibles*)

"non-originating good" means a good that does not qualify as originating under these Regulations; (*produit non originaire*)

"non-originating material" means a material that does not qualify as originating under these Regulations; (*matière non originaire*)

"original equipment" means a material that is incorporated into a motor vehicle before the first transfer of title or consignment of the motor vehicle to a person who is not a motor vehicle assembler, and that is

(a) a good of a tariff provision listed in Schedule IV, or

(b) an automotive component assembly, automotive component, sub-component or listed material; (*élément d'origine*)

"originating good" means a good that qualifies as originating under these Regulations; (*produit originaire*)

"originating material" means a material that qualifies as originating under these Regulations; (*matière originaire*)

"other costs," with respect to total cost, means all costs that are not product costs or period costs; (*autres coûts*)

"packaging materials and containers" means materials and containers in which a good is packaged for retail sale; (*matières de conditionnement et contenants*)

"packing materials and containers" means materials and containers that are used to protect a good during transportation, but does not include packaging materials and containers; (*matières d'emballage et contenants*)

"payments" means, with respect to royalties and sales promotion, marketing and after-sales service costs, the costs expensed on the books of a producer, whether or not an actual payment is made; (*paiements*)

"period costs" means costs, other than product costs, that are expensed in the period in which they are incurred; (*coûts non incorporables*)

"person" means a natural person or an enterprise; (*personne*)

"person of a NAFTA country" means a national, or an enterprise constituted or organized under the laws of a NAFTA country; (*personne d'un pays ALÉNA*)

"point of direct shipment" means the location from which a producer of a good normally ships that good to the buyer of the good; (*point d'expédition directe*)

"producer" means a person who grows, mines, harvests, fishes, traps, hunts, manufactures, processes or assembles a good; (*producteur*)

"product costs" means costs that are associated with the production of a good, and includes the value of materials, direct labour costs and direct overhead; (*coûts incorporables*)

"production" means growing, mining, harvesting, fishing, trapping, hunting, manufacturing, processing or assembling a good; (*production*)

"related person" means a person related to another person on the basis that

(a) they are officers or directors of one another's businesses,

(b) they are legally recognized partners in business,

(c) they are employer and employee,

(d) any person directly or indirectly owns, controls or holds 25 per cent or more of the outstanding voting stock or shares of each of them,

(e) one of them directly or indirectly controls the other,

(f) both of them are directly or indirectly controlled by a third person, or

(g) they are members of the same family (members of the same family are natural or adopted children, brothers, sisters, parents, grandparents, or spouses); (*personne liée*)

"reusable scrap or by-product" means waste and spoilage that is generated by the producer of a good and that is used in the production of a good or sold by that producer; (*déchets récupérables ou sous-produits*)

"right to use," for purposes of the definition of royalties, includes the right to sell or distribute a good; (*droit d'utiliser*)

"royalties" means payments of any kind, including payments under technical assistance agreements or similar agreements, made as consideration for the use of, or right to use, any copyright, literary, artistic, or scientific work, patent, trade-mark, design, model, plan, secret formula or process, excluding those payments under technical assistance agreements or similar agreements that can be related to specific services such as

(a) personnel training, without regard to where performed, and

(b) if performed in the territory of one or more of the NAFTA countries, engineering, tooling, die-setting, software design and similar computer services, or other services; (*redevances*)

"sales promotion, marketing and after-sales service costs" means the following costs related to sales promotion, marketing and after-sales service:

(a) sales and marketing promotion; media advertising; advertising and market research; promotional and demonstration materials; exhibits; sales conferences, trade shows and conventions; banners; marketing displays; free samples; sales, marketing and after-sales service literature (product brochures, catalogues, technical literature, price lists, service manuals, sales aid information); establishment and protection of logos and trademarks; sponsorships; wholesale and retail restocking charges; entertainment;

(b) sales and marketing incentives; consumer, retailer or wholesaler rebates; merchandise incentives;

(c) salaries and wages, sales commissions, bonuses, benefits (for example, medical, insurance, pension), travelling and living expenses, membership and professional fees, for sales promotion, marketing and after-sales service personnel;

(d) recruiting and training of sales promotion, marketing and after-sales service personnel, and after-sales training of customers' employees, where such costs are identified separately for sales promotion, marketing and after-sales service of goods on the financial statements or cost accounts of the producer;

(e) product liability insurance;

(f) office supplies for sales promotion, marketing and after-sales service of goods, where such costs are identified separately for sales promotion, marketing and after-sales service of goods on the financial statements or cost accounts of the producer;

(g) telephone, mail and other communications, where such costs are identified separately for sales promotion, marketing and after-sales service of goods on the financial statements or cost accounts of the producer;

(h) rent and depreciation of sales promotion, marketing and after-sales service offices and distribution centres;

(i) property insurance premiums, taxes, cost of utilities, and repair and maintenance of sales promotion, marketing and after-sales service offices and distribution centres, where such costs are identified separately for sales promotion, marketing and after-sales service of goods on the financial statements or cost accounts of the producer; and

(j) payments by the producer to other persons for warranty repairs; (*frais de promotion des ventes, de commercialisation et de service après-vente*)

"self-produced material" means a material that is produced by the producer of a good and used in the production of that good; (*matière auto-produite*)

"shipping and packing costs" means the costs incurred in packing a good for shipment and shipping the good from the point of direct shipment to the buyer, excluding the costs of preparing and packaging the good for retail sale; (*frais d'expédition et d'emballage*)

"similar goods" means, with respect to a good, goods that

(a) although not alike in all respects to that good, have similar characteristics and component materials, that enable the goods to perform the same functions and to be commercially interchangeable with that good,

(b) were produced in the same country as that good, and

(c) were produced

(i) by the producer of that good, or

(ii) by another producer, where no goods that satisfy the requirements of paragraphs *(a)* and *(b)* were produced by the producer of that good; (*produits similaires*)

"similar materials" means, with respect to a material, materials that

(a) although not alike in all respects to that material, have similar characteristics and component materials, that enable the materials to perform the same functions and to be commercially interchangeable with that material,

(b) were produced in the same country as that material, and

(c) were produced

(i) by the producer of that material, or

(ii) by another producer, where no materials that satisfy the requirements of paragraphs *(a)* and *(b)* were produced by the producer of that material; (*matières similaires*)

"subject to a regional value-content requirement" means, with respect to a good, that the provisions of these Regulations that are applied to determine whether the good is an originating good include a regional value-content requirement; (*assujetti à une prescription de teneur en valeur régionale*)

"sub-component" means a good, other than a listed material, that comprises a listed material and one or more other materials or listed materials; (*sous-composante*)

"tariff provision" means a heading, subheading or tariff item; (*poste tarifaire*)

"territory" means, with respect to

(a) Canada, the territory to which its customs laws apply, including any areas beyond the territorial seas of Canada within which, in accordance with international law and its domestic law, Canada may exercise rights with respect to the seabed and subsoil and their natural resources,

(b) Mexico,

(i) the states of the Federation and the Federal District,

(ii) the islands, including the reefs and keys, in adjacent seas,

(iii) the islands of Guadalupe and Revillagigedo situated in the Pacific Ocean,

(iv) the continental shelf and the submarine shelf of such islands, keys and reefs,

(v) the waters of the territorial seas, in accordance with international law, and its interior maritime waters,

(vi) the space located above the national territory, in accordance with international law, and

(vii) any areas beyond the territorial seas of Mexico within which, in accordance with international law, including the *United Nations Convention on the Law of the Sea*, and its domestic law, Mexico may exercise rights with respect to the seabed and subsoil and their natural resources, and

(c) the United States,

(i) the customs territory of the United States, which includes the 50 states, the District of Columbia and Puerto Rico,

(ii) the foreign trade zones located in the United States and Puerto Rico, and

(iii) any areas beyond the territorial seas of the United States within which, in accordance with international law and its domestic law, the United States may exercise rights with respect to the seabed and subsoil and their natural resources; (*territoire*)

"total cost" means the total of all product costs, period costs and other costs incurred in the territory of one or more of the NAFTA countries; (*coût total*)

"transaction value method" means the method of calculating the regional value content of a good that is set out in subsection 6(2); (*méthode de la valeur transactionnelle*)

"used" means used or consumed in the production of a good; (*utilisé*)

"verification of origin" means a verification of origin of goods under

(a) in the case of Canada, paragraph 42.1(1)(*a*) of *the Customs Act,*

(b) in the case of Mexico, Article 506 of the Agreement, and

(c) in the case of the United States, section 509 of the *Tariff Act of 1930*, as amended. (*vérification de l'origine*)

(2) For purposes of the definitions of "similar goods" and "similar materials," the quality of the goods or materials, their reputation and the existence of a trademark are among the factors to be considered for purposes of determining whether goods or materials are similar.

(3) For purposes of these Regulations,

(a) "chapter," unless otherwise indicated, refers to a chapter of the Harmonized System;

(b) "heading" refers to any four-digit number, or the first four digits of any number, set out in the column "Tariff Item" in the Harmonized System;

(c) "subheading" refers to any six-digit number, or the first six digits of any number, set out in the column "Tariff Item" in the Harmonized System;

(d) "tariff item" refers to any eight-digit number set out in the column "Tariff Item" in the Harmonized System;

(e) any reference to a tariff item in Chapter Four of the Agreement or these Regulations that includes letters shall be reflected as the appropriate eight-digit number in the Harmonized System as implemented in each NAFTA country; and

(f) "books" refers to,

(i) with respect to the books of a person who is located in a NAFTA country,

(A) books and other documents that support the recording of revenues, expenses, costs, assets and liabilities and that are maintained in accordance with Generally Accepted Accounting Principles set out in the publications listed in Schedule XII with respect to the territory of the NAFTA country in which the person is located, and

(B) financial statements, including note disclosures, that are prepared in accordance with Generally Accepted Accounting Principles set out in the publications listed in Schedule XII with respect to the territory of the NAFTA country in which the person is located, and

(ii) with respect to the books of a person who is located outside the territories of the NAFTA countries,

(A) books and other documents that support the recording of revenues, expenses, costs, assets and liabilities and that are maintained in accordance with generally accepted accounting principles applied in that location or, where there are no such principles, in accordance with the International Accounting Standards, and

(B) financial statements, including note disclosures, that are prepared in accordance with generally accepted accounting principles applied in that location or, where there are no such principles, in accordance with the International Accounting Standards.

(4) Where an example, referred to as an "Example," is set out in these Regulations, the example is for purposes of illustrating the application of a provision, and where there is any inconsistency between the example and the provision, the provision prevails to the extent of the inconsistency.

(5) Except as otherwise provided, references in these Regulations to domestic laws of the NAFTA countries apply to those laws as they are currently in effect and as they may be amended or superseded.

(6) For purposes of subsections 5(9), 6(11) and 7(6) and subparagraphs 10(1)*(a)*(i) and (ii),

(a) total cost consists of all product costs, period costs and other costs that are recorded, except as otherwise provided in subparagraphs *(b)*(i) and (ii), on the books of the producer without regard to the location of the persons to whom payments with respect to those costs are made;

(b) in calculating total cost,

(i) the value of materials, other than intermediate materials, indirect materials and packing materials and containers, shall be the value determined in accordance with subsection 7(1),

(ii) the value of intermediate materials used in the production of the good or material with respect to which total cost is being calculated shall be calculated in accordance with subsection 7(6),

(iii) the value of indirect materials and the value of packing materials and containers shall be the costs that are recorded on the books of the producer for those materials, and

(iv) product costs, period costs and other costs, other than costs referred to in subparagraphs (i) and (ii), shall be the costs thereof that are recorded on the books of the producer for those costs;

(c) total cost does not include profits that are earned by the producer, regardless of whether they are retained by the producer or paid out to other persons as dividends, or taxes paid on those profits, including capital gains taxes;

(d) gains related to currency conversion that are related to the production of the good shall be deducted from total cost, and losses related to currency conversion that are related to the production of the good shall be included in total cost;

(e) the value of materials with respect to which production is accumulated under section 14 shall be determined in accordance with that section; and

(*f*) total cost includes the impact of inflation as recorded on the books of the producer, if recorded in accordance with the Generally Accepted Accounting Principles of the producer's country.

(7) For purposes of calculating total cost under subsections 5(9) and 7(6) and subparagraphs 10(1)*(a)*(i) and (ii),

(a) where the regional value content of the good is calculated on the basis of the net cost method and the producer has elected under subsection 6(15), 11(1), (3) or (6), 12(5) or 13(4) to calculate the regional value content over a period, the total cost shall be calculated over that period; and

(b) in any other case, the producer may elect that the total cost be calculated over

(i) a month,

(ii) any consecutive three month or six month period that falls within and is evenly divisible into the number of months of the producer's fiscal year remaining at the beginning of that period, or

(iii) the producer's fiscal year.

(8) An election made under subsection (7) may not be rescinded or modified with respect to the good or material, or the period, with respect to which the election is made.

(9) Where a producer chooses a one, three or six month period under subsection (7) with respect to a good or material, the producer shall be considered to have chosen under that subsection a period or periods of the same duration for the remainder of the producer's fiscal year with respect to that good or material.

(10) With respect to a good exported to a NAFTA country, an election to average is considered to have been made

(a) in the case of an election referred to in subsection 11(1), (3) or (6) or 13(4), if the election is received by the customs administration of that NAFTA country; and

(b) in the case of an election referred to in subsection 2(7), 6(15) or 12(1), if the customs administration of that NAFTA country is informed in writing during the course of a verification of the origin of the good that the election has been made.

3. (1) Where the value of a good or a material is expressed in a currency other than the currency of the country in which the producer of the good is located, that value shall be converted to the currency of the country in which that producer is located on the basis of

(a) in the case of the sale of that good or the purchase of that material, the rate of exchange used by the producer for purposes of recording that sale or purchase, as the case may be; and

(b) in the case of a material that is acquired by the producer other than by a purchase,

(i) where the producer used a rate of exchange for purposes of recording another transaction in that other currency that occurred within 30 days of the date on which the producer acquired the material, that rate, and

(ii) in any other case,

(A) with respect to a producer located in Canada, the rate of exchange referred to in section 5 of the *Currency Exchange for Customs Valuation Regulations* for the date on which the material was shipped directly to the producer,

(B) with respect to a producer located in Mexico, the rate of exchange published by the *Banco de Mexico* in the *Diario Oficial de la Federacion*, under the title "*TIPO de cambio para solventar obligaciones denominadas en moneda extranjera pagaderas en la Republica Mexicana*," for the date on which the material was shipped directly to the producer, and

(C) with respect to a producer located in the United States, the rate of exchange referred to in 31 U.S.C. 5151 for the date on which the material was shipped directly to the producer.

(2) Where a producer of a good has a statement referred to in section 9, 10 or 14 that includes information in a currency other than the currency of the country in which that producer is located, the currency shall be converted to the currency of the country in which the producer is located on the basis of

(a) if the material was purchased by the producer in the same currency as the currency in which the information in the statement is provided, the rate of exchange used by the producer for purposes of recording the purchase;

(b) if the material was purchased by the producer in a currency other than the currency in which the information in the statement is provided,

(i) where the producer used a rate of exchange for purposes of recording a transaction in that other currency that occurred within 30 days of the date on which the producer acquired the material, that rate, and

(ii) in any other case,

(A) with respect to a producer located in Canada, the rate of exchange referred to in section 5 of the *Currency Exchange for Customs Valuation Regulations* for the date on which the material was shipped directly to the producer,

(B) with respect to a producer located in Mexico, the rate of exchange published by the *Banco de Mexico* in the *Diario Oficial de la Federacion*, under the title "*TIPO de cambio para solventar obligaciones denominadas en moneda extranjera pagaderas en la Republica Mexicana*," for the date on which the material was shipped directly to the producer, and

(C) with respect to a producer located in the United States, the rate of exchange referred to in 31 U.S.C. 5151 for the date on which the material was shipped directly to the producer; and

(c) if the material was acquired by the producer other than by a purchase,

(i) where the producer used a rate of exchange for purposes of recording a transaction in that other currency that occurred within 30 days of the date on which the producer acquired the material, that rate, and

(ii) in any other case,

(A) with respect to a producer located in Canada, the rate of exchange referred to in section 5 of the *Currency Exchange for Customs Valuation Regulations* for the date on which the material was shipped directly to the producer,

(B) with respect to a producer located in Mexico, the rate of exchange published by the *Banco de Mexico* in the *Diario Oficial de la Federacion*, under the title "*TIPO de cambio para solventar obligaciones denominadas en moneda extranjera pagaderas en la Republica Mexicana*," for the date on which the material was shipped directly to the producer, and

(C) with respect to a producer located in the United States, the rate of exchange referred to in 31 U.S.C. 5151 for the date on which the material was shipped directly to the producer.

PART II

ORIGINATING GOODS

General

4. (1) A good originates in the territory of a NAFTA country where the good is

(a) a mineral good extracted in the territory of one or more of the NAFTA countries;

(b) a vegetable or other good harvested in the territory of one or more of the NAFTA countries;

(c) a live animal born and raised in the territory of one or more of the NAFTA countries;

(d) a good obtained from hunting, trapping or fishing in the territory of one or more of the NAFTA countries;

(e) fish, shellfish or other marine life taken from the sea by a vessel registered or recorded with a NAFTA country and flying its flag;

(f) a good produced on board a factory ship from a good referred to in paragraph *(e)*, where the factory ship is registered or recorded with the same NAFTA country as the vessel that took that good and flies that country's flag;

(g) a good taken by a NAFTA country or a person of a NAFTA country from or beneath the seabed outside the territorial waters of that country, where a NAFTA country has the right to exploit that seabed;

(h) a good taken from outer space, where the good is obtained by a NAFTA country or a person of a NAFTA country and is not processed outside the territories of the NAFTA countries;

(i) waste and scrap derived from

(i) production in the territory of one or more of the NAFTA countries, or

(ii) used goods collected in the territory of one or more of the NAFTA countries, where those goods are fit only for the recovery of raw materials; or

(j) a good produced in the territory of one or more of the NAFTA countries exclusively from a good referred to in any of paragraphs *(a)* through (i), or from the derivatives of such a good, at any stage of production.

(2) A good originates in the territory of a NAFTA country where

(a) each of the non-originating materials used in the production of the good undergoes the applicable change in tariff classification as a result of production that occurs entirely in the territory of one or more of the NAFTA countries, where the applicable rule in Schedule I for the tariff provision under which the good is classified specifies only a change in tariff classification, and the good satisfies all other applicable requirements of these Regulations;

(b) each of the non-originating materials used in the production of the good undergoes the applicable change in tariff classification as a result of production that occurs entirely in the territory of one or more of the NAFTA countries and the good satisfies the applicable regional value-content requirement, where the applicable rule in Schedule I for the tariff provision under which the good is classified specifies both a change in tariff classification and a regional value-content requirement, and the good satisfies all other applicable requirements of these Regulations; or

(c) the good satisfies the applicable regional value-content requirement, where the applicable rule in Schedule I for the tariff provision under which the good is classified specifies only a regional value-content requirement, and the good satisfies all other applicable requirements of these Regulations.

(3) A good originates in the territory of a NAFTA country where the good is produced entirely in the territory of one or more of the NAFTA countries exclusively from originating materials.

(4) A good originates in the territory of a NAFTA country where

(a) except in the case of a good of any of Chapters 61 through 63,

(i) the good is produced entirely in the territory of one or more of the NAFTA countries,

(ii) one or more of the non-originating materials used in the production of the good do not undergo an applicable change in tariff classification because the materials were imported together, whether or not with originating materials, into the territory of a NAFTA country as an unassembled or disassembled good, and were classified as an assembled good pursuant to Rule 2*(a)* of the General Rules for the Interpretation of the Harmonized System,

(iii) the regional value content of the good, calculated in accordance with section 6, is not less than 60 per cent where the transaction value method is used, or is not less than 50 per cent where the net cost method is used, and

(iv) the good satisfies all other applicable requirements of these Regulations, including any applicable, higher regional value-content requirement provided for in section 13 or Schedule I; or

(b) except in the case of a good of any of Chapters 61 through 63,

(i) the good is produced entirely in the territory of one or more of the NAFTA countries,

(ii) one or more of the non-originating materials used in the production of the good do not undergo an applicable change in tariff classification because

(A) those materials are provided for under the Harmonized System as parts of the good, and

(B) the heading for the good provides for both the good and its parts and is not further subdivided into subheadings, or the subheading for the good provides for both the good and its parts,

(iii) the non-originating materials that do not undergo a change in tariff classification in the circumstances described in subparagraph (ii) and the good are not both classified as parts of goods under the heading or subheading referred to in clause (ii)(B),

(iv) each of the non-originating materials that is used in the production of the good and is not referred to in subparagraph (iii) undergoes an applicable change in tariff classification or satisfies any other applicable requirement set out in Schedule I,

(v) the regional value content of the good, calculated in accordance with section 6, is not less than 60 per cent where the transaction value method is used, or is not less than 50 per cent where the net cost method is used, and

(vi) the good satisfies all other applicable requirements of these Regulations, including any applicable, higher regional value-content requirement provided for in section 13 or Schedule I.

(5) For purposes of paragraph (4)*(b)*,

(a) the determination of whether a heading or subheading provides for a good and its parts shall be made on the basis of the nomenclature of the heading or subheading and the relevant Section or Chapter Notes, in accordance with the General Rules for the Interpretation of the Harmonized System; and

(b) where, in accordance with the Harmonized System, a heading includes parts of goods by application of a Section Note or Chapter Note of the Harmonized System and the subheadings under that heading do not include a subheading designated “Parts,” a subheading designated ”Other" under that heading shall be considered to cover only the goods and parts of the goods that are themselves classified under that subheading.

(6) For purposes of subsection (2), where Schedule I sets out two or more alternative rules for the tariff provision under which a good is classified, if the good satisfies the requirements of one of those rules, it need not satisfy the requirements of another of the rules in order to qualify as an originating good.

(7) A good originates in the territory of a NAFTA country if the good is referred to in Table 308.1.1 of Section B of Annex 308.1 to Chapter Three of the Agreement and is imported from the territory of a NAFTA country at a time when the NAFTA countries’ most-favoured-nation rate of duty for that good is in accordance with paragraph 1 of Section A of that Annex.

(8) For purposes of determining whether non-originating materials undergo an applicable change in tariff classification, a self-produced material may, at the choice of the producer of that material, be considered as a material used in the production of a good into which the self-produced material is incorporated.

(9) The following example is an “Example” as referred to in subsection 2(4).

Example: subsection 4(8) Self-produced Materials as Materials for Purposes of Determining Whether Non-originating Materials Undergo an Applicable Change in Tariff Classification

Producer A, located in a NAFTA country, produces Good A. In the production process, Producer A uses originating Material X and non-originating Material Y to produce Material Z. Material Z is a self-produced material that will be used to produce Good A.

The rule set out in Schedule I for the heading under which Good A is classified specifies a change in tariff classification from any other heading. In this case, both Good A and the non-originating Material Y are of the same heading. However, the self-produced Material Z is of a heading different than that of Good A.

For purposes of determining whether the non-originating materials that are used in the production of Good A undergo the applicable change in tariff classification, Producer A has the option to consider the self-produced Material Z as the material that must undergo a change in tariff classification. As Material Z is of a heading different than that of Good A, Material Z satisfies the applicable change in tariff classification and Good A would qualify as an originating good.

De Minimis

5. (1) Except as otherwise provided in subsection (4), a good shall be considered to originate in the territory of a NAFTA country where the value of all non-originating materials that are used in the production of the good and that do not undergo an applicable change in tariff classification as a result of production occurring entirely in the territory of one or more of the NAFTA countries is not more than seven per cent

(a) of the transaction value of the good determined in accordance with Schedule II with respect to the transaction in which the producer of the good sold the good, adjusted to an F.O.B. basis, or

(b) of the total cost of the good, where there is no transaction value for the good under subsection 2(1) of Schedule III or the transaction value of the good is unacceptable under subsection 2(2) of that Schedule,

provided that,

(c) if, under the rule in which the applicable change in tariff classification is specified, the good is also subject to a regional value-content requirement, the value of those non-originating materials shall be taken into account in calculating the regional value content of the good in accordance with the method set out for that good, and

(d) the good satisfies all other applicable requirements of these Regulations.

(2) For purposes of subsection (1), where

(a) Schedule I sets out two or more alternative rules for the tariff provision under which the good is classified, and

(b) the good, in accordance with subsection (1), is considered to originate under one of those rules,

the good is not required to satisfy the requirements specified in any alternative rule referred to in paragraph *(a)*.

(3) For purposes of subsection (1), in the case of a good that is of heading No. 24.02, the percentage shall be nine per cent instead of seven per cent.

(4) Subsections (1) and (2) do not apply to

(a) a non-originating material of Chapter 4 or of any of tariff item Nos. 1901.90.31, 1901.90.32, 1901.90.33, 1901.90.34, 1901.90.39, 1901.90.51, 1901.90.52, 1901.90.53, 1901.90.54 and 1901.90.59 that is used in the production of a good of Chapter 4;

(b) a non-originating material of Chapter 4 or of any of tariff item Nos. 1901.90.31, 1901.90.32, 1901.90.33, 1901.90.34, 1901.90.39, 1901.90.51, 1901.90.52, 1901.90.53, 1901.90.54 and 1901.90.59 that is used in the production of a good of any of tariff item Nos. 1901.10.31, 1901.20.11, 1901.20.12, 1901.20.21, 1901.20.22, 1901.90.31, 1901.90.32, 1901.90.33, 1901.90.34, 1901.90.39 1901.90.51, 1901.90.52, 1901.90.53, 1901.90.54 and 1901.90.59, heading No. 21.05 and tariff item Nos. 2106.90.31, 2106.90.32, 2106.90.33, 2106.90.34, 2106.90.35, 2106.90.93, 2106.90.94, 2106.90.95, 2202.90.41, 2202.90.42, 2202.90.43, 2202.90.49, 2309.90.31, 2309.90.32, 2309.90.33, 2309.90.35 and 2309.90.36;

(c) a non-originating material of any of heading No. 08.05 and subheading Nos. 2009.11 through 2009.39 that is used in the production of a good of any of subheading Nos. 2009.11 through 2009.39 and tariff item Nos. 2106.90.91 and 2202.90.31;

(d) a non-originating material of Chapter 9 that is used in the production of a good of tariff item No. 2101.11.10;

(e) a non-originating material of Chapter 15 that is used in the production of a good of any of heading Nos. 15.01 through 15.08, 15.12, 15.14 and 15.15;

(f) a non-originating material of heading No. 17.01 that is used in the production of a good of any of heading Nos. 17.01 through 17.03;

(g) a non-originating material of Chapter 17 or heading No. 18.05 that is used in the production of a good of subheading No. 1806.10;

(h) a non-originating material of any of heading Nos. 22.03 through 22.08 that is used in the production of a good of any of heading Nos. 22.07 through 22.08;

(i) a non-originating material that is used in the production of a good of any of tariff item No. 7321.11.10, subheading Nos. 8415.10, 8415.20 through 8415.83, 8418.10 through 8418.21, 8418.29 through 8418.40, 8421.12, 8422.11, 8450.11 through 8450.20 and 8451.21 through 8451.29 and tariff item Nos. 8479.89.41, 8479.89.49 and 8516.60.20;

(j) a printed circuit assembly that is a non-originating material used in the production of a good, where the applicable change in tariff classification for the good places restrictions on the use of that non-originating material, such as by prohibiting, or limiting the quantity of, that non-originating material;

(k) a non-originating material that is a single juice ingredient of heading No. 20.09 that is used in the production of a good of any of subheading No. 2009.90 and tariff item Nos. 2106.90.92 and 2202.90.32;

(l) a non-originating material that is used in the production of a good of any of Chapters 1 through 27, unless the non-originating material is of a different subheading than the good for which origin is being determined under this section; or

(m) a non-originating material that is used in the production of a good of any of Chapters 50 through 63.

(5) A good that is subject to a regional value-content requirement shall be considered to originate in the territory of a NAFTA country and shall not be required to satisfy that requirement where

(a) the value of all non-originating materials used in the production of the good is not more than seven per cent

(i) of the transaction value of the good determined in accordance with Schedule II with respect to the transaction in which the producer of the good sold the good, adjusted to an F.O.B. basis, or

(ii) of the total cost of the good, where there is no transaction value for the good under subsection 2(1) of Schedule III or the transaction value of the good is unacceptable under subsection 2(2) of that Schedule; and

(b) the good satisfies all other applicable requirements of these Regulations.

(6) A good of any of Chapters 50 through 63, that does not originate in the territory of a NAFTA country because certain fibres or yarns that are used in the production of the component of the good that determines the tariff classification of the good do not undergo an applicable change in tariff classification as a result of production occurring entirely in the territory of one or more of the NAFTA countries, shall be considered to originate in the territory of a NAFTA country if

(a) the total weight of all those fibres or yarns is not more than seven per cent of the total weight of that component; and

(b) the good satisfies all other applicable requirements of these Regulations.

(7) For purposes of subsection (6),

(a) the component of a good that determines the tariff classification of that good shall be identified in accordance with the first of the following General Rules for the Interpretation of the Harmonized System under which the identification can be determined, namely, Rule 3*(b)*, Rule 3*(c)* and Rule 4; and

(b) where the component of the good that determines the tariff classification of the good is a blend of two or more yarns or fibres, all yarns and fibres used in the production of the component shall be taken into account in determining the weight of fibres and yarns in that component.

(8) For purposes of subsections (1) and (5), the value of non-originating materials shall be determined in accordance with subsections 7(1) through (4).

(9) For purposes of paragraph (1)*(b)* and subparagraph (5)*(a)*(ii), the total cost of a good shall be, at the choice of the producer of the good,

(a) the total cost incurred with respect to all goods produced by the producer that can be reasonably allocated to that good in accordance with Schedule VII; or

(b) the aggregate of each cost that forms part of the total cost incurred with respect to that good that can be reasonably allocated to that good in accordance with Schedule VII.

(10) Total cost under subsection (9) consists of the costs referred to in subsection 2(6), and is calculated in accordance with that subsection and subsection 2(7).

(11) For purposes of determining the value under subsection (1) of non-originating materials that do not undergo an applicable change in tariff classification, where Schedule X is not being used to determine the value of those non-originating materials,

(a) if the value of those non-originating materials is being determined as a percentage of the transaction value of the good and the producer chooses under subsection 6(10) that one of the methods set out in Schedule IX be used to determine the value of those non-originating materials for purposes of calculating the regional value content of the good, the value of those non-originating materials shall be determined in accordance with that method;

(b) if

(i) the value of those non-originating materials is being determined as a percentage of the total cost of the good,

(ii) under the rule in which the applicable change in tariff classification is specified, the good is also subject to a regional value-content requirement and paragraph (5)*(a)* does not apply with respect to that good,

(iii) the regional value content of the good is calculated on the basis of the net cost method, and

(iv) the producer elects under subsection 6(15), 11(1), (3) or (6), 12(1) or 13(4) that the regional value content of the good be calculated over a period,

the value of those non-originating materials shall be the sum of the values of non-originating materials determined in accordance with that election, divided by the number of units of the goods with respect to which the election is made;

(c) if

(i) the value of those non-originating materials is being determined as a percentage of the total cost of the good,

(ii) under the rule in which the applicable change in tariff classification is specified, the good is not also subject to a regional value-content requirement or paragraph (5)*(a)* applies with respect to that good, and

(iii) the producer elects under paragraph 2(7)*(b)* that, for purposes of subsection 5(9), the total cost of the good be calculated over a period,

the value of those non-originating materials shall be the sum of the values of non-originating materials divided by the number of units produced during that period; and

(d) in any other case, the value of those non-originating materials may, at the choice of the producer, be determined in accordance with one of the methods set out in Schedule IX.

(12) For purposes of subsection (5), the value of the non-originating materials used in the production of the good may, at the choice of the producer, be determined in accordance with one of the methods set out in Schedule IX.

(13) Each of the following examples is an "Example" as referred to in subsection 2(4).

Example 1: subsection 5(1)

Producer A, located in a NAFTA country, uses originating materials and non-originating materials in the production of copper anodes of heading No. 74.02. The rule set out in Schedule I for heading No. 74.02 specifies a change in tariff classification from any other chapter. There is no applicable regional value-content requirement for this heading. Therefore, in order for the copper anode to qualify as an originating good under the rule set out in Schedule I, Producer A may not use in the production of the copper anode any non-originating material of Chapter 74.

All of the materials used in the production of the copper anode are originating materials, with the exception of a small amount of copper scrap of heading No. 74.04, that is in the same chapter as the copper anode. Under subsection 5(1), if the value of the non-originating copper scrap does not exceed seven per cent of the transaction value of the copper anode or the total cost of the copper anode, whichever is applicable, the copper anode would be considered an originating good.

Example 2: subsection 5(2)

Producer A, located in a NAFTA country, uses originating materials and non-originating materials in the production of ceiling fans of subheading No. 8414.51. There are two alternative rules set out in Schedule I for subheading No. 8414.51, one of which specifies a change in tariff classification from any other heading. The other rule specifies both a change in tariff classification from the subheading under which parts of the ceiling fans are classified and a regional value-content requirement. Therefore, in order for the ceiling fan to qualify as an originating good under the first of the alternative rules, all of the materials that are classified under the subheading for parts of ceiling fans and used in the production of the completed ceiling fan must be originating materials.

In this case, all of the non-originating materials used in the production of the ceiling fan satisfy the change in tariff classification set out in the rule that specifies a change in tariff classification from any other heading, with the exception of one non-originating material that is classified under the subheading for parts of ceiling fans. Under subsection 5(1), if the value of the non-originating material that does not satisfy the change in tariff classification specified in the first rule does not exceed seven per cent of the transaction value of the ceiling fan or the total cost of the ceiling fan, whichever is applicable, the ceiling fan would be considered an originating good. Therefore, under subsection 5(2), the ceiling fan would not be required to satisfy the alternative rule that specifies both a change in tariff classification and a regional value-content requirement.

Example 3: subsection 5(2)

Producer A, located in a NAFTA country, uses originating materials and non-originating materials in the production of plastic bags of subheading No. 3923.29. The rule set out in Schedule I for subheading No. 3923.29 specifies both a change in tariff classification from any other heading, except from subheadings No. 3920.20 or 3920.71, under which certain plastic materials are classified, and a regional value-content requirement. Therefore, with respect to that part of the rule that specifies a change in tariff classification, in order for the plastic bag to qualify as an originating good, any plastic materials that are

classified under subheading No. 3920.20 or 3920.71 and that are used in the production of the plastic bag must be originating materials.

In this case, all of the non-originating materials used in the production of the plastic bag satisfy the specified change in tariff classification, with the exception of a small amount of plastic materials classified under subheading No. 3920.71. Subsection 5(1) provides that the plastic bag can be considered an originating good if the value of the non-originating plastic materials that do not satisfy the specified change in tariff classification does not exceed seven per cent of the transaction value of the plastic bag or the total cost of the plastic bag, whichever is applicable. In this case, the value of those non-originating materials that do not satisfy the specified change in tariff classification does not exceed the seven per cent limit.

However, the rule set out in Schedule I for subheading No. 3923.29 specifies both a change in tariff classification and a regional value-content requirement. Therefore, under paragraph 5(1)(c)*, in order to be considered an originating good, the plastic bag must also, except as otherwise provided in subsection 5(5), satisfy the regional value-content requirement specified in that rule. As provided in paragraph 5(1)*(c)*, the value of the non-originating materials that do not satisfy the specified change in tariff classification, together with the value of all other non-originating materials used in the production of the plastic bag, will be taken into account in calculating the regional value content of the plastic bag.*

Example 4: subsection 5(5)

Producer A, located in a NAFTA country, primarily uses originating materials in the production of shoes of heading No. 64.05. The rule set out in Schedule I for heading No. 64.05 specifies both a change in tariff classification from any subheading other than subheading Nos. 6401.10 through 6406.10 and a regional value-content requirement.

With the exception of a small amount of materials of Chapter 39, all of the materials used in the production of the shoes are originating materials.

Under subsection 5(5), if the value of all of the non-originating materials used in the production of the shoes does not exceed seven per cent of the transaction value of the shoes or the total cost of the shoes, whichever is applicable, the shoes are not required to satisfy the regional value-content requirement specified in the rule set out in Schedule I in order to be considered originating goods.

Example 5: subsection 5(5)

Producer A, located in a NAFTA country, produces barbers' chairs of subheading No. 9402.10. The rule set out in Schedule I for goods of heading No. 94.02 specifies a change in tariff classification from any other chapter. All of the materials used in the production of these chairs are originating materials, with the exception of a small quantity of non-originating materials that are classified as parts of barbers' chairs. These parts undergo no change in tariff classification because subheading No. 9402.10 provides for both barbers' chairs and their parts.

Although Producer A's barbers' chairs do not qualify as originating goods under the rule set out in Schedule I, paragraph 4(4)(b) *provides, among other things, that, where there is no change in tariff classification from the non-originating materials to the goods because the subheading under which the goods are classified provides for both the goods and their parts, the goods shall qualify as originating goods if they satisfy a specified regional value-content requirement.*

However, under subsection 5(5), if the value of the non-originating materials does not exceed seven per cent of the transaction value of the barbers' chairs or the total cost of the barbers' chairs, whichever is applicable, the barbers' chairs will be considered originating goods and are not required to satisfy the regional value-content requirement set out in subparagraph 4(4)(b)*(v).*

Example 6: subsections 5(6) and (7)

Producer A, located in a NAFTA country, produces women's dresses of subheading No. 6204.41 from fine wool fabric of heading No. 51.12. This fine wool fabric, also produced by Producer A, is the component of the dress that determines its tariff classification under subheading No. 6204.41.

The rule set out in Schedule I for subheading No. 6204.41, under which the dress is classified, specifies both a change in tariff classification from any other chapter, except from those headings and chapters under which certain yarns and fabrics, including combed wool yarn and wool fabric, are classified, and a requirement that the good be cut and sewn or otherwise assembled in the territory of one or more of the NAFTA countries.

Therefore, with respect to that part of the rule that specifies a change in tariff classification, in order for the dress to qualify as an originating good, the combed wool yarn and the fine wool fabric made therefrom that are used by Producer A in the production of the dress must be originating materials.

At one point Producer A uses a small quantity of non-originating combed wool yarn in the production of the fine wool fabric. Under subsection 5(6), if the total weight of the non-originating combed wool yarn does not exceed seven per cent of the total weight of all the yarn used in the production of the component of the dress that determines its tariff classification, that is, the wool fabric, the dress would be considered an originating good.

PART III

REGIONAL VALUE CONTENT

6. (1) Except as otherwise provided in subsection (6), the regional value content of a good shall be calculated, at the choice of the exporter or producer of the good, on the basis of either the transaction value method or the net cost method.

(2) The transaction value method for calculating the regional value content of a good is as follows:

$$RVC = \frac{TV - VNM}{TV} \times 100$$

where

RVC is the regional value content of the good, expressed as a percentage;

TV is the transaction value of the good, determined in accordance with Schedule II with respect to the transaction in which the producer of the good sold the good, adjusted to an F.O.B. basis; and

VNM is the value of non-originating materials used by the producer in the production of the good, determined in accordance with section 7.

(3) The net cost method for calculating the regional value content of a good is as follows:

$$RVC = \frac{NC - VNM}{NC} \times 100$$

where

RVC is the regional value content of the good, expressed as a percentage;

NC is the net cost of the good, calculated in accordance with subsection (11); and

VNM is the value of non-originating materials used by the producer in the production of the good, determined, except as otherwise provided in sections 9 and 10, in accordance with section 7.

(4) Except as otherwise provided in section 9 and paragraph 10(1)*(d)*, for purposes of calculating the regional value content of a good under subsection (2) or (3), the value of non-originating materials used by a producer in the production of the good shall not include

(a) the value of any non-originating materials used by another producer in the production of originating materials that are subsequently acquired and used by the producer of the good in the production of that good; or

(b) the value of any non-originating materials used by the producer in the production of a self-produced material that is an originating material and is designated as an intermediate material.

(5) For purposes of subsection (4),

(a) in the case of any self-produced material that is not designated as an intermediate material, only the value of any non-originating materials used in the production of the self-produced material shall be included in the value of non-originating materials used in the production of the good; and

(b) where a self-produced material that is designated as an intermediate material and is an originating material is used by the producer of the good with non-originating materials (whether or not those non-originating materials are produced by that producer) in the production of the good, the value of those non-originating materials shall be included in the value of non-originating materials.

(6) The regional value content of a good shall be calculated only on the basis of the net cost method where

(a) there is no transaction value for the good under subsection 2(1) of Schedule III;

(b) the transaction value of the good is unacceptable under subsection 2(2) of Schedule III;

(c) the good is sold by the producer to a related person and the volume, by units of quantity, of sales by that producer of identical goods or similar goods, or any combination thereof, to related persons during the six month period immediately preceding the month in which the good is sold exceeds 85 per cent of the producer's total sales to all persons, whether or not related and regardless of location, of identical goods or similar goods, or any combination thereof, during that period;

(d) the good is

(i) a motor vehicle of any of heading Nos. 87.01 and 87.02, subheading Nos. 8703.21 through 8703.90 and heading Nos. 87.04, 87.05 and 87.06,

(ii) a good of a tariff provision listed in Schedule IV or an automotive component assembly, automotive component, sub-component or listed material, and is for use in a motor vehicle referred to in subparagraph (i), either as original equipment or as an after-market part,

(iii) a good of any of subheading Nos. 6401.10 through 6406.10, or

(iv) a good of tariff item No. 8469.11.00;

(e) the exporter or producer chooses to accumulate with respect to the good in accordance with section 14; or

(f) the good is an intermediate material and is subject to a regional value-content requirement.

(7) If the exporter or producer of a good calculates the regional value content of the good on the basis of the transaction value method and the customs administration of a NAFTA country subsequently notifies that exporter or producer in writing, during the course of a verification of origin, that

(a) the transaction value of the good, as determined by the exporter or producer, is required to be adjusted under section 4 of Schedule II or is unacceptable under subsection 2(2) of Schedule III, there is no transaction value for the good under subsection 2(1) of Schedule III or the transaction value method may not be used because of the application of paragraph (6)*(c)*, or

(b) the value of any material used in the production of the good, as determined by the exporter or producer, is required to be adjusted under section 5 of Schedule VIII or is unacceptable under sub-section 2(3) of Schedule VIII, or there is no transaction value for the material under subsection 2(2) of Schedule VIII or the transaction value method may not be used to calculate the regional value content of the material because of the application of paragraph (6)*(c)*,

the exporter or producer may choose that the regional value content of the good be calculated on the basis of the net cost method, in which case the calculation must be made within 60 days after the producer receives the notification, or such longer period as that customs administration specifies.

(8) If the exporter or producer of a good chooses that the regional value content of the good be calculated on the basis of the net cost method and the customs administration of a NAFTA country subsequently notifies that exporter or producer in writing, during the course of a verification of origin, that the good does not satisfy the applicable regional value-content requirement, the exporter or producer of the good may not recalculate the regional value content on the basis of the transaction value method.

(9) Nothing in subsection (7) shall be construed as preventing any review and appeal under sections 57.1 through 70 of the *Customs Act*, of an adjustment to or a rejection of

(a) the transaction value of the good; or

(b) the value of any material used in the production of the good.

(10) For purposes of the transaction value method, where non-originating materials that are the same as one another in all respects, including physical characteristics, quality and reputation but excluding minor differences in appearance, are used in the production of a good, the value of those non-originating materials may, at the choice of the producer of the good, be determined in accordance with one of the methods set out in Schedule IX.

(11) For purposes of subsection (3), the net cost of a good may be calculated, at the choice of the producer of the good, by

(a) calculating the total cost incurred with respect to all goods produced by that producer, subtracting any excluded costs that are included in that total cost, and reasonably allocating, in accordance with Schedule VII, the remainder to the good;

(b) calculating the total cost incurred with respect to all goods produced by that producer, reasonably allocating, in accordance with Schedule VII, that total cost to the good, and subtracting any excluded costs that are included in the amount allocated to that good; or

(c) reasonably allocating, in accordance with Schedule VII, each cost that forms part of the total cost incurred with respect to the good so that the aggregate of those costs does not include any excluded costs.

(12) Total cost under subsection (11) consists of the costs referred to in subsection 2(6), and is calculated in accordance with that subsection.

(13) For purposes of calculating net cost under subsection (11),

(a) excluded costs shall be the excluded costs that are recorded on the books of the producer of the good;

(b) excluded costs that are included in the value of a material that is used in the production of the good shall not be subtracted from or otherwise excluded from the total cost; and

(c) excluded costs do not include any amount paid for research and development services performed in the territory of a NAFTA country.

(14) For purposes of calculating non-allowable interest costs, the determination of whether interest costs incurred by a producer are more than 700 basis points above the yield on debt obligations of comparable maturities issued by the federal government of the country in which the producer is located shall be made in accordance with Schedule XI.

(15) For purposes of the net cost method, the regional value content of the good, other than a good with respect to which an election to average may be made under subsection 11(1), (3) or (6), 12(1) or 13(4), may be calculated, where the producer elects to do so, by

(a) calculating the sum of the net costs incurred and the sum of the values of non-originating materials used by the producer of the good with respect to the good and identical goods or similar goods, or any combination thereof, produced in a single plant by the producer over

(i) a month,

(ii) any consecutive three month or six month period that falls within and is evenly divisible into the number of months of the producer's fiscal year remaining at the beginning of that period, or

(iii) the producer's fiscal year; and

(b) using the sums referred to in paragraph *(a)* as the net cost and the value of non-originating materials, respectively.

(16) The calculation made under subsection (15) shall apply with respect to all units of the good produced during the period chosen by the producer under paragraph (15)*(a)*.

(17) An election made under subsection (15) may not be rescinded or modified with respect to the goods or the period with respect to which the election is made.

(18) Where a producer chooses a one, three or six month period under subsection (15) with respect to goods, the producer shall be considered to have chosen under that subsection a period or periods of the same duration for the remainder of the producer's fiscal year with respect to those goods.

(19) Where the net cost method is required to be used or has been chosen and an election has been made under subsection (15), the regional value content of the good shall be calculated on the basis of the net cost method over the period chosen under that subsection and for the remainder of the producer's fiscal year.

(20) Except as otherwise provided in subsections 11(10), 12(11) and 13(10), where the producer of a good has calculated the regional value content of the good under the net cost method on the basis of estimated costs, including standard costs, budgeted forecasts or other similar estimating procedures, before or during the period chosen under paragraph (15)*(a)*, the producer shall conduct an analysis at the end of the producer's fiscal year of the actual costs incurred over the period with respect to the production of the good and, if the good does not satisfy the regional value-content requirement on the basis of the actual costs during that period, immediately inform any person to whom the producer has provided a Certificate of Origin for the good, or a written statement that the good is an originating good, that the good is a non-originating good.

(21) For purposes of calculating the regional value content of a good, the producer of that good may choose to treat any material used in the production of that good as a non-originating material.

(22) Each of the following examples is an "Example" as referred to in subsection 2(4).

Example 1: example of point of direct shipment (with respect to adjusted to an F.O.B. Basis)

A producer has only one factory, at which the producer manufactures finished office chairs. Because the factory is located close to transportation facilities, all units of the finished good are stored in a factory warehouse 200 metres from the end of the production line. Goods are shipped worldwide from this warehouse. The point of direct shipment is the warehouse.

Example 2: examples of point of direct shipment (with respect to adjusted to an F.O.B. Basis)

A producer has six factories, all located within the territory of one of the NAFTA countries, at which the producer produces garden tools of various types. These tools are shipped worldwide, and orders usually consist of bulk orders of various types of tools. Because different tools are manufactured at different factories, the producer decided to consolidate storage and shipping facilities and ships all finished products to a large warehouse located near the seaport, from which all orders are shipped. The distance from the factories to the warehouse varies from 3 km to 130 km. The point of direct shipment for each of the goods is the warehouse.

Example 3: examples of point of direct shipment (with respect to adjusted to an F.O.B. Basis)

A producer has only one factory, located near the centre of one of the NAFTA countries, at which the producer manufactures finished office chairs. The office chairs are shipped from that factory to three warehouses leased by the producer, one on the west coast, one near the factory and one on the east coast. The office chairs are shipped to buyers from these warehouses, the shipping location depending on the shipping distance from the buyer. Buyers closest to the west coast warehouse are normally supplied by the

west coast warehouse, buyers closest to the east coast are normally supplied by the warehouse located on the east coast and buyers closest to the warehouse near the factory are normally supplied by that warehouse. In this case, the point of direct shipment is the location of the warehouse from which the office chairs are normally shipped to customers in the location in which the buyer is located.

Example 4: subsection 6(3), net cost method

A producer located in NAFTA country A sells Good A that is subject to a regional value-content requirement to a buyer located in NAFTA country B. The producer of Good A chooses that the regional value content of that good be calculated using the net cost method. All applicable requirements of these Regulations, other than the regional value-content requirement, have been met. The applicable regional value-content requirement is 50 per cent.

In order to calculate the regional value-content of Good A, the producer first calculates the net cost of Good A. Under paragraph 6(11)(a)*, the net cost is the total cost of Good A (the aggregate of the product costs, period costs and other costs) per unit, minus the excluded costs (the aggregate of the sales promotion, marketing and after-sales service costs, royalties, shipping and packing costs and non-allowable interest costs) per unit. The producer uses the following figures to calculate the net cost:*

Product costs:	
Value of originating materials	*$ 30.00*
Value of non-originating materials	*40.00*
Other product costs	*20.00*
Period costs:	*10.00*
Other costs:	*0.00*
Total cost of Good A, per unit:	*$100.00*
Excluded costs:	
Sales promotion, marketing and after-sales service costs	*$ 5.00*
Royalties:	*2.50*
Shipping and packing costs:	*3.00*
Non-allowable interest costs:	*1.50*
Total excluded costs:	*$12.00*

The net cost is the total cost of Good A, per unit, minus the excluded costs.

Total cost of Good A, per unit:	*$100.00*
Excluded costs:	*-12.00*
Net cost of Good A, per unit:	*$88.00*

The value for net cost ($88) and the value of non-originating materials ($40) are needed in order to calculate the regional value content. The producer calculates the regional value content of Good A under the net cost method in the following manner:

$$RVC = \frac{NC - VNM}{NC} \times 100$$

$$= \frac{88 - 40}{88} \times 100$$

$$= 54.5\%$$

Therefore, under the net cost method, Good A qualifies as an originating good, with a regional value-content of 54.5 per cent.

Example 5: paragraph 6(6)(c)*, net cost method required for certain sales to related persons*

On January 15, 1994, a producer located in NAFTA country A sells 1,000 units of Good A to a related person, located in NAFTA country B. During the six month period beginning on July 1, 1993 and ending on December 31, 1993, the producer sold 90,000 units of identical goods and similar goods to related

persons from various countries, including that buyer. The producer's total sales of those identical goods and similar goods to all persons from all countries during that six month period were 100,000 units.

The total quantity of identical goods and similar goods sold by the producer to related persons during that six month period was 90 per cent of the producer's total sales of those identical goods and similar goods to all persons. Under paragraph 6(6)(c)*, the producer must use the net cost method to calculate the regional value content of Good A sold in January 1994, because the 85 per cent limit was exceeded.*

Example 6: paragraph 6(11)(a)

A producer in a NAFTA country produces Good A and Good B during the producer's fiscal year.

The producer uses the following figures, which are recorded on the producer's books and represent all of the costs incurred with respect to both Good A and Good B, to calculate the net cost of those goods:

Product costs:	
Value of originating materials	*$2,000*
Value of non-originating materials	*1,000*
Other product costs	*2,400*
Period costs: (including $1,200 in excluded costs)	*3,200*
Other costs:	*400*
Total cost of Good A and Good B:	*$9,000*

The net cost is the total cost of Good A and Good B, minus the excluded costs incurred with respect to those goods.

Total cost of Good A and Good B:	*$9,000*
Excluded costs:	*- 1,200*
Net cost of Good A and Good B:	*$7,800*

The net cost must then be reasonably allocated, in accordance with Schedule VII, to Good A and Good B.

Example 7: paragraph 6(11)(b)

A producer located in a NAFTA country produces Good A and Good B during the producer's fiscal year. In order to calculate the regional value content of Good A and Good B, the producer uses the following figures that are recorded on the producer's books and incurred with respect to those goods:

Product costs:	
Value of originating materials	*$2,000*
Value of non-originating materials	*1,000*
Other product costs	*2,400*
Period costs: (including $1,200 in excluded costs)	*3,200*
Other costs:	*400*
Total cost of Good A and Good B:	*$9,000*

Under paragraph 6(11)(b), the total cost of Good A and Good B is then reasonably allocated, in accordance with Schedule VII, to those goods. The costs are allocated in the following manner:

	Allocated to Good A	*Allocated to Good B*
Total cost ($9,000 for both Good A and Good B)	*$5,220*	*$3,780*

The excluded costs ($1,200) that are included in total cost allocated to Good A and Good B, in accordance with Schedule VII, are subtracted from that amount.

Total Excluded costs:		*Excluded Cost Allocated to Good A*	*Excluded Cost Allocated to Good B*
Sales promotion, marketing and after-sale service costs	*$500*	*$290*	*$210*
Royalties	*200*	*116*	*84*
Shipping and packing costs	*500*	*290*	*210*
Net cost (total cost minus excluded costs):		*$4,524*	*$3,276*

The net cost of Good A is thus $4,524, and the net cost of Good B is $3,276.

Example 8: paragraph 6(11)(c)

A producer located in a NAFTA country produces Good C and Good D. The following costs are recorded on the producer's books for the months of January, February and March, and each cost that forms part of the total cost are reasonably allocated, in accordance with Schedule VII, to Good C and Good D.

	Total cost: Good C and Good D (in thousands of dollars	*Allocated to Good C (in thousands of dollars)*	*Allocated to Good D (in thousands of dollars)*
Product costs:			
Value of originating materials	*100*	*0*	*100*
Value of non- originating materials	*900*	*800*	*100*
Other product costs	*500*	*300*	*200*
Period costs: (including $420 in excluded costs)	*5,679*	*3,036*	*2,643*
Minus Excluded costs:	*420*	*300*	*120*
Other costs:	*0*	*0*	*0*
Total cost: (aggregate of product costs, period costs and other costs)	*6,759*	*3,836*	*2,923*

Example 9: subsection 6(12)

Producer A, located in a NAFTA country, produces Good A that is subject to a regional value-content requirement. The producer chooses that the regional value content of that good be calculated using the net cost method. Producer A buys Material X from Producer B, located in a NAFTA country. Material X is a non-originating material and is used in the production of Good A. Producer A provides Producer B, at no charge, with tools to be used in the production of Material X. The cost of the tools that is recorded on the books of Producer A has been expensed in the current year. Pursuant to subparagraph 5(1)(b)*(ii) of Schedule VIII, the value of the tools is included in the value of Material X. Therefore, the cost of the tools that is recorded on the books of Producer A and that has been expensed in the current year cannot be included as a separate cost in the net cost of Good A because it has already been included in the value of Material X.*

Example 10: subsection 6(12)

Producer A, located in a NAFTA country, produces Good A that is subject to a regional value-content requirement. The producer chooses that the regional value-content of that good be calculated using the net cost method and averages the calculation over the producer's fiscal year under subsection 6(15). Producer A determines that during that fiscal year Producer A incurred a gain on foreign currency conversion of $10,000 and a loss on foreign currency conversion of $8,000, resulting in a net gain of $2,000. Producer A also determines that $7,000 of the gain on foreign currency conversion and $6,000 of the loss on foreign currency conversion is related to the purchase of non-originating materials used in the production of Good A, and $3,000 of the gain on foreign currency conversion and $2,000 of the loss on foreign currency conversion is not related to the production of Good A. The producer determines that the total cost of Good A is $45,000 before deducting the $1,000 net gain on foreign currency conversion related to the production of Good A. The total cost of Good A is therefore $44,000. That $1,000 net gain is not included in the value of non-originating materials under subsection 7(1).

Example 11: subsection 6(12)

Given the same facts as in example 10, except that Producer A determines that $6,000 of the gain on foreign currency conversion and $7,000 of the loss on foreign currency conversion is related to the purchase of non-originating materials used in the production of Good A. The total cost of Good A is $45,000, which includes the $1,000 net loss on foreign currency conversion related to the production of Good A. That $1,000 net loss is not included in the value of non-originating materials under sub-section 7(1).

PART IV

MATERIALS

General

7. (1) Except as otherwise provided for non-originating materials used in the production of a good referred to in subsection 9(1) or 10(1), and except in the case of indirect materials, intermediate materials and packing materials and containers, for purposes of calculating the regional value content of a good and for purposes of subsection 5(1) and (5), the value of a material that is used in the production of the good shall be

(a) except as otherwise provided in subsection (2), where the material is imported by the producer of the good into the territory of the NAFTA country in which the good is produced, the customs value of the material with respect to that importation, or

(b) where the material is acquired by the producer of the good from another person located in the territory of the NAFTA country in which the good is produced

(i) the transaction value, determined in accordance with subsection 2(1) of Schedule VIII, with respect to the transaction in which the producer acquired the material, or

(ii) the value determined in accordance with sections 6 through 11 of Schedule VIII, where, with respect to the transaction in which the producer acquired the material, there is no transaction value under subsection 2(2) of that Schedule or the transaction value is unacceptable under sub-section 2(3) of that Schedule,

and shall include the following costs if they are not included under paragraph *(a)* or *(b)*:

(c) the costs of freight, insurance and packing and all other costs incurred in transporting the material to the location of the producer,

(d) duties and taxes paid or payable with respect to the material in the territory of one or more of the NAFTA countries, other than duties and taxes that are waived, refunded, refundable or otherwise recoverable, including credit against duty or tax paid or payable,

(e) customs brokerage fees, including the cost of in-house customs brokerage services, incurred with respect to the material in the territory of one or more of the NAFTA countries, and

(f) the cost of waste and spoilage resulting from the use of the material in the production of the good, minus the value of any reusable scrap or by-product.

(2) For purposes of paragraph (1)*(a)*, where the customs value of the material referred to in that paragraph was not determined in a manner consistent with Schedule VIII, the value of the material shall be determined in accordance with Schedule VIII with respect to the importation of that material and, where the costs referred to in paragraphs (1)*(c)* through *(f)* are not included in that value, those costs shall be added to that value.

(3) For purposes of subsection (1), the costs referred to in paragraphs (1)*(c)* through *(f)* shall be the costs referred to in those paragraphs that are recorded on the books of the producer of the good.

(*a*) with respect to goods referred to in paragraph (4)(*a*), (*b*) or (*d*), or paragraph 4(*e*) or (*f*) where the goods in that category are in a category referred to in paragraph 4(*a*) or (*b*), any month, any consecutive three month period that is evenly divisible into the number of months of the producer's fiscal year, or of the fiscal year of the motor vehicle producer to whom those goods are sold, remaining at the beginning of that period, or the fiscal year of that motor vehicle producer to whom those goods are sold; and

(*b*) with respect to goods referred to in paragraph (4)(*c*), or paragraph (4)(*e*) or (*f*) where the goods in that category are in a category referred to in paragraph (4)(*c*), any month, any consecutive three month period that is evenly divisible into the number of months of the producer's fiscal year, or of the fiscal year of the motor vehicle producer to whom those goods are sold, remaining at the beginning of that period, or the fiscal year of that producer or of that motor vehicle producer to whom those goods are sold.

Intermediate Materials

(4) Except for purposes of determining the value of non-originating materials used in the production of a light-duty automotive good and except in the case of an automotive component assembly, automotive component or sub-component for use as original equipment in the production of a heavy-duty vehicle, for purposes of calculating the regional value content of a good the producer of the good may designate as an intermediate material any self-produced material that is used in the production of the good, provided that where an intermediate material is subject to a regional value-content requirement, no other self-produced material that is subject to a regional value-content requirement and is incorporated into that intermediate material is also designated by the producer as an intermediate material.

(5) For purposes of subsection (4),

(a) in order to qualify as an originating material, a self-produced material that is designated as an intermediate material must qualify as an originating material under these Regulations;

(b) the designation of a self-produced material as an intermediate material shall be made solely at the choice of the producer of that self-produced material; and

(c) except as otherwise provided in subsection 14(4), the proviso set out in subsection (4) does not apply with respect to an intermediate material used by another producer in the production of a material that is subsequently acquired and used in the production of a good by the producer referred to in subsection (4).

(6) The value of an intermediate material shall be, at the choice of the producer of the good,

(a) the total cost incurred with respect to all goods produced by the producer that can be reasonably allocated to that intermediate material in accordance with Schedule VII; or

(b) the aggregate of each cost that forms part of the total cost incurred with respect to that intermediate material that can be reasonably allocated to that intermediate material in accordance with Schedule VII.

(7) Total cost under subsection (6) consists of the costs referred to in subsection 2(6), and is calculated in accordance with that subsection and subsection 2(7).

(8) Where a producer of a good designates a self-produced material as an intermediate material under subsection (4) and the customs administration of a NAFTA country into which the good is imported determines during a verification of origin of the good that the intermediate material is a non-originating material and notifies the producer of this in writing before the written determination of whether the good qualifies as an originating good, the producer may rescind the designation, and the regional value content of the good shall be calculated as though the self-produced material were not so designated.

(9) A producer of a good who rescinds a designation under subsection (8)

(a) shall retain any rights of review and appeal under sections 57.1 through 70 of the *Customs Act*, with respect to the determination of the origin of the intermediate material as though the producer did not rescind the designation; and

(b) may, not later than 30 days after the customs administration referred to in subsection (8) notifies the producer in writing that the self-produced material referred to in paragraph *(a)* is a non-originating material, designate as an intermediate material another self-produced material that is incorporated into the good, subject to the proviso set out in subsection (4).

(10) Where a producer of a good designates another self-produced material as an intermediate material under paragraph (9)*(b)* and the customs administration referred to in subsection (8) determines during the verification of origin of the good that that self-produced material is a non-originating material,

(a) the producer may rescind the designation, and the regional value content of the good shall be calculated as though the self-produced material were not so designated;

(b) the producer shall retain any rights of review and appeal under sections 57.1 through 70 of the *Customs Act*, with respect to the determination of the origin of the intermediate material as though the producer did not rescind the designation; and

(c) the producer may not designate another self-produced material that is incorporated into the good as an intermediate material.

Indirect Materials

(11) For purposes of determining whether a good is an originating good, an indirect material that is used in the production of the good

(a) shall be considered to be an originating material, regardless of where that indirect material is produced; and

(b) if the good is subject to a regional value-content requirement, for purposes of calculating the net cost under the net cost method, the value of the indirect material shall be the costs of that material that are recorded on the books of the producer of the good.

Packaging Materials and Containers

(12) Packaging materials and containers, if classified under the Harmonized System with the good that is packaged therein, shall be disregarded for purposes of

(a) determining whether all of the non-originating materials used in the production of the good undergo an applicable change in tariff classification; and

(b) determining under subsection 5(1) the value of non-originating materials that do not undergo an applicable change in tariff classification.

(13) Where packaging materials and containers are classified under the Harmonized System with the good that is packaged therein and that good is subject to a regional value-content requirement, the value of those packaging materials and containers shall be taken into account as originating materials or non-originating materials, as the case may be, for purposes of calculating the regional value content of the good.

(14) For purposes of subsection (13), where packaging materials and containers are self-produced materials, the producer may choose to designate those materials as intermediate materials under subsection (4).

Packing Materials and Containers

(15) For purposes of determining whether a good is an originating good, packing materials and containers in which the good is packed

(a) shall be disregarded for purposes of determining whether

(i) the non-originating materials used in the production of the good undergo an applicable change in tariff classification, and

(ii) the good satisfies a regional value-content requirement; and

(b) if the good is subject to a regional value-content requirement, the value of the packing materials and containers shall be the costs thereof that are recorded on the books of the producer of the good.

Fungible Goods and Fungible Materials

(16) Subject to subsection (16.1), for purposes of determining whether a good is an originating good,

(a) where originating materials and non-originating materials that are fungible materials

(i) are withdrawn from an inventory in one location and used in the production of the good, or

(ii) are withdrawn from inventories in more than one location in the territory of one or more of the NAFTA countries and used in the production of the good at the same production facility, the determination of whether the materials are originating materials may be made on the basis of any of the applicable inventory management methods set out in Schedule X; and

(b) where originating goods and non-originating goods that are fungible goods are physically combined or mixed in inventory and prior to exportation do not undergo production or any other operation in the territory of the NAFTA country in which they were physically combined or mixed in inventory, other than unloading, reloading or any other operation necessary to preserve the goods in good condition or to transport the goods for exportation to the territory of another NAFTA country, the determination of whether the good is an originating good may be made on the basis of any of the applicable inventory management methods set out in Schedule X.

(16.1) Where fungible materials referred to in paragraph (16)(*a*) and fungible goods referred to in paragraph (16)(*b*) are withdrawn from the same inventory, the inventory management method used for the materials must be the same as the inventory management method used for the goods, and where the averaging method is used, the respective averaging periods for fungible materials and fungible goods are to be used.

(16.2) A choice of inventory management methods under subsection (16) shall be considered to have been made when the customs administration of the NAFTA country into which the good is imported is informed in writing of the choice during the course of a verification of the origin of the good.

Accessories, Spare Parts and Tools

(17) Accessories, spare parts or tools that are delivered with a good and form part of the good's standard accessories, spare parts or tools are originating materials if the good is an originating good, and shall be disregarded for purposes of determining whether all the non-originating materials used in the production of the good undergo an applicable change in tariff classification or determining under subsection 5(1) the value of non-originating materials that do not undergo an applicable change in tariff classification, provided that

(a) the accessories, spare parts or tools are not invoiced separately from the good; and

(b) the quantities and value of the accessories, spare parts or tools are customary for the good, within the industry that produces the good.

(18) Where a good is subject to a regional value-content requirement, the value of accessories, spare parts and tools that are delivered with that good and form part of the good's standard accessories, spare parts or tools shall be taken into account as originating materials or non-originating materials, as the case may be, in calculating the regional value content of the good.

(19) For purposes of subsection (18), where accessories, spare parts and tools are self-produced materials, the producer may choose to designate those materials as intermediate materials under subsection (4).

(20) Each of the following examples is an "Example" as referred to in subsection 2(4).

Example 1: subsection 7(2), Customs Value not Determined in a Manner Consistent with Schedule VIII

Producer A, located in NAFTA country A, imports material A into NAFTA country A. Producer A purchased material A from a middleman located in country B. The middleman purchased the material from a manufacturer located in country B. Under the laws in NAFTA country A that implement the Agreement on Implementation of Article VII of the General Agreement on Tariffs and Trade, the customs value of material A was based on the price actually paid or payable by the middleman to the manufacturer. Producer A uses material A to produce Good C, and exports Good C to NAFTA country D. Good C is subject to a regional value-content requirement.

Under subsection 4(1) of Schedule VIII, the price actually paid or payable is the total payment made or to be made by the producer to or for the benefit of the seller of the material. Section 1 of that Schedule defines producer and seller for purposes of the Schedule. A producer is the person who uses the material in the production of a good that is subject to a regional value-content requirement. A seller is the person who sells the material being valued to the producer.

The customs value of material A was not determined in a manner consistent with Schedule VIII because it was based on the price actually paid or payable by the middleman to the manufacturer, rather than on the price actually paid or payable by Producer A to the middleman. Thus, subsection 7(2) applies and material A is valued in accordance with Schedule VIII.

Example 2: subsection 7(5), Value of Intermediate Materials

A producer located in a NAFTA country produces Good B, which is subject to a regional value-content requirement under paragraph 4(2)(b)*. The producer also produces Material A, which is used in the production of Good B. Both originating materials and non-originating materials are used in the production of Material A. Material A is subject to a change in tariff classification requirement under paragraph 4(2)*(a)*. The costs to produce Material A are the following:*

Product costs:	
Value of originating materials	*$ 1.00*
Value of non-originating materials	*7.50*
Other product costs	*1.50*
Period costs: (including $0.30 in royalties)	*0.50*
Other costs:	*0.10*
Total cost of Material A:	*$10.60*

The producer designates Material A as an intermediate material and determines that, because all of the non-originating materials that are used in the production of Material A undergo an applicable change in tariff classification set out in Schedule I, Material A would, under paragraph 4(2)(a) *qualify as an originating material. The cost of the non-originating materials used in the production of Material A is therefore not included in the value of non-originating materials that are used in the production of Good B for the purpose of determining the regional value content of Good B. Because Material A has been designated as an intermediate material, the total cost of Material A, which is $10.60, is treated as the cost of originating materials for the purpose of calculating the regional value content of Good B. The total cost of Good B is determined in accordance with the following figures:*

Product costs:	
Value of originating materials	
– intermediate materials	*$10.60*
– other materials	*3.00*
Value of non-originating materials	*5.50*
Other product costs	*6.50*
Period costs:	*2.50*
Other costs:	*0.10*
Total cost of Good B:	*$28.20*

Example 3: subsection 7(5), Effects of the Designation of Self-produced Materials on Net Cost

The ability to designate intermediate materials helps to put the vertically integrated producer who is self-producing materials that are used in the production of a good on par with a producer who is purchasing materials and valuing those materials in accordance with subsection 7(1). The following situations demonstrate how this is achieved:

Situation 1

A producer located in a NAFTA country produces Good B, which is subject to a regional value-content requirement of 50 per cent under the net cost method. Good B satisfies all other applicable requirements of these Regulations. The producer purchases Material A, which is used in the production of Good B, from a supplier located in a NAFTA country. The value of Material A determined in accordance with subsection 7(1) is $11.00. Material A is an originating material. All other materials used in the production of Good B are non-originating materials. The net cost of Good B is determined as follows:

Product costs:	
Value of originating materials (Material A)	*$11.00*
Value of non-originating materials	*5.50*
Other product costs	*6.50*
Period costs: (including $0.20 in excluded costs)	*0.50*
Other costs:	*0.10*
Total cost of Good B:	*$23.60*
Excluded costs: (included in period costs)	*0.20*
Net cost of Good B:	*$23.40*

The regional value content of Good B is calculated as follows:

$$RVC = \frac{NC - VNM}{NC} \times 100$$

$$= \frac{\$23.40 - \$5.50}{\$23.40} \times 100$$

$$= 76.5\%$$

The regional value content of Good B is 76.5 per cent, and Good B, therefore, qualifies as an originating good.

Situation 2

A producer located in a NAFTA country produces Good B, which is subject to a regional value-content requirement of 50 per cent under the net cost method. Good B satisfies all other applicable requirements of these Regulations. The producer self-produces Material A which is used in the production of Good B. The costs to produce Material A are the following:

Product costs:	
Value of originating materials	*$1.00*
Value of non-originating materials	*7.50*
Other product costs	*1.50*
Period costs: (including $0.20 in excluded costs)	*0.50*
Other costs:	*0.10*
Total cost of Material A:	*$10.60*

Additional costs to produce Good B are the following:

Product costs:	
Value of originating materials	*$0.00*
Value of non-originating materials	*5.50*
Other product costs	*6.50*
Period costs: (including $0.20 in excluded costs)	*0.50*
Other costs:	*0.10*
Total additional costs:	*$12.60*

The producer does not designate Material A as an intermediate material under subsection 7(4). The net cost of Good B is calculated as follows:

	Costs of Material A (not designated as an intermediate material)	*Additional Costs to Produce Good B*	*Total*
Product costs:			
Value of originating materials	*$1.00*	*$0.00*	*$1.00*
Value of non-originating materials	*7.50*	*5.50*	*13.00*
Other product costs	*1.50*	*6.50*	*8.00*
Period costs: (including $0.20 in excluded costs)	*0.50*	*0.50*	*1.00*
Other costs:	*0.10*	*0.10*	*0.20*
Total cost of Good B:	*$10.60*	*$12.60*	*$23.20*
Excluded costs:			
(in period costs)	*0.20*	*0.20*	*0.40*
Net cost of Good B:			
(total cost minus excluded costs)			*$22.80*

The regional value content of Good B is calculated as follows:

$$RVC = \frac{NC - VNM}{NC} \times 100$$

$$= \frac{\$22.80 - \$13.00}{\$22.80} \times 100$$

$$= 42.9\%$$

The regional value content of Good B is 42.9 per cent, and Good B, therefore, does not qualify as an originating good.

Situation 3

A producer located in a NAFTA country produces Good B, which is subject to a regional value-content requirement of 50 per cent under the net cost method. Good B satisfies all other applicable requirements of these Regulations. The producer self-produces Material A, which is used in the production of Good B. The costs to produce Material A are the following:

Product costs:	
Value of originating materials	*$ 1.00*
Value of non-originating materials	*7.50*
Other product costs	*1.50*
Period costs:	
(including $0.20 in excluded costs)	*0.50*
Other costs:	*0.10*
Total cost of Material A:	*$10.60*

Additional costs to produce Good B are the following:

Product costs:	
Value of originating materials	*$ 0.00*
Value of non-originating materials	*5.50*
Other product costs	*6.50*
Period costs:	
(including $0.20 in excluded costs)	*0.50*
Other costs:	*0.10*
Total additional costs:	*$12.60*

The producer designates Material A as an intermediate material under subsection 7(4). Material A qualifies as an originating material under paragraph 4(2)(a)*. Therefore, the value of non-originating materials used in the production of Material A is not included in the value of non-originating materials for the purposes of calculating the regional value content of Good B. The net cost of Good B is calculated as follows:*

	Costs of Material A (designated as an intermediate material)	*Additional Costs to Produce Good B*	*Total*
Product costs:			
Value of originating materials	*$10.60*	*$0.00*	*$10.60*
Value of non-originating materials		*5.50*	*5.50*
Other product costs		*6.50*	*6.50*
Period costs: (including $0.20 in excluded costs)		*0.50*	*0.50*
Other costs:		*0.10*	*0.10*
Total cost of Good B:	*$10.60*	*$12.60*	*$23.20*
Excluded costs:			
(in period costs)		*0.20*	*0.20*
Net cost of Good B:			
(total cost minus excluded costs)			*$23.00*

The regional value content of Good B is calculated as follows:

$$RVC = \frac{NC - VNM}{NC} \times 100$$

$$= \frac{\$23.00 - \$5.50}{\$23.00} \times 100$$

$$= 76.1\%$$

The regional value content of Good B is 76.1 per cent, and Good B, therefore, qualifies as an originating good.

Example 4: Originating Materials Acquired from a Producer Who Produced Them Using Intermediate Materials

Producer A, located in NAFTA country A, produces switches. In order for the switches to qualify as originating goods, Producer A designates subassemblies of the switches as intermediate materials. The subassemblies are subject to a regional value-content requirement. They satisfy that requirement, and qualify as originating materials. The switches are also subject to a regional value-content requirement, and, with the subassemblies designated as intermediate materials, are determined to have a regional value content of 65 per cent.

Producer A sells the switches to Producer B, located in NAFTA country B, who uses them to produce switch assemblies that are used in the production of Good B. The switch assemblies are subject to a regional value-content requirement. Producers A and B are not accumulating their production within the meaning of section 14. Producer B is therefore able, under subsection 7(4), to designate the switch assemblies as intermediate materials.

If Producers A and B were accumulating their production within the meaning of section 14, Producer B would be unable to designate the switch assemblies as intermediate materials, because the production of both producers would be considered to be the production of one producer.

Example 5: Single Producer and Successive Designations of Materials Subject to a Regional Value-Content Requirement as Intermediate Materials

Producer A, located in NAFTA country, produces Material X and uses Material X in the production of Good B. Material X qualifies as an originating material because it satisfies the applicable regional value-content requirement. Producer A designates Material X as an intermediate material.

Producer A uses Material X in the production of Material Y, which is also used in the production of Good B. Material Y is also subject to a regional value-content requirement. Under the proviso set out in subsection 7(4), Producer A cannot designate Material Y as an intermediate material, even if Material Y satisfies the applicable regional value-content requirement, because Material X was already designated by Producer A as an intermediate material.

Example 6: Single Producer and Multiple Designations of Materials as Intermediate Materials

Producer X, who is located in NAFTA country X, uses non-originating materials in the production of self-produced materials A, B, and C. None of the self-produced materials are used in the production of any of the other self-produced materials.

Producer X uses the self-produced materials in the production of Good O, which is exported to NAFTA country Y. Materials A, B and C qualify as originating materials because they satisfy the applicable regional value-content requirements.

Because none of the self-produced materials are used in the production of any of the other self-produced materials, then even though each self-produced material is subject to a regional value-content requirement, Producer X may, under subsection 7(4), designate all of the self-produced materials as intermediate materials. The proviso set out in subsection 7(4) only applies where self-produced materials are used in the production of other self-produced materials and both are subject to a regional value-content requirement.

Example 7: subsection 7(17)

The following are examples of accessories, spare parts or tools that are delivered with a good and form part of the good's standard accessories, spare parts or tools:

(a) *consumables that must be replaced at regular intervals, such as dust collectors for an air-conditioning system*,

(b) *a carrying case for equipment,*

(c) *a dust cover for a machine,*

(d) *an operational manual for a vehicle,*

(e) *brackets to attach equipment to a wall,*

(f) *a bicycle tool kit or a car jack,*

(g) *a set of wrenches to change the bit on a chuck,*

(h) *a brush or other tool to clean out a machine, and*

(i) *electrical cords and power bars for use with electronic goods.*

Example 8: Value of Indirect Materials that are Assists

Producer A, located in a NAFTA country, produces Good A that is subject to a regional value-content requirement. The producer chooses that the regional value content of that good be calculated using the net cost method. Producer A buys Material X from Producer B, located in a NAFTA country, and uses it in the production of Good A. Producer A provides to Producer B, at no charge, tools to be used in the production of Material X. The tools have a value of $100 which is expensed in the current year by Producer A.

Material X is subject to a regional value-content requirement which Producer B chooses to calculate using the net cost method. For purposes of determining the value of non-originating materials in order to calculate the regional value content of Material X, the tools are considered to be an originating material because they are an indirect material. However, pursuant to subsection 7(11) they have a value of nil because the cost of the tools with respect to Material X is not recorded on the books of Producer B.

It is determined that Material X is a non-originating material. The cost of the tools that is recorded on the books of producer A is expensed in the current year. Pursuant to section 5 of Schedule VIII, the value of the tools (see subparagraph 5(1)(b)*(ii) of Schedule VIII) must be included in the value of Material X by Producer A when calculating the regional value content of Good A. The cost of the tools, although recorded on the books of producer A, cannot be included as a separate cost in the net cost of Good A because it is already included in the value of Material X. The entire cost of Material X, which includes the cost of the tools, is included in the value of non-originating materials for purposes of the regional value content of Good A.*

PART V

AUTOMOTIVE GOODS

Definitions and Interpretation

8. For purposes of this Part,

"after-market parts" means goods that are not for use as original equipment in the production of light-duty vehicles or heavy-duty vehicles and that are

(a) goods of a tariff provision listed in Schedule IV, or

(b) automotive component assemblies, automotive components, sub-components or listed materials; (*pièces destinées au marché du service après-vente*)

"class of motor vehicles" means any one of the following categories of motor vehicles:

(a) motor vehicles of any of subheading No. 8701.20, tariff item Nos. 8702.10.10 and 8702.90.10, subheading Nos. 8704.10, 8704.22, 8704.23, 8704.32 and 8704.90 and heading Nos. 87.05 and 87.06,

(b) motor vehicles of any of subheading Nos. 8701.10 and 8701.30 through 8701.90,

(c) motor vehicles of any of tariff item Nos. 8702.10.20 and 8702.90.20 and subheading Nos. 8704.21 and 8704.31, and

(d) motor vehicles of any of subheading Nos. 8703.21 through 8703.90; (*catégorie de véhicules automobiles*)

"complete motor vehicle" assembly process means the production of a motor vehicle from separate constituent parts, which parts include the following:

(a) a structural frame or unibody,

(b) body panels,

(c) an engine, a transmission and a drive train,

(d) brake components,

(e) steering and suspension components,

(f) seating and internal trim,

(g) bumpers and external trim,

(h) wheels, and

(i) electrical and lighting components; (chaîne de montage complète de véhicules automobiles)

"first prototype" means the first motor vehicle that

(a) is produced using tooling and processes intended for the production of motor vehicles to be offered for sale, and

(b) follows the complete motor vehicle assembly process in a manner not specifically designed for testing purposes; (*premier prototype*)

"floor pan of a motor vehicle" means a component, comprising a single part or two or more parts joined together, with or without additional stiffening members, that forms the base of a motor vehicle, beginning at the firewall or bulkhead of the motor vehicle and ending

(a) where there is a luggage floor panel in the motor vehicle, at the place where that luggage floor panel begins, and

(b) where there is no luggage floor panel in the motor vehicle, at the place where the passenger compartment of the motor vehicle ends; (*dessous de caisse d'un véhicule automobile*)

"heavy-duty automotive good" means a heavy-duty vehicle or a heavy-duty component; (*produit automobile de gamme lourde*)

"heavy-duty component" means an automotive component or automotive component assembly that is for use as original equipment in the production of a heavy-duty vehicle; (*composante de gamme lourde*)

"marque" means a trade name used by a marketing division of a motor vehicle assembler that is separate from any other marketing division of that motor vehicle assembler; (*marque*)

"model line" means a group of motor vehicles having the same platform or model name; (*modèle*)

"model name" means the word, group of words, letter, number or similar designation assigned to a motor vehicle by a marketing division of a motor vehicle assembler

(a) to differentiate the motor vehicle from other motor vehicles that use the same platform design,

(b) to associate the motor vehicle with other motor vehicles that use different platform designs, or

(c) to denote a platform design; (*nom de modèle*)

"new building" means a new construction to house a complete motor vehicle assembly process, where that construction includes the pouring or construction of a new foundation and floor, the erection of a new frame and roof, and the installation of new plumbing and electrical and other utilities; (*nouvel édifice*)

"plant" means a building, or buildings in close proximity and fixtures that are under the control of a producer and are used in the production of any of the following:

(a) light-duty vehicles and heavy-duty vehicles,

(b) goods of a tariff provision listed in Schedule IV, and

(c) automotive component assemblies, automotive components, sub-components and listed materials; (*usine*)

"platform" means the primary load-bearing structural assembly of a motor vehicle that determines the basic size of the motor vehicle, and is the structural base that supports the driveline and links the suspension components of the motor vehicle for various types of frames, such as the body-on-frame or space-frame, and monocoques; (*plate-forme*)

"received in the territory of a NAFTA country" means, with respect to subsection 9(2), the location at which a traced material arrives in the territory of a NAFTA country and is documented for any customs purpose, which in the case of a traced material imported into

(a) Canada,

(i) where the traced material is imported on a vessel, as defined in section 2 of the *Reporting of Imported Goods Regulations*, is the location at which the traced material is last unloaded from the vessel and reported, under section 12 of the *Customs Act*, to a customs office, including reported for transportation under bond by a conveyance other than that vessel, and

(ii) in any other case, is the location at which the traced material is reported, under section 12 of the *Customs Act*, to a customs office, including reported for transportation under bond,

(b) Mexico,

(i) where the traced material is imported on a vessel, the location at which the traced material is last unloaded from the vessel and reported for any customs purpose, and

(ii) in any other case, the location at which the traced material is reported for any customs purpose, and

(c) the United States, is the location at which the traced material is entered for any customs purpose, including entered for consumption, entered for warehouse or entered for transportation under bond, or admitted into a foreign trade zone; (*reçu sur le territoire d'un pays ALÉNA*)

"refit" means a closure of a plant for a period of at least three consecutive months that is for purposes of plant conversion or retooling; (*réaménagement*)

"size category," with respect to a light-duty vehicle, means that the total of the interior volume for passengers and the interior volume for luggage is

(a) 85 cubic feet (2.38 m^3) or less,

(b) more than 85 cubic feet (2.38 m^3) but less than 100 cubic feet (2.80 m^3),

(c) 100 cubic feet (2.80 m^3) or more but not more than 110 cubic feet (3.08 m^3),

(d) more than 110 cubic feet (3.08 m^3) but less than 120 cubic feet (3.36 m^3), or

(e) 120 cubic feet (3.36 m^3) or more; (*catégorie de taille*)

"traced material" means a material, produced outside the territories of the NAFTA countries, that is imported from outside the territories of the NAFTA countries and is, when imported, of a tariff provision listed in Schedule IV; (*matière retracée*)

"underbody" means the floor pan of a motor vehicle. (*soubassement*)

Light-duty Automotive Goods

9. (1) For purposes of calculating the regional value content of a light-duty automotive good under the net cost method, the value of non-originating materials used by the producer in the production of the good shall be the sum of the values of the non-originating materials that are traced materials and are incorporated into the good.

(2) Except as otherwise provided in subsections (3) and (6) through (8), the value of each of the traced materials that is incorporated into a good shall be

(a) where the producer imports the traced material from outside the territories of the NAFTA countries and has or takes title to it at the time of importation, the sum of

(i) the customs value of the traced material,

(ii) where not included in that customs value, any freight, insurance, packing and other costs that were incurred in transporting the traced material to the first place at which it was received in the territory of a NAFTA country, and

(iii) where not included in that customs value, the costs referred to in subsection (4);

(b) where the producer imports the traced material from outside the territories of the NAFTA countries and does not have or take title to it at the time of importation, the sum of

(i) the customs value of the traced material,

(ii) where not included in that customs value, any freight, insurance, packing and other costs that were incurred in transporting the traced material to the place at which it was when the producer takes title in the territory of a NAFTA country, and

(iii) where not included in that customs value, the costs referred to in subsection (4);

(c) where a person other than the producer imports the traced material from outside the territories of the NAFTA countries and that person has or takes title to the material at the time of importation, if the producer has a statement that

(i) is signed by the person from whom the producer acquired the traced material, whether in the form in which it was imported into the territory of a NAFTA country or incorporated into another material, and

(ii) states

(A) the customs value of the traced material,

(B) where not included in that customs value, any freight, insurance, packing and other costs that were incurred in transporting the traced material to the first place at which it was received in the territory of a NAFTA country, and

(C) where not included in that customs value, the costs referred to in subsection (4),

the sum of the customs value of the traced material, the freight, insurance, packing and other costs referred to in clause (ii)(B) and the costs referred to in clause (ii)(C);

(d) where a person other than the producer imports the traced material from outside the territories of the NAFTA countries and that person does not have or take title to the material at the time of importation, if the producer has a statement that

(i) is signed by the person from whom the producer acquired the traced material, whether in the form in which it was imported into the territory of a NAFTA country or incorporated into another material, and

(ii) states

(A) the customs value of the traced material,

(B) where not included in that customs value, any freight, insurance, packing and other costs that were incurred in transporting the traced material to the place at which it was located when the first person in the territory of a NAFTA country takes title, and

(C) where not included in that customs value, the costs referred to in subsection (4),

the sum of the customs value of the traced material, the freight, insurance, packing and other costs referred to in clause (ii)(B) and the costs referred to in clause (ii)(C);

(e) where a person other than the producer imports the traced material from outside the territories of the NAFTA countries and the producer acquires the traced material or a material that incorporates the traced material from a person in the territory of a NAFTA country who has title to it, if the producer has a statement that

(i) is signed by the person from whom the producer acquired the traced material or the material that incorporates it, and

(ii) states the value of the traced material or a material that incorporates the traced material, determined in accordance with subsection (5), with respect to a transaction that occurs after the customs value of the traced material was determined,

the value of the traced material or the material that incorporates the traced material, determined in accordance with subsection (5), with respect to the transaction referred to in that statement;

(f) where a person other than the producer imports the traced material from outside the territories of the NAFTA countries, and the producer acquires a material that incorporates that traced material and the acquired material was produced in the territory of a NAFTA country and is subject to a regional value-content requirement, if the producer has a statement that

(i) is signed by the person from whom the producer acquired that material, and

(ii) states that the acquired material is an originating material and states the regional value content of the material,

an amount equal to $VM \times (1 - RVC)$

where

VM is the value of the acquired material, determined in accordance with subsection (5), with respect to the transaction in which the producer acquired that material, and

RVC is the regional value content of the acquired material, expressed as a decimal;

(g) where a person other than the producer imports the traced material from outside the territories of the NAFTA countries, and the producer acquires a material that incorporates that traced material and the acquired material was produced in the territory of a NAFTA country and is subject to a regional value-content requirement, if the producer has a statement that

(i) is signed by the person from whom the producer acquired that material, and

(ii) states that the acquired material is an originating material but does not state any value with respect to the traced material,

an amount equal to VM × (1 - RVCR)

where

VM is the value of the acquired material, determined in accordance with subsection (5), with respect to the transaction in which the producer acquired that material, and

RVCR is the regional value-content requirement for the acquired material, expressed as a decimal;

(h) where a person other than the producer imports the traced material from outside the territories of the NAFTA countries and the producer acquires a material that

(i) incorporates that traced material,

(ii) was produced in the territory of a NAFTA country, and

(iii) with respect to which an amount was determined in accordance with paragraph *(f)* or *(g)*,

if the producer of the good has a statement signed by the person from whom the producer acquired that material that states that amount, the amount as determined in accordance with paragraph *(f)* or *(g)*, as the case may be; and

(i) where a person other than the producer imports the traced material from outside the territories of the NAFTA countries and the producer does not have a statement described in any of paragraphs *(c)* through *(h)*, the value of the traced material or any material that incorporates it, determined in accordance with subsection (5) with respect to the transaction in which the producer acquires the traced material or any material that incorporates it.

(3) For purposes of paragraphs (2)*(a)* through *(d)*, where the customs value of the traced material referred to in those paragraphs was not determined in a manner consistent with Schedule VIII, the value of the material shall be the sum of

(a) the value of the material determined in accordance with Schedule VIII with respect to the transaction in which the person who imported the material from outside the territories of the NAFTA countries acquired it; and

(b) where not included in that value, the costs referred to in subparagraphs (2)*(a)*(ii) and (iii), subparagraphs (2)*(b)*(ii) and (iii), clauses (2)*(c)*(ii)(B) and (C) or clauses (2)*(d)*(ii)(B) and (C), as the case may be.

(4) The costs referred to in paragraphs (2)*(a)* through *(d)* and subsection (3) are the following:

(a) duties and taxes paid or payable with respect to the material in the territory of one or more of the NAFTA countries, other than duties and taxes that are waived, refunded, refundable or otherwise recoverable, including credit against duty or tax paid or payable; and

(b) customs brokerage fees, including the cost of in-house customs brokerage services, incurred with respect to the material in the territory of one or more of the NAFTA countries.

(5) For purposes of paragraphs (2)*(e)* through *(g)* and *(i)* and subsections (6) and (7), the value of a material

(a) shall be the transaction value of the material, determined in accordance with subsection 2(1) of Schedule VIII with respect to the transaction referred to in that paragraph or subsection, or

(b) shall be determined in accordance with sections 6 through 11 of Schedule VIII, where, with respect to the transaction referred to in that paragraph or subsection, there is no transaction value for the material under subsection 2(2) of that Schedule, or the transaction value of the material is unacceptable under subsection 2(3) of that Schedule,

and, where not included under paragraph *(a)* or *(b)*, shall include taxes, other than duties paid on an importation of a material from a NAFTA country, paid or payable with respect to the material in the territory of one or more of the NAFTA countries, other than taxes that are waived, refunded, refundable or otherwise recoverable, including credit against tax paid or payable.

(6) Where it is determined, during the course of a verification of origin of a light-duty automotive good with respect to which the producer of that good has a statement referred to in paragraph (2)*(f)* or *(g)*, that the acquired material referred to in that statement is not an originating material, the value of the acquired material shall, for purposes of subsection (2), be determined in accordance with subsection (5) with respect to the transaction in which that producer acquired it.

(7) Where any person who has information with respect to a statement referred to in any of paragraphs (2)*(c)* through *(h)* does not allow a customs administration to verify that information during a verification of origin, the value of the material with respect to which that person did not allow the customs administration to verify the information may be determined by that customs administration in accordance with subsection (5) with respect to the transaction in which that person sells, or otherwise transfers to another person, that material or a material that incorporates that material.

(8) Where a traced material is incorporated into a material produced in the territory of a NAFTA country and that material is incorporated into a light-duty automotive good, the statement referred to in paragraph (2)*(c)*, *(d)* or *(e)* may state the value of non-originating materials, determined in accordance with subsection 12(3), with respect to the material that incorporates the traced material.

(9) For purposes of this section,

(a) where a producer, in accordance with subsection 7(4), designates as an intermediate material any self-produced material used in the production of a light-duty automotive good,

(i) the designation applies solely to the calculation of the net cost of that good, and

(ii) the value of a traced material that is incorporated into that good shall be determined as though the designation had not been made;

(b) the value of a material not listed in Schedule IV, when imported from outside the territories of the NAFTA countries,

(i) shall not be included in the value of non-originating materials that are used in the production of a light-duty automotive good, and

(ii) shall be included in calculating the net cost of a light-duty automotive good that incorporates that material;

(c) except as otherwise provided in subsection 12(10), this section does not apply with respect to after-market parts;

(d) the costs referred to in subparagraphs (2)*(a)*(ii) and *(b)*(ii), clauses (2)*(c)*(ii)(B) and *(d)*(ii)(B) and subsections (4) and (5) shall be the costs referred to in those paragraphs that are recorded on the books of the producer of the light-duty automotive good;

(e) for purposes of calculating the regional value content of a light-duty automotive good, the producer of that good may choose to treat any material used in the production of that good as a non-originating material, and the value of that material shall be determined in accordance with sub-section (5) with respect to the transaction in which the producer acquired it; and

(f) any information set out in a statement referred to in subsection (2) that concerns the value of materials or costs shall be in the same currency as the currency of the country in which the person who provided the statement is located.

(10) Each of the following examples is an Example as referred to in subsection 2(4).

Example 1

Nuts and bolts of heading No. 73.18 are imported from outside the territories of the NAFTA countries and are used in the territory of a NAFTA country in the production of a light-duty automotive good referred to in subsection 9(1). Heading No. 73.18 is not listed in Schedule IV so the nuts and bolts are not traced materials.

Because the nuts and bolts are not traced materials the value, under subsection 9(1), of the nuts and bolts is not included in the value of non-originating materials used in the light-duty automotive good even though the nuts and bolts are imported from outside the territories of the NAFTA countries.

The value, under paragraph 9(9)(b)*, of the nuts and bolts is included in the net cost of the light-duty automotive good for the purposes of calculating, under subsection 9(1), regional value content of the motor vehicle.*

Example 2

A rear view mirror of subheading No. 7009.10 is imported from outside the territories of the NAFTA countries and is used in the territory of a NAFTA country as original equipment in the production of a light-duty vehicle.

Subheading No. 7009.10 is listed in Schedule IV. The rear view mirror is a traced material. For purposes of calculating, under subsection 9(1), regional value content of the light-duty vehicle, the value of the mirror is included in the value of non-originating materials in accordance with subsections 9(2) through (9).

Example 3

Glass of heading No. 70.05 is imported from outside the territories of the NAFTA countries and is used in the territory of NAFTA country A in the production of a rear view mirror. The rear view mirror is a non-originating good because it fails to satisfy the applicable change in tariff classification.

That rear view mirror is exported to NAFTA country B where it is used as original equipment in the production of a light-duty vehicle. Even though the rear view mirror is a non-originating material and is of a tariff item listed in Schedule IV, it is not a traced material because it was not imported from outside the territories of the NAFTA countries.

For purposes of calculating, under subsection 9(1), the regional value content of a light-duty vehicle in which the rear view mirror is incorporated, the value of the rear view mirror, under subsection 9(1), is not included in the value of non-originating materials used in the production of the light-duty vehicle.

Even though the glass of heading No. 70.05 that was used in the production of the rear view mirror and incorporated into the light-duty vehicle was imported from outside the territories of the NAFTA countries, the glass is not a traced material because heading No. 70.05 is not listed in Schedule IV. For purposes of calculating, under subsection 9(1), the regional value content of the light-duty vehicle that incorporates the glass, the value of the glass is not included in the value of non-originating materials used in the production of the light-duty vehicle. The value of the rear view mirror would be included in the net cost of the light-duty vehicle, but the value of the imported glass would not be separately included in the value of non-originating materials of the light-duty vehicle.

Example 4

An electric motor of subheading No. 8501.10 is imported from outside the territories of the NAFTA countries and is used in the territory of a NAFTA country in the production of a seat frame of subheading No. 9401.90. The seat frame, with the electric motor attached, is sold to a producer of seats of subheading No. 9401.20. The seat producer sells the seat to a producer of light-duty vehicles. The seat is to be used as original equipment in the production of that light-duty vehicle.

Subheadings No. 8501.10 and 9401.20 are listed in Schedule IV; subheading No. 9401.90 is not. The electric motor is a traced material; the seat is not a traced material because it was not imported from outside the territories of the NAFTA countries.

The seat is a light-duty automotive good referred to in subsection 9(1). For purposes of calculating, under subsection 9(1), the regional value content of the seat, the value of traced materials incorporated into it is included in the value of non-originating materials used in the production of the seat. The value of the electric motor is included in that value. (However, the value of the motor would not be included separately in the net cost of the seat because the value of the motor is included as part of the cost of the seat frame.)

For purposes of calculating, under subsection 9(1), the regional value content of the light-duty vehicle, the value of the electric motor is included in the value of non-originating materials used in the production of the light-duty vehicle, even if the seat is an originating material.

Example 5

Cast blocks, cast heads and connecting rod assemblies of heading No. 84.09 are imported from outside the territories of the NAFTA countries by an engine producer, who has title to them at the time of importation, and are used by the producer in the territory of NAFTA country A in the production of an engine of heading No. 84.07. After the regional value content of the engine is calculated, the engine is an originating good. It is not a traced material because it was not imported from outside the territories of the NAFTA countries. The engine is exported to NAFTA country B, to be used as original equipment by a producer of light-duty vehicles.

For purposes of calculating, under subsection 9(1), the regional value content of the light-duty vehicle that incorporates the engine, because heading No. 84.09 is listed in Schedule IV and because the cast blocks, cast heads and connecting rod assemblies were imported into the territory of a NAFTA country and are incorporated into the light-duty vehicle, the value of those materials, which are traced materials, is included in the value of non-originating materials used in the production of the light-duty vehicle, even though the engine is an originating material.

The producer of the light-duty vehicle did not import the traced materials. However, because that producer has a statement referred to in paragraph 9(2)(c) *and that statement states the value of non-originating materials of the traced materials in accordance with subsection 12(2), the producer of the light-duty vehicle may, in accordance with subsection 9(8), use that value as the value of non-originating materials of the light-duty vehicle with respect to that engine.*

Example 6

Aluminum ingots of subheading No. 7601.10 and piston assemblies of heading No. 84.09 are imported from outside the territories of the NAFTA countries by an engine producer and are used by that producer in the territory of NAFTA country A in the production of an engine of heading No. 84.07. The aluminum ingots are used by the producer to produce an engine block; the piston assembly is then incorporated into the engine block and the producer designates, in accordance with subsection 7(4), a short block of heading No. 84.09 as an intermediate material. The intermediate material qualifies as an originating material. The engine that incorporates the short block is exported to NAFTA country B and used as original equipment in the production of a light-duty vehicle. The piston assemblies of heading No. 84.09 are traced materials; neither the engine nor the short block are traced materials because they were not imported from outside the territories of the NAFTA countries.

For purposes of calculating, under subsection 9(1), the regional value content of the engine, the value of the piston assemblies is included, under subparagraph 9(9)(a)*(ii), in the value of non-originating materials, even though the intermediate material is an originating material. However, the value of the aluminum ingots is not included in the value of non-originating materials because subheading No. 7601.10 is not listed in Schedule IV. The value of the aluminum ingots does not need to be included separately in the net cost of the engine because that value is included in the value of the intermediate material, and the total cost of the intermediate material is included in the net cost of the engine.*

For purposes of calculating, under subsection 9(1), the regional value content of the light-duty vehicle that incorporates the engine (and the piston assemblies), the value of the piston assemblies incorporated into that light-duty vehicle is included in the value of non-originating materials of the light-duty vehicle.

Example 7

An engine of heading No. 84.07 is imported from outside the territories of the NAFTA countries. The producer of the engine, located in the country from which the engine is imported, used in the production of the engine a piston assembly of heading No. 84.09 that was produced in a NAFTA country and is an originating good. The engine is used in the territory of a NAFTA country as original equipment in the production of a light-duty vehicle. The engine is a traced material.

For purposes of calculating, under subsection 9(1), the regional value content of a light-duty vehicle that incorporates that engine, the value of the engine is included in the value of non-originating materials of that light-duty vehicle. The value of the piston assembly, which was, before its exportation to outside the territories of the NAFTA countries, an originating good, shall not be deducted from the value of non-originating materials used in the production of the light-duty vehicle. Under section 16 (transshipment), the piston assembly is no longer considered to be an originating good because it was used in the production of a good outside the territories of the NAFTA countries.

Example 8

A wholesaler, located in City A in the territory of a NAFTA country, imports from outside the territories of the NAFTA countries rubber hoses of heading No. 40.09, which is listed in Schedule IV. The wholesaler takes title to the goods at the wholesalers place of business in City A. The customs value of the imported goods is $500. All freight, taxes and duties associated with the transportation of the good to the wholesalers place of business total $100; the cost of the freight, included in that $100, from the place where it was received in the territory of a NAFTA country to the location of the wholesalers place of business in City A is $25. The wholesaler sells the rubber hoses for $650 to a producer of light-duty vehicles who uses the goods in the territory of a NAFTA country as original equipment in the production of a light-duty vehicle. The light-duty vehicle producer pays $50 to have the goods shipped from the location of the wholesalers place of business in City A to the location at which the light-duty vehicle is produced.

The rubber hoses are traced materials and they are incorporated into a light-duty automotive good. For purposes of calculating, under subsection 9(1), the regional value content of the light-duty vehicle,

(1) if the wholesaler takes title to the goods before the first place at which they were received in the territory of a NAFTA country, then the value of non-originating materials, where the light-duty vehicle producer has a statement referred to in paragraph 9(2)(c), would not include the cost of freight from the place where they were received in the territory of a NAFTA country to the location of the wholesalers place of business: in this situation, the value of non-originating materials would be $575;

(2) if the producer has a statement referred to in paragraph 9(2)(d) that states the customs value of the traced material and, where not included in that customs value, the cost of taxes, duties, fees and transporting the goods to the place where title is taken, the light-duty vehicle producer may use those values as the value of non-originating materials with respect to the goods: in this situation, the value of non-originating materials would be $600; or

(3) if the wholesaler is unwilling to provide the light-duty vehicle producer with such a statement, the value of non-originating materials with respect to the traced materials will be the value of the materials with respect to the transaction in which the producer acquired them, as provided for in paragraph 9(2)(i), in this instance $650; the costs of transporting the goods from the location of the wholesalers place of business to the location of the producer will be included in the net cost of the goods, but not in the value of non-originating materials.

Example 9

A wholesaler, located in City A in the territory of a NAFTA country, imports from outside the territories of the NAFTA countries rubber hose of heading No. 40.09, which is listed in Schedule IV. The wholesaler sells the good to a producer located in the territory of the NAFTA country who uses the hose to produce a

power steering hose assembly, also of heading No. 40.09. The power steering hose assembly is then sold to a producer of light-duty vehicles who uses that good in the production of a light-duty vehicle. The rubber hose is a traced material; the power steering hose assembly is not a traced material because it was not imported from outside the territories of the NAFTA countries.

The wholesaler who imported the rubber hose from outside the territories of the NAFTA countries has title to it at the time of importation. The customs value of the good is $3, including freight and insurance and all other costs incurred in transporting the good to the first place at which it was received in the territory of the NAFTA country. Duties and fees and all other costs referred to in subsection 9(4), paid by the wholesaler with respect to the good, total an additional $1. The wholesaler sells the good to the producer of the power steering hose assemblies for $5, not including freight to the location of that producer. The power steering hose producer pays $2 to have the good delivered to the location of production. The value of the power steering hose assembly sold to the light-duty vehicle producer is $10, including freight for delivery of the good to the location of the light-duty vehicle producer.

For purposes of calculating, under subsection 9(1), the regional value content of the light-duty vehicle:

(1) if the motor vehicle producer has a statement referred to in paragraph 9(2)(c) from the producer of the power steering hose assembly that states the customs value of the imported rubber hose incorporated in the power steering hose assembly, and the value of the duties, fees and other costs referred to in subsection 9(4), the producer may use those values as the value of non-originating materials with respect to that traced good: in this situation, that value would be the customs value of $3 and the cost of duties and fees of $1, provided that the wholesaler has provided the producer of the power steering hose assembly with the information regarding the customs value of the imported good and the other costs;

(2) if the light-duty vehicle producer has a statement from the producer of the power steering hose assembly that states the value of the imported hose, with respect to the transaction in which the power steering hose assembly producer acquires the imported hose from the wholesaler, the light-duty vehicle producer may include that value as the value of non-originating materials, in accordance with paragraph 9(2)(e): in this situation, that value is $5; and the $2 cost of transporting the good from the location of the wholesaler to the location of the producer, because that cost is separately identified, would not be included in the value of non-originating materials of the light-duty vehicle;

(3) if the light-duty vehicle producer has a statement referred to in paragraph 9(2)(f) signed by the producer of the power steering hose assembly, the light-duty vehicle producer may use the formula set out in paragraph 9(2)(f) to calculate the value of non-originating materials with respect to that acquired material: in this situation, assuming the regional value content is 55 per cent, the value of non-originating materials would be $4.50; and because the cost of transportation from the location of the producer of the power steering hose assembly to the location of the light-duty vehicle producer is included in the purchase price and not separately identified, it may not be deducted from the purchase price, because the formula referred to in paragraph 9(2)(f) does not allow for the deduction of transportation costs that would otherwise not be non-originating;

(4) if the light-duty vehicle producer has a statement referred to in paragraph 9(2)(g) signed by the producer of the power steering hose assembly, the light-duty vehicle producer may use the formula set out in paragraph 9(2)(g) to calculate the value of non-originating materials with respect to that acquired material: in this situation, assuming the regional value-content requirement is 50 per cent, the value of non-originating materials would be $5; and because the cost of transportation from the location of the producer of the power steering hose assembly to the location of the light-duty vehicle producer is included in the purchase price and not separately identified, it may not be deducted from the purchase price, because the formula referred to in paragraph 9(2)(g) does not allow for the deduction of transportation costs that would otherwise not be non-originating; or

(5) if the light-duty vehicle producer does not have a statement referred to in any of paragraphs 9(2)(c) through (h) from the producer of the power steering hose assembly, the light-duty vehicle producer includes in the value of non-originating materials of the vehicles the value, determined in accordance

with paragraph 9(2)(i), of the power steering hose assembly: in this situation, that amount would be $10, the cost to the producer of acquiring that material.

Example 10

A producer of light-duty vehicles located in City C in the territory of a NAFTA country imports from outside the territories of the NAFTA countries rubber hose of heading No. 40.09, which is listed in Schedule IV, and uses that good as original equipment in the production of a light-duty vehicle.

The rubber hose arrives at City A in the NAFTA country, but the producer of the light-duty vehicle does not have title to the good; it is transported under bond to City B, and on its arrival in City B, the producer of the light-duty vehicle takes title to it and the good is received in the territory of a NAFTA country. The good is then transported to the location of the light-duty vehicle producer in City C.

The customs value of the imported good is $4, the transportation and other costs referred to in subparagraph 9(2)(b)*(ii) to City A are $3 and to City B are $2, and the cost of duties, taxes and other fees referred to in subsection 9(4) is $1. The cost of transporting the good from City B to the location of the producer in City C is $1. The rubber hose is traced material.*

For purposes of calculating, under subsection 9(1), the regional value content of the light-duty vehicle, the value, under paragraph 9(2)(b)*, of non-originating materials of that vehicle is the customs value of the traced material and, where not included in that value, the cost of taxes, duties, fees and the cost of transporting the traced material to the place where title is taken. In this situation, the value of non-originating materials would be the customs value of the traced material, $4, the cost of duties, taxes and other fees, $1, the cost of transporting the material to City A, $3, and the cost of transporting that material from City A to City B, $2, for a total of $10. The $1 cost of transporting the good from City B to the location of the producer in City C would not be included in the value of non-originating materials of the light-duty vehicle because a person of a NAFTA country has taken title to the traced material.*

Example 11

A radiator of subheading No. 8708.91 is imported from outside the territories of the NAFTA countries by a producer of light-duty vehicles and is used in the territory of a NAFTA country as original equipment in the production of a light-duty vehicle.

The radiator is transported by ship from outside the territories of the NAFTA countries and arrives in the territory of the NAFTA country at City A. The radiator is not, however, unloaded at City A and although the radiator is physically present in the territory of the NAFTA country, it has not been received in the territory of a NAFTA country.

The ship sails in territorial waters from City A to City B and the radiator is unloaded there. The light-duty vehicle producer files, from City C in the same country, the entry for the radiator; the radiator enters the territory of the NAFTA country at City B.

Subheading No. 8708.91 is listed in Schedule IV. The radiator is a traced material.

For purposes of calculating, under subsection 9(1), the regional value content of the light-duty vehicle, the value of the radiator is included in the value of non-originating materials of the light-duty vehicle. The costs of any freight, insurance, packing and other costs incurred in transporting the radiator to City B are included in the value of non-originating materials of the light-duty vehicle, including the cost of transporting the radiator from City A to City B. The costs of any freight, insurance, packing and other costs that were incurred in transporting the radiator from City B to the location of the producer are not included in the value of non-originating materials of the light-duty vehicle.

Example 12

Producer X, located in NAFTA country A, produces a car seat of subheading No. 9401.20 that is used in the production of a light-duty vehicle. The only non-originating material used in the production of the car seat is an electric motor of subheading No. 8501.20 that was imported by Producer X from outside the territories of the NAFTA countries. The electric motor is a material of a tariff provision listed in Schedule IV and thus is a traced material.

Producer X sells the car seat as original equipment to Producer Y, a light-duty vehicle producer, located in NAFTA country B. The car seat is an originating good because the non-originating material in the car seat (the electric motor) undergoes the applicable change in tariff classification set out in a rule that specifies only a change in tariff classification. Consequently, Producer X does not elect to calculate the regional value content of the car seat in accordance with subsection 12(1).

For purposes of determining, under subsection 9(1), the value of non-originating materials used in the production of the light-duty vehicle that incorporates the car seat, the value of the electric motor is included even though the car seat qualifies as an originating material.

Producer X provides Producer Y with a statement described in paragraph 9(2)(c)*, with the value of non-originating material used in the production of the car seat determined in accordance with subsection 12(3), as is permitted by subsection 9(8). Producer Y uses that value as the value of non-originating materials used in the production of the light-duty vehicle with respect to the car seat.*

Example 13

This example has the same facts as in Example 12, except that the car seat does not qualify as an originating good under the rule that specifies only a change in tariff classification. Instead, it qualifies as an originating good under a rule that specifies a regional value-content requirement and a change in tariff classification. For purposes of that rule, Producer X elected to calculate the regional value content of the car seat in accordance with subsection 12(1) over a period set out in paragraph 12(5)(a) *and using a category set out in paragraph 12(4)*(a)*.*

For purposes of the statement described in paragraph 9(2)(c)*, Producer X determined, as is permitted under subsection 9(8), the value of non-originating material used in the production of the car seat in accordance with subsection 12(3) over a period set out in paragraph 12(5)*(a) *and using a category set out in paragraph 12(4)*(e)*.*

Heavy-duty Automotive Goods

10. (1) Except as otherwise provided in subsections (3) through (8) and paragraph 12(10)*(a)*, for purposes of calculating the regional value content of a heavy-duty automotive good under the net cost method, the value of non-originating materials used by the producer of the good in the production of the good shall be the sum of

(a) for each listed material that is a non-originating material, is a self-produced material and is used by the producer in the production of the good, at the choice of the producer, either

(i) the total cost incurred with respect to all goods produced by the producer that can be reasonably allocated to that listed material in accordance with Schedule VII,

(ii) the aggregate of each cost that forms part of the total cost incurred with respect to that listed material that can be reasonably allocated to that listed material in accordance with Schedule VII, or

(iii) the sum of

(A) the customs value of each non-originating material imported by the producer of the listed material and used in the production of the listed material, and, where not included in that customs value, the costs referred to in paragraphs (2)*(c)* through *(f)*, and

(B) the value of each non-originating material that is not imported by the producer of the listed material and is used in the production of the listed material, determined in accordance with subsection (2) with respect to the transaction in which the producer of the listed material acquired it;

(b) for each listed material that is a non-originating material, is produced in the territory of a NAFTA country and is acquired and used by the producer in the production of the good, at the choice of the producer, either

(i) the value of that non-originating listed material, determined in accordance with subsection (2), with respect to the transaction in which the producer acquired the listed material, or

(ii) where the producer of the good has a statement described in clause (A) or (B) with respect to each material that is a non-originating material used in the production of that listed material, the sum of

(A) the customs value of each non-originating material imported by the producer of the listed material and used in the production of that listed material, and, where not included in that customs value, the costs referred to in paragraphs (2)*(c)* through *(f)*, if the producer of the good has a statement signed by the producer of the listed material that states the customs value of that non-originating material and the costs referred to in paragraphs (2)*(c)* through *(f)* that the producer of the listed material incurred with respect to the non-originating material, and

(B) the value of each non-originating material that is not imported by the producer of the listed material, and is acquired and used in the production of the listed material, determined in accordance with subsection (2) with respect to the transaction in which the producer of the listed material acquired that non-originating material, if the producer of the good has a statement signed by the producer of the listed material that states the value of the acquired material, determined in accordance with subsection (2) with respect to the transaction in which the producer of the listed material acquired the non-originating material;

(c) for each listed material, automotive component assembly, automotive component or sub-component that is imported from outside the territories of the NAFTA countries, and is used by the producer in the production of the good,

(i) where it is imported by the producer, the customs value of that non-originating listed material, automotive component assembly, automotive component or sub-component, and, where not included in that customs value, the costs referred to in paragraphs (2)*(c)* through *(f)*, and

(ii) where it is not imported by the producer, the value of that non-originating listed material, automotive component assembly, automotive component or sub-component, determined in accordance with subsection (2) with respect to the transaction in which the producer acquired it;

(d) for each automotive component assembly, automotive component or sub-component that is an originating material and is acquired and used by the producer in the production of the good, at the choice of the producer,

(i) the sum of

(A) the value of each non-originating listed material used in the production of the originating material, determined under paragraphs *(a)* and *(b)*,

(B) the value of each non-originating material incorporated into the originating material, determined under paragraph *(c)*,

(C) the value of each non-originating listed material used in the production of a material referred to in paragraph *(e)* that is used in the production of the originating material, determined under paragraphs *(a)* and *(b)*, and

(D) where the value of a non-originating listed material referred to in clause (C), and used in the production of a non-originating automotive component assembly, automotive component or sub-component that is used in the production of the originating material, is not included under clause (C), the value of that automotive component assembly, automotive component or sub-component, determined under subparagraph *(e)*(ii),

if the producer has a statement, signed by the person from whom the originating material was acquired, that states the sum of the values, as determined by the producer of the originating material under paragraphs *(a)*, *(b)*, *(c)* and *(e)*, of each non-originating material referred to in any of clauses (A) through (D) that is incorporated into that originating material,

(ii) an amount equal to the number resulting from applying the following formula:

VM × (1 - RVC)

where

VM is the value of the acquired material, determined in accordance with subsection (2), with respect to the transaction in which the producer of the good acquired that material, and

RVC is the regional value content of the acquired material, expressed as a decimal,

if the material is subject to a regional value-content requirement and the producer has a statement, signed by the person from whom the producer acquired that material, that states that the acquired material is an originating material and states the regional value content of the material,

(iii) an amount equal to the number resulting from applying the following formula:

VM × (1 - RVCR)

where

VM is the value of the acquired material, determined in accordance with subsection (2), with respect to the transaction in which the producer of the good acquired that material, and

RVCR is the regional value-content requirement for the acquired material, expressed as a decimal,

if the material is subject to a regional value-content requirement and the producer has a statement, signed by the person from whom the producer acquired that material, that states that the acquired material is an originating material but does not state the value of non-originating materials with respect to that acquired material, or

(iv) the value of that automotive component assembly, automotive component or sub-component determined in accordance with subsection (2) with respect to the transaction in which the producer acquired the material;

(e) for each automotive component assembly, automotive component or sub-component that is a non-originating material produced in the territory of a NAFTA country and that is acquired by the producer and used by the producer in the production of the good, at the choice of the producer, either

(i) the sum of the values of the non-originating materials incorporated into that non-originating material that is acquired by the producer, determined under paragraphs *(a)*, *(b)*, *(c)*, *(d)* and *(f)*, if the producer has a statement, signed by the person from whom the non-originating material was acquired, that states the sum of the values of the non-originating materials incorporated into that non-originating material, determined by the producer of the non-originating material in accordance with paragraphs *(a)*, *(b)*, *(c)*, *(d)* and *(f)*, or

(ii) the value of that non-originating automotive component assembly, automotive component or sub-component, determined in accordance with subsection (2) with respect to the transaction in which the producer acquired the material; and

(f) for each non-originating material that is not referred to in paragraph *(a)*, *(b)*, *(c)* or *(e)* and that is used by the producer in the production of the good,

(i) where it is imported by the producer, the customs value of that non-originating material, and, where not included in that customs value, the costs referred to in paragraphs (2)*(c)* through *(f)*, and

(ii) where it is not imported by the producer, the value of that non-originating material, determined in accordance with subsection (2) with respect to the transaction in which the producer acquired the material.

(2) For purposes of clause (1)*(a)*(ii)(B), subparagraph (1)*(b)*(i), clause (1)*(b)*(ii)(B), subparagraphs (1)*(c)*(ii), (1)*(d)*(ii) through (iv), (1)*(e)*(ii) and (1)*(f)*(ii), the value of a material

(a) shall be the transaction value of the material, determined in accordance with subsection 2(1) of Schedule VIII with respect to the transaction referred to in that clause or subparagraph, or

(b) where, with respect to the transaction referred to in that clause or subparagraph, there is no transaction value for the material under subsection 2(2) of Schedule VIII or the transaction value of the material is unacceptable under subsection 2(3) of that Schedule, shall be determined in accordance with sections 6 through 11 of that Schedule,

and shall include the following costs where they are not included under paragraph *(a)* or *(b)*:

(c) the costs of freight, insurance and packing, and all other costs incurred in transporting the material to the location of the producer,

(d) duties and taxes paid or payable with respect to the material in the territory of one or more of the NAFTA countries, other than duties and taxes that are waived, refunded, refundable or otherwise recoverable, including credit against duty or tax paid or payable,

(e) customs brokerage fees, including the cost of in-house customs brokerage and customs clearance services, incurred with respect to the material in the territory of one or more of the NAFTA countries, and

(f) the cost of waste and spoilage resulting from the use of the material in the production of the good, minus the value of any reusable scrap or by-product.

(3) For purposes of clauses (1)*(a)*(ii)(A) and *(b)*(ii)(A) and subparagraphs (1)*(c)*(i) and *(f)*(i), where the customs value of an imported material referred to in those clauses or paragraphs was not determined in a manner consistent with Schedule VIII, the value of the material shall be determined in accordance with Schedule VIII with respect to the importation for which that customs value was determined and, where the costs referred to in paragraphs (2)*(c)* through *(f)* are not included in that value, those costs shall be added to the value of the material.

(4) For purposes of calculating the regional value content of a heavy-duty component, where

(a) a heavy-duty component is produced in the same plant as an automotive component assembly or automotive component that is of the same heading or subheading as that heavy-duty component and is for use as original equipment in a light-duty vehicle, and

(b) it is not reasonable for the producer to know which of the production will constitute a heavy-duty component for use in a heavy-duty vehicle,

the value of the non-originating materials used in the production of the heavy-duty component in that plant may, at the choice of the producer, be determined in the manner set out in section 9.

(5) For purposes of calculating the regional value content of a heavy-duty vehicle, where a producer of such a vehicle acquires, for use by that producer in the production of the vehicle, a heavy-duty component with respect to which the value of non-originating materials has been determined in accordance with subsection (4), the value of the non-originating materials used by the producer with respect to that heavy-duty component is the value of non-originating materials determined under that subsection.

(6) Where it is determined, during the course of a verification of origin of a heavy-duty automotive good with respect to which the producer of that good has a statement referred to in subparagraph (1)*(d)*(ii) or (iii) that the acquired material referred to in that statement is not an originating material, the value of the acquired material shall, for purposes of subsection (1), be determined in accordance with subsection (2) with respect to the transaction in which that producer acquired it.

(7) Where any person who has information with respect to a statement referred to in sub-paragraph (1)*(b)*(ii), *(d)*(i) or *(e)*(i) does not allow a customs administration to verify that information during a verification of origin, the value of any material with respect to which that person did not allow the customs administration to verify the information may be determined by that customs administration in accordance with subsection (2) with respect to the transaction in which that person sells, or otherwise transfers to another person, that material or a material that incorporates that material.

(8) Where a heavy-duty component, sub-component or listed material is incorporated into a material produced in the territory of a NAFTA country and that material is incorporated into a heavy-duty automotive good, the statement referred to in subparagraph (1)*(b)*(ii), *(d)*(i) or *(e)*(i) may state the value of non-originating materials, determined in accordance with subsection 12(3), with respect to the material that incorporates the heavy-duty component, sub-component or listed material.

(9) For purposes of this section,

(a) for purposes of calculating the regional value content of a heavy-duty automotive good, sub-component or listed material, a producer of such a good may, in accordance with subsection 7(4), designate as an intermediate material any self-produced material, other than a heavy-duty component or sub-component, that is used in the production of that good;

(b) except as otherwise provided in subsection 12(10), this section does not apply with respect to after-market parts;

(c) this section does not apply to a sub-component for purposes of calculating its regional value content before it is incorporated into a heavy-duty automotive good;

(d) for purposes of calculating the regional value content of a heavy-duty automotive good, the producer of that good may choose to treat any material used in the production of that good as a non-originating material, and the value of that material shall be determined in accordance with sub-section (2) with respect to the transaction in which the producer acquired it;

(e) any information set out in a statement referred to in subparagraphs (1)*(b)*(ii), *(d)*(i) through (iii) or *(e)*(i) that concerns the value of materials or costs shall be in the same currency as the currency of the country in which the person who provided the statement is located; and

(f) total cost under subparagraphs (1)*(a)*(i) and (ii) consists of the costs referred to in subsection 2(6), and is calculated in accordance with that subsection and subsection 2(7).

(10) Each of the following examples is an Example as referred to in subsection 2(4).

Example 1

A listed material is imported from outside the territories of the NAFTA countries

A cast head, produced outside the territories of the NAFTA countries, is imported into the territory of a NAFTA country and used in that country in the production of an engine that will be used as original equipment in the production of a heavy-duty vehicle. No other non-originating materials are used in the production of the engine. The cast head is a listed material; the engine is an automotive component.

Use of the listed material in an automotive component

For purposes of calculating the regional value content of the engine, the value of listed materials imported from outside the territories of the NAFTA countries is included in the value of non-originating materials used in the production of the engine. Because the cast head was produced outside the territories of the NAFTA countries, its value, under paragraph 10(1)(c)*, is included in the value of non-originating materials used in the production of the engine.*

Use of an originating automotive component incorporating the listed material

The engine is an originating material acquired by the producer of the heavy-duty vehicle. For purposes of calculating the regional value content of the heavy-duty vehicle that incorporates that engine (and incorporates the cast head), the value of non-originating materials used in the production of the heavy-duty vehicle is determined under paragraph 10(1)(d) *with respect to that engine. The producer may choose to include in the value of non-originating materials of the heavy-duty vehicle*

(a) *the value, determined under subparagraph 10(1)(*d*)(i), of the non-originating materials that are incorporated into the engine, which is the value, determined under paragraphs 10(1)(*a*) through (*c*) and subparagraph (*e*)(ii), of the non-originating materials;*

(b) *the value, determined under subparagraph 10(1)(*d*)(ii), which is an amount equal to the amount determined under subparagraph 10(1)(*d*)(iv) multiplied by the remainder of one minus the regional value content, expressed as a decimal, of the engine;*

(c) *the value, determined under subparagraph 10(1)(*d*)(iii), which is an amount equal to the amount determined under subparagraph 10(1)(*d*)(iv) multiplied by the remainder of one minus the regional value-content requirement, expressed as a decimal, for the engine; or*

(d) *the value, determined under subparagraph 10(1)(*d*)(iv), of the engine.*

The heavy-duty vehicle producer may only choose the first option if that producer has a statement, referred to in subparagraph 10(1)(d)*(i), from the person from whom the engine was acquired. In this situation, the value, determined under paragraph 10(1)*(c)*, of the cast head, is included in the value of non-originating materials of the heavy-duty vehicle, with respect to the engine that is used in the production of the heavy-duty vehicle.*

The heavy-duty vehicle producer may only choose the second option if that producer has a statement, referred to in subparagraph 10(1)(d)*(ii), from the person from whom the engine was acquired. In this situation, because of the application of the equation, the value of the cast head will be included in the amount determined under subparagraph 10(1)*(d)*(ii) and is, consequently, included in the value of non-originating materials used in the production of the heavy-duty vehicle.*

The heavy-duty vehicle producer may only choose the third option if that producer has a statement, referred to in subparagraph 10(1)(d)*(iii), from the person from whom the engine was acquired. In this situation, because of the application of the equation, the value of the cast head will be included in the amount determined under subparagraph 10(1)*(d)*(iii) and is, consequently, included in the value of non-originating materials used in the production of the heavy-duty vehicle.*

Use of a non-originating automotive component incorporating the listed material

The engine is a non-originating material acquired by the producer of the heavy-duty vehicle. For purposes of calculating the regional value content of the heavy-duty vehicle that incorporates that engine (and incorporates the cast head), the value of non-originating materials used in the production of the heavy-duty vehicle is determined under paragraph 10(1)(e) *with respect to that engine. The producer of the heavy-duty vehicle may choose to include in the value of non-originating materials either*

(a) *the value, as determined under subparagraph 10(1)(*e*)(i), of the non-originating materials that are incorporated into the engine, which is the value of the non-originating materials as determined under paragraphs 10(1)(*a*) through (*d*) and (*f*), or*

(b) *the value of the engine, determined under subparagraph 10(1)(*e*)(ii).*

The heavy-duty vehicle producer may only choose the first option if that producer has a statement, referred to in subparagraph 10(1)(e)*(i), from the person from whom the engine was acquired. In this situation, the value of the cast head, as determined under paragraph 10(1)*(c)*, is included in the value of non-originating materials used in the production of the heavy-duty vehicle, with respect to the engine that is used in the production of the heavy-duty vehicle.*

Example 2

A material is imported from outside the territories of the NAFTA countries

A rocker arm assembly, produced outside the territories of the NAFTA countries, is imported into the territory of a NAFTA country and used in that country in the production of an engine that will be used as original equipment in the production of a heavy-duty vehicle. No other non-originating materials are used in the production of the engine. The rocker arm assembly is neither a listed material nor a sub-component; the engine is an automotive component.

Use of the material in an automotive component

For purposes of calculating the regional value content of the engine, the value of non-originating materials that are not listed materials is included in the value of non-originating materials used in the production of

the engine. Because the rocker arm assembly was produced outside the territories of the NAFTA countries, it is a non-originating material and its value, under paragraph 10(1)(f)*, is included in the value of non-originating materials used in the production of the engine.*

Use of an originating automotive component incorporating the material

The engine is an originating material acquired by the producer of the heavy-duty vehicle. For purposes of calculating the regional value content of the heavy-duty vehicle that incorporates that engine (and incorporates the rocker arm assembly), the value of non-originating materials used in the production of the heavy-duty vehicle is determined under paragraph 10(1)(d) *with respect to that engine. The producer may choose to include in the value of non-originating materials used in the production of the heavy-duty vehicle*

(a) *the value, determined under subparagraph 10(1)*(d)*(i), of the non-originating materials that are incorporated into the engine, which is the value, determined under paragraphs 10(1)*(a) *through (*c*) and subparagraph (*e*)(ii), of the non-originating materials;*

(b) *the value, determined under subparagraph 10(1)*(d)*(ii), which is an amount equal to the amount determined under subparagraph 10(1)*(d)*(iv) multiplied by the remainder of one minus the regional value content, expressed as a decimal, of the engine;*

(c) *the value, determined under subparagraph 10(1)*(d)*(iii), which is an amount equal to the amount determined under subparagraph 10(1)*(d)*(iv) multiplied by the remainder of one minus the regional value-content requirement, expressed as a decimal, for the engine; or*

(d) *the value, determined under subparagraph 10(1)*(d)*(iv), of the engine.*

The heavy-duty vehicle producer may only choose the first option if that producer has a statement, referred to in subparagraph 10(1)(d)*(i), from the person from whom the engine was acquired. In this situation, the value of the rocker arm assembly, as determined under paragraph 10(1)*(f)*, is not included in the value of non-originating materials of the heavy-duty vehicle, with respect to the engine that is used in the production of the heavy-duty vehicle.*

The heavy-duty vehicle producer may only choose the second option if that producer has a statement, referred to in subparagraph 10(1)(d)*(ii), from the person from whom the engine was acquired. In this situation, because of the application of the equation, the value of the rocker arm assembly will be included in the amount determined under subparagraph 10(1)*(d)*(ii) and will, consequently, be included in the value of non-originating materials used in the production of the heavy-duty vehicle.*

The heavy-duty vehicle producer may only choose the third option if that producer has a statement, referred to in subparagraph 10(1)(d)*(iii), from the person from whom the engine was acquired. In this situation, because of the application of the equation, the value of the rocker arm assembly will be included in the amount determined under subparagraph 10(1)*(d)*(iii) and will, consequently, be included in the value of non-originating materials used in the production of the heavy-duty vehicle.*

Use of a non-originating automotive component incorporating the material

The engine is a non-originating material acquired by the producer of the heavy-duty vehicle. For purposes of calculating the regional value content of the heavy-duty vehicle that incorporates that engine (and incorporates the rocker arm assembly), the value of non-originating materials used in the production of the heavy-duty vehicle is determined under paragraph 10(1)(e) *with respect to that engine. The producer of the heavy-duty vehicle may choose to include in the value of non-originating materials either*

(a) *the value, as determined under subparagraph 10(1)*(e)*(i), of the non-originating materials that are incorporated into the engine, which is the value of the non-originating materials as determined under paragraphs 10(1)*(a) *through (d) and (*f*), or*

(b) *the value of the engine, determined under subparagraph 10(1)*(e)*(ii).*

The heavy-duty vehicle producer may only choose the first option if that producer has a statement, referred to in subparagraph 10(1)(e)*(i), from the person from whom the engine was acquired. In this situation, the value of the rocker arm assembly, as determined under paragraph 10(1)*(f)*, is included in the value of non-*

originating materials used in the production of the heavy-duty vehicle, with respect to the engine that is used in the production of the heavy-duty vehicle.

Use of the material in a self-produced automotive component

If the engine is a self-produced material rather than an acquired material, the heavy-duty vehicle producer is using the rocker arm assembly in the production of the heavy-duty vehicle rather than in the production of the engine, because, under subsection 7(4), the engine cannot be designated as an intermediate material. For purposes of calculating the regional value content of the heavy-duty vehicle, the value, under paragraph 10(1)(f)*, of the rocker arm assembly is included in the value of non-originating materials used in the production of the heavy-duty vehicle.*

Example 3

An automotive component is imported from outside the territories of the NAFTA countries

A transmission, produced outside the territories of the NAFTA countries, is imported into the territory of a NAFTA country and used in that country as original equipment in the production of a heavy-duty vehicle. The transmission is an automotive component.

Use of the automotive component

For purposes of calculating the regional value content of the heavy-duty vehicle in which the transmission is used, the value of the transmission is included in the value of the non-originating materials under paragraph 10(1)(c)*, regardless of whether the producer imported the transmission or acquired it from someone else in the territory of a NAFTA country.*

Example 4

An automotive component is imported from outside the territories of the NAFTA countries

A transmission, produced outside the territories of the NAFTA countries, is imported into the territory of a NAFTA country and combined with an engine to produce an engine-transmission assembly that will be used as original equipment in the production of a heavy-duty vehicle. The transmission is an automotive component; the engine-transmission assembly is an automotive component assembly.

Use of the automotive component assembly

The automotive component assembly is acquired by a producer who uses it in the production of a heavy-duty vehicle. If the automotive component assembly that incorporates the imported transmission is an originating material, the value of non-originating materials used in the production of the automotive component assembly is determined, at the choice of the producer, under any of subparagraphs 10(1)(d)*(i), (ii), (iii) and (iv). (See example 1 for more detailed explanations of these provisions.) If the automotive component assembly that incorporates the imported transmission is a non-originating material, the value of non-originating materials used in the production of the automotive component assembly is determined, at the choice of the producer, under subparagraph 10(1)*(e)*(i) or (ii). (See example 1 for more detailed explanations of these provisions.)*

Regardless of whether the automotive component assembly is an originating material or a non-originating material, the value of the automotive component that was imported from outside the territories of the NAFTA countries is included in the value of non-originating materials used in the production of the heavy-duty vehicle. The transmission is a non-originating material, and, for purposes of calculating the regional value content of an automotive component assembly or heavy-duty vehicle that incorporates that transmission, the value of the transmission is included in the value of non-originating materials used in the production of the automotive component assembly or heavy-duty vehicle that incorporates it.

Example 5

A material is imported from outside the territories of the NAFTA countries

An aluminum ingot, produced outside the territories of the NAFTA countries, is imported into the territory of a NAFTA country and used in that country in the production of cast block that will be used in an engine

that will be used as original equipment in the production of a heavy-duty vehicle. The aluminum ingot is not a listed material; the cast block is a listed material; the engine is an automotive component.

Use of the material in an intermediate material that is a listed material

The engine producer designates the cast block as an intermediate material under subsection 7(4). For purposes of determining the origin of that cast block, because the aluminum ingot is classified under a different heading than the cast block, the cast block satisfies the applicable change in tariff classification and is an originating material.

Use of the listed material incorporating the material

For purposes of calculating the regional value content of the engine that incorporates that cast block (and thus incorporates the aluminum ingot), the value of non-originating materials is determined under subsection 10(1). Because none of paragraphs 10(1)(a) *through* (f) *require that a listed material that is an originating material be included in the value of non-originating materials used in the production of a good, the value of the cast block is not included in the value of non-originating materials used in the production of the engine or in the value of non-originating materials used in the production of an automotive component assembly or heavy-duty vehicle that incorporates the engine.*

Because paragraph 10(1)(d) *does not refer to a listed material that is an originating material, the value of the non-originating aluminum ingot used in the production of the originating cast block is not included in the value of non-originating materials used in the production of any good or material that incorporates the originating cast block.*

Example 6

A non-originating listed material is used to produce a sub-component that is used to produce another sub-component

A crankshaft, produced in the territory of NAFTA country A from a forging imported from outside the territories of the NAFTA countries, is a non-originating material. The crankshaft is sold to another producer, located in the same country, who uses it to produce an originating block assembly. That block assembly is sold to another producer, also located in the same country, who uses it to produce a finished block. The finished block is sold to a producer of engines, who is located in NAFTA country B, for use in the production of a heavy-duty vehicle. The crankshaft is a listed material; the block assembly is a sub-component, as is the finished block.

Calculating the regional value content of the finished block

A sub-component is not a heavy-duty automotive good. As referred to in paragraph 10(9)(c)*, for purposes of calculating the regional value content of the sub-component before it is incorporated into a heavy-duty automotive good, such as when the sub-component is exported from the territory of one NAFTA country to the territory of another NAFTA country, the value of non-originating materials of the sub-component includes only the value of non-originating materials used in the production of that sub-component. Because the block assembly is an originating material, its value is not included in the value of non-originating materials of the finished block, nor is the value of the non-originating crankshaft included in the value of non-originating materials used in the production of the finished block because the crankshaft was used in the production of the block assembly and was not used in the production of the finished block.*

Calculating the regional value content of the component that incorporates the finished block

For purposes of calculating the regional value content of the heavy-duty vehicle that incorporates a sub-component, the value of non-originating materials used in the production of the sub-component is determined under paragraph 10(1)(d) *or* (e) *with respect to that sub-component. In this situation, the value, under paragraph 10(1)*(b)*, of the non-originating crankshaft is included in the value of non-originating materials used in the production of the engine. (See examples 1 and 2 for more detailed explanations of paragraphs 10(1)*(d) *and* (e)*.)*

Example 7

A non-listed material is imported from outside the territories of the NAFTA countries and is used in the production of another non-listed material

A bumper part, produced outside the territories of the NAFTA countries, is imported into the territory of a NAFTA country and is used in the production of a bumper. The bumper is used in the territory of a NAFTA country as original equipment in the production of a heavy-duty vehicle. Neither a bumper part nor a bumper is a listed material, sub-component, automotive component or automotive component assembly.

The non-listed material is an originating material

The bumper is an originating material. For purposes of calculating the regional value content of the heavy-duty vehicle, neither the value of the imported bumper part nor the value of the bumper is included in the value of the non-originating materials.

The non-listed material is a non-originating material

The bumper is a non-originating material. For purposes of calculating the regional value content of the heavy-duty vehicle, the value of non-originating materials used in the production of the heavy-duty vehicle is determined under paragraph 10(1)(f) *with respect to the bumper. In this situation, the value of the bumper is included in the value of non-originating materials of the heavy-duty vehicle. Because a bumper is not a listed material, the producer of the heavy-duty vehicle does not have the option, under subparagraph 10(1)*(b)*(ii), to include only the value of the imported bumper part in the value of non-originating materials used in the production of the heavy-duty vehicle.*

Example 8

Transshipment of a listed material

A producer, located in the territory of a NAFTA country, produces, in that country, a cast head that is an originating good. The producer exports the cast head to outside the territories of the NAFTA territories, where valves, springs, valve lifters, a camshaft and gears are added to it to create a cast head assembly. An engine producer, located in the territory of a NAFTA country, imports the cast head assembly into that country and uses it in the production of an engine that will be used as original equipment in the production of a heavy-duty vehicle. A cast head is a listed material; a cast head assembly is a sub-component.

For purposes of calculating the regional value content of the engine, the value of the imported cast head assembly is included in the value of non-originating materials under paragraph 10(1)(c)*. The value of the cast head cannot be deducted from the value determined under paragraph 10(1)*(c)*. Although the cast head was once an originating good, under section 16 when further production was performed with respect to the cast head outside the territories of the NAFTA countries, it was no longer an originating good.*

Example 9

A material is imported from outside the territories of the NAFTA countries and a heavy-duty vehicle producer self-produces a non-originating listed material

A material, produced outside the territories of the NAFTA countries, is imported into the territory of a NAFTA country and used in that country in the production of a water pump that will be used as original equipment by the same producer in the production of a heavy-duty vehicle. Although the producer, under subsection 7(4), designates the water pump as an intermediate material, it is a non-originating material because it fails to satisfy the regional value-content requirement. A water pump is a listed material.

For purposes of calculating the regional value content of the heavy-duty vehicle, the value of non-originating materials includes, at the choice of the producer, either the total cost, determined under subparagraph 10(1)(a)*(i), of the water pump or the value, determined under clause 10(1)*(a)*(iii)(A), of the material imported from outside the territories of the NAFTA countries.*

Example 10

A material is acquired and used to produce a non-originating listed material

A material, produced outside the territories of the NAFTA countries, is acquired in the territory of a NAFTA country and is used in that country in the production of a water pump that will be used as original equipment in the production of a heavy-duty vehicle. The producer of the water pump and the producer of the heavy-duty vehicle are separate, unrelated producers, located in the same country. A water pump is a listed material. The producer of the water pump elected to calculate the regional value content of the water pump in accordance with subsection 12(1) over a period set out in paragraph 12(5)(a) *and using a category set out in paragraph 12(4)*(b)*. The water pump is a non-originating material because it fails to satisfy the regional value-content requirement.*

For purposes of calculating the regional value content of the heavy-duty vehicle, the value of non-originating materials includes, at the choice of the producer, either the value, determined under subparagraph 10(1)(b)*(i), of the water pump or, if the producer has a statement referred to in clause 10(1)*(b)*(ii)(B), the value, determined under that clause, of the material imported from outside the territories of the NAFTA countries.*

The producer has a statement referred to in clause 10(1)(b)*(ii)(B) and chooses to use the value of non-originating material determined under that clause. The statement states, as is permitted under subsection 10(8), the value of non-originating material used in the production of the water pump in accordance with subsection 12(3) over a period set out in paragraph 12(5)*(a) *and using a category set out in paragraph 12(4)*(e)*.*

Motor Vehicle Averaging

11. (1) For purposes of calculating the regional value content of light-duty vehicles or heavy-duty vehicles, the producer of those motor vehicles may elect that

(a) the sum of the net costs incurred and the sum of the values of non-originating materials used by the producer be calculated over the producers fiscal year with respect to the motor vehicles that are in any one of the categories set out in subsection (5) that is chosen by the producer; and

(b) the sums referred to in paragraph *(a)* be used in the calculation referred to in subsection 6(3) as the net cost and the value of non-originating materials, respectively.

(2) An election made under subsection (1) shall

(a) state the category chosen by the producer, and

(i) where the category referred to in paragraph (5)*(a)* is chosen, state the model line, model name, class of motor vehicle and tariff classification of the motor vehicles in that category, and the location of the plant at which the motor vehicles are produced,

(ii) where the category referred to in paragraph (5)*(b)* is chosen, state the model name, class of motor vehicle and tariff classification of the motor vehicles in that category, and the location of the plant at which the motor vehicles are produced, and

(iii) where the category referred to in paragraph (5)*(c)* is chosen, state the model line, model name, class of motor vehicle and tariff classification of the motor vehicles in that category, and the locations of the plants at which the motor vehicles are produced;

(b) state the basis of the calculation described in subsection (9);

(c) state the producers name and address;

(d) state the period with respect to which the election is made, including the starting and ending dates;

(e) state the estimated regional value content of motor vehicles in the category on the basis stated under paragraph *(b)*;

(f) be dated and signed by an authorized officer of the producer; and

(g) be filed with the customs administration of each NAFTA country to which vehicles in that category are to be exported during the period covered by the election, at least 10 days before the first day of the producers fiscal year, or such shorter period as that customs administration may accept.

(3) Where the fiscal year of a producer begins after the date of the entry into force of the Agreement but before one year after that date, the producer may elect that the calculation of regional value content referred to in subsection (1) or subsection (6) be made under that subsection over the period beginning on the date of the entry into force of the Agreement and ending at the end of that fiscal year, in which case the election shall be filed with the customs administration of each NAFTA country to which vehicles are to be exported during the period covered by the election not later than 10 days after the entry into force of the Agreement, or such longer period as that customs administration may accept.

(4) Where the fiscal year of a producer begins on the date of the entry into force of the Agreement, the producer may make the election referred to in subsection (1) not later than 10 days after the entry into force of the Agreement, or such longer period as the customs administration referred to in paragraph (2)*(g)* may accept.

(5) The categories referred to in subsection (1) are the following:

(a) the same model line of motor vehicles in the same class of motor vehicles produced in the same plant in the territory of a NAFTA country;

(b) the same class of motor vehicles produced in the same plant in the territory of a NAFTA country; and

(c) the same model line of motor vehicles produced in the territory of a NAFTA country.

(6) Where applicable, a producer may elect that the calculation of the regional value content of motor vehicles referred to in Schedule VI be made in accordance with that schedule.

(7) Subject to subsection 5(4) of Schedule VI, the election referred to in subsection (6) shall be filed with the customs administration of the NAFTA country to which vehicles referred to in that schedule are to be exported, at least 10 days before the first day of the producers fiscal year with respect to which that election is to apply or such shorter period as the customs administration may accept.

(8) An election filed for the period referred to in subsection (1) or (3) may not be

(a) rescinded; or

(b) modified with respect to the category or basis of calculation.

(9) For purposes of this section, where a producer files an election under subsection (1), (3) or (4), including an election referred to in subsection 13(9), the net costs incurred and the values of non-originating materials used by the producer, with respect to

(a) all motor vehicles that fall within the category chosen by the producer and that are produced during the fiscal year or, in the case of an election filed under subsection (3), during the period with respect to which the election is made, or

(b) those motor vehicles to be exported to the territory of one or more of the NAFTA countries that fall within the category chosen by the producer and that are produced during the fiscal year or, in the case of an election filed under subsection (3), during the period with respect to which the election is made,

shall be included in the calculation of the regional value content under any of the categories set out in subsection (5).

(10) Where the producer of a motor vehicle has calculated the regional value content of the motor vehicle on the basis of estimated costs, including standard costs, budgeted forecasts or other similar estimating procedures, before or during the producers fiscal year, the producer shall conduct an analysis at the end of the producers fiscal year of the actual costs incurred over the period with respect to the production of the motor vehicle, and, if the motor vehicle does not

satisfy the regional value content requirement on the basis of the actual costs, immediately inform any person to whom the producer has provided a Certificate of Origin for the motor vehicle, or a written statement that the motor vehicle is an originating good, that the motor vehicle is a non-originating good.

(11) The following example is an Example as referred to in subsection 2(4).

A motor vehicle producer located in NAFTA country A produces vehicles that fall within a category set out in subsection 11(5) that is chosen by the producer. The motor vehicles are to be sold in NAFTA countries A, B and C, as well as in country D, which is not a NAFTA country. Under subsection 11(1), the motor vehicle producer may elect that the sum of the net costs incurred and the sum of the values of non-originating materials used by the producer be calculated over the producers fiscal year. The producer may state in the election the basis of the calculation as described in paragraph 11(9)(a)*, in which case the calculation would be on the basis of all the motor vehicles produced regardless of where they are destined. Alternatively, the producer may state in the election the basis of the calculation as described in paragraph 11(9)*(b)*. In this case, the producer would also need to state that the calculation is on the basis of*

(a) the motor vehicles produced that are for export to NAFTA countries B and C;

(b) the motor vehicles produced that are for export to only NAFTA country B; or

(c) the motor vehicles produced that are for export to only NAFTA country C.

The calculation would be on the basis as described in the election.

Automotive Parts Averaging

12. (1) The regional value content of any or all goods that are of the same tariff provision listed in Schedule IV, or an automotive component assembly, an automotive component, a sub-component or a listed material, produced in the same plant, may, where the producer of those goods elects to do so, be calculated by

(a) calculating the sum of the net costs incurred and the sum of the values of non-originating materials used by the producer of the goods over the period set out in subsection (5) that is chosen by the producer with respect to any or all of those goods in any one of the categories set out in subsection (4) that is chosen by the producer; and

(b) using the sums referred to in paragraph *(a)* in the calculation referred to in subsection 6(3) as the net cost and the value of non-originating materials, respectively.

(2) The calculation of the regional value content made under subsection (1) shall apply with respect to each unit of the goods in the category set out in subsection (4) that is chosen by the producer and produced during the period chosen by the producer under subsection (5).

(3) The value of non-originating materials of each unit of the goods

(a) in the category set out in subsection (4) chosen by the producer, and

(b) produced during the period chosen by the producer under subsection (5),

shall be the sum of the values of non-originating materials referred to in paragraph (1)*(a)* divided by the number of units of the goods in that category and produced during that period.

(4) The categories referred to in paragraph (1)*(a)* are the following:

(a) original equipment for use in the production of light-duty vehicles;

(b) original equipment for use in the production of heavy-duty vehicles;

(c) after-market parts;

(d) any combination of goods referred to in paragraphs *(a)* through *(c)*;

(e) goods that are in a category set out in any of paragraphs *(a)* through *(d)* and are sold to one or more motor vehicle producers; and

(f) goods that are in a category set out in any of paragraphs *(a)* through *(e)* and are exported to the territory of one or more of the NAFTA countries.

(5) The period referred to in paragraph (1)*(a)* is,

(a) with respect to goods referred to in paragraph (4)*(a)*, *(b)* or *(d)*, or paragraph 4*(e)* or *(f)* where the goods in that category are in a category referred to in paragraph 4*(a)* or *(b)*, any month, any consecutive three month period that is evenly divisible into the number of months of the producer's fiscal year, or of the fiscal year of the motor vehicle producer to whom those goods are sold, remaining at the beginning of that period, or the fiscal year of that motor vehicle producer to whom those goods are sold; and

(b) with respect to goods referred to in paragraph (4)*(c)*, or paragraph (4)*(e)* or *(f)* where the goods in that category are in a category referred to in paragraph (4)*(c)*, any month, any consecutive three month period that is evenly divisible into the number of months of the producer's fiscal year, or of the fiscal year of the motor vehicle producer to whom those goods are sold, remaining at the beginning of that period, or the fiscal year of that producer or of that motor vehicle producer to whom those goods are sold.

(6) An election made under subsection (1) may not be rescinded or modified with respect to the goods or the period with respect to which the election is made.

(7) Where a producer of goods chooses a one or three month period under subsection (5) with respect to the goods referred to in paragraph (5)*(a)*, that producer shall be considered to have chosen under that subsection a period or periods of the same duration for

(a) the remainder of the fiscal year of the motor vehicle producer to whom those goods are sold, where the producer chooses under paragraph (9)*(a)* the fiscal year of that motor vehicle producer; and

(b) the remainder of the fiscal year of the producer of those goods, where the producer does not choose under paragraph (9)*(a)* the fiscal year of the motor vehicle producer to whom the goods are sold.

(8) Where a producer of goods chooses a one or three month period under subsection (5) with respect to the goods referred to in paragraph (5)*(b)*, that producer shall be considered to have chosen under that subsection a period or periods of the same duration for the remainder of, at the choice of the producer, the producers fiscal year or the fiscal year of the motor vehicle producer to whom those goods are sold.

(9) Where a producer of goods chooses a one or three month period under subsection (5) with respect to the goods, the producer may,

(a) with respect to goods referred to in paragraph (5)*(a)*, at the end of the fiscal year of the motor vehicle producer to whom those goods are sold, choose the fiscal year of that motor vehicle producer; and

(b) with respect to goods referred to in paragraph (5)*(b)*, at the end of the producers fiscal year or the fiscal year of the motor vehicle producer to whom those goods are sold, as the case may be, choose the producers fiscal year or the fiscal year of that motor vehicle producer.

(10) Where a producer chooses that the regional value content of goods be calculated in accordance with subsection (1) and the goods are in any of the categories set out in paragraphs (4)*(d)* through *(f)*, the value of non-originating materials

(a) shall be determined in the manner set out in section 9, where any of those goods are light-duty automotive goods;

(b) shall be determined in the manner set out in section 10, where any of those goods are heavy-duty automotive goods but none of the goods are light-duty automotive goods; and

(c) shall be determined in the manner set out in section 7, where none of those goods are light-duty automotive goods or heavy-duty automotive goods.

(11) Where the producer of a good has calculated the regional value content of the good on the basis of estimated costs, including standard costs, budgeted forecasts or other similar estimating procedures, before or during the period chosen under subsection (1), the producer shall conduct an analysis, at the end of the producers fiscal year following the end of that period, of the actual costs incurred over the period with respect to the production of the good and, if the good does not satisfy the regional value content requirement on the basis of the actual costs during that period, immediately inform any person to whom the producer has provided a Certificate of Origin for the good, or a written statement that the good is an originating good, that the good is a non-originating good.

Special Regional Value-Content Requirements

13. (1) Notwithstanding the regional value-content requirement set out in Schedule I, and except as otherwise provided in subsection (2), the regional value-content requirement for a good referred to in paragraph *(a)* or *(b)* is as follows:

(a) for the fiscal year of a producer that begins on the day closest to January 1, 1998 and for the three following fiscal years of that producer, not less than 56 per cent, and for the fiscal year of a producer that begins on the day closest to January 1, 2002 and thereafter, not less than 62.5 per cent, in the case of

(i) a light-duty vehicle, and

(ii) a good of any of heading Nos. 84.07 and 84.08 and subheading No. 8708.40, that is for use in a light-duty vehicle; and

(b) for the fiscal year of a producer that begins on the day closest to January 1, 1998 and for the three following fiscal years of that producer, not less than 55 per cent, and for the fiscal year of a producer that begins on the day closest to January 1, 2002 and thereafter, not less than 60 per cent, in the case of

(i) a heavy-duty vehicle,

(ii) a good of any of heading Nos. 84.07 and 84.08 and subheading No. 8708.40 that is for use in a heavy-duty vehicle, and

(iii) except in the case of a good referred to in subparagraph *(a)*(ii) or of any of subheading Nos. 8482.10 through 8482.80, 8483.20 and 8483.30, a good of a tariff provision listed in Schedule IV that is subject to a regional value-content requirement and is for use in a light-duty vehicle or a heavy-duty vehicle.

(2) Notwithstanding the regional value-content requirement set out in Schedule I, the regional value-content requirement for a light-duty vehicle or a heavy-duty vehicle that is produced in a plant is as follows:

(a) not less than 50 per cent for five years after the date on which the first prototype of the motor vehicle is produced in the plant by a motor vehicle assembler, if

(i) the motor vehicle is of a class, marque or, except in the case of a heavy-duty vehicle, size category and type of underbody, that was not previously produced by the motor vehicle assembler in the territory of any of the NAFTA countries,

(ii) the plant consists of, or includes, a new building in which the motor vehicle is assembled, and

(iii) the value of machinery that was never previously used for production, and that is used in the new building or buildings for the purposes of the complete motor vehicle assembly process with respect to that motor vehicle, is at least 90 per cent of the value of all machinery used for purposes of that process; and

(b) not less than 50 per cent for two years after the date on which the first prototype of the motor vehicle is produced in the plant by a motor vehicle assembler following a refit of that plant, if the motor vehicle is of a class, marque or, except in the case of a heavy-duty vehicle, size category and type of underbody, that was not assembled by the motor vehicle assembler in the plant before the refit.

(3) For purposes of subparagraph (2)*(a)*(iii), the value of machinery shall be

(a) where the machinery was acquired by the producer of the motor vehicle from another person, the cost of that machinery that is recorded on the books of the producer;

(b) where the machinery was used previously by the producer of the motor vehicle in the production of another good, the cost of the machinery that is recorded on the books of the producer minus accumulated depreciation of that machinery that is recorded on those books; and

(c) where the machinery was produced by the producer of the motor vehicle, the total cost incurred with respect to that machinery, calculated on the basis of the costs that are recorded on the books of the producer.

(4) For purposes of calculating the regional value content of a motor vehicle referred to in sub-section (2) that is in any one of the categories set out in subsection (7) that is chosen by the producer, the producer may file with the customs administration of the NAFTA country into the territory of which vehicles in that category are to be imported an election to calculate the regional value content of such vehicles by

(a) calculating the sum of the net costs incurred and the sum of the values of non-originating materials used by the producer with respect to all of such motor vehicles in the category chosen over

(i) the period beginning on the day on which the first prototype of the motor vehicle is produced and ending on the last day of the producers first fiscal year that begins on or after the beginning of the period,

(ii) a fiscal year of the producer that starts after the period referred to in subparagraph (i) and ends on or before the end of the period referred to in paragraph (2)*(a)* or *(b)*, or

(iii) the period beginning on the first day of the producers fiscal year that begins before the end of the period referred to in paragraph (2)*(a)* or *(b)* and ending at the end of that period; and

(b) using the sums referred to in paragraph *(a)* in the calculation referred to in subsection 6(3) as the net cost and the value of non-originating materials, respectively.

(5) An election made under subsection (4) shall

(a) state the category chosen by the producer and

(i) where the category referred to in paragraph (7)*(a)* is chosen, the model name, model line, class of motor vehicles and tariff classification of the motor vehicles in that category, and the location of the plant at which the motor vehicles are produced, and

(ii) where the category referred to in paragraph (7)*(b)* is chosen, state the model name, class of motor vehicles and tariff classification of the motor vehicles in that category, and the location of the plant at which the motor vehicles are produced;

(b) state the basis of the calculation described in subsection (8);

(c) state the producers name and address;

(d) state the period with respect to which the election is made, including the starting and ending dates;

(e) state the estimated regional value content of motor vehicles in the category on the basis stated under paragraph *(b)*;

(f) state whether the election is with respect to a motor vehicle referred to in paragraph (2)*(a)* or *(b)*;

(g) be dated and signed by an authorized officer of the producer; and

(h) be filed with the customs administration of each NAFTA country to which vehicles in that category are to be exported during the period covered by the election, at least 10 days before the first day of the producers fiscal year, or such shorter period as that customs administration may accept.

(6) An election filed for the period referred to in subsection (4) may not be

(a) rescinded; or

(b) modified with respect to the category or basis of calculation.

(7) The categories referred to in subsection (4) are the following:

(a) the same model line of motor vehicles in the same class of motor vehicles produced in the same plant in the territory of a NAFTA country; and

(b) the same class of motor vehicles produced in the same plant in the territory of a NAFTA country.

(8) For purposes of subsection (4), the net costs incurred and the values of non-originating materials used by the producer, with respect to

(a) all motor vehicles that fall within the category chosen by the producer and that are produced during the period with respect to which the election is made, or

(b) those motor vehicles to be exported to the territory of one or more of the NAFTA countries that fall within the category chosen by the producer and that are produced during the period with respect to which the election is made,

shall be included in the calculation of the regional value content under any of the categories set out in subsection (7).

(9) Where the period referred to in subsection (4) ends on a day other than the last day of the producers fiscal year, the producer may, for purposes of section 11, make the election referred to in that section with respect to

(a) the period beginning on the day following the end of that period and ending on the last day of that fiscal year; or

(b) the period beginning on the day following the end of that period and ending on the last day of the following full fiscal year.

(10) Where the producer of a motor vehicle has calculated the regional value content of the motor vehicle on the basis of estimated costs, including standard costs, budgeted forecasts or other similar estimating procedures, before or during the producers fiscal year, the producer shall conduct an analysis at the end of the producers fiscal year of the actual costs incurred over the fiscal year with respect to the production of the motor vehicle, and, if the motor vehicle does not satisfy the regional value-content requirement on the basis of the actual costs, immediately inform any person to whom the producer has provided a Certificate of Origin for the motor vehicle, or a written statement that the motor vehicle is an originating good, that the motor vehicle is a non-originating good.

PART VI

GENERAL

Accumulation

14. (1) Subject to subsections (2) and (4), for purposes of determining whether a good is an originating good, an exporter or producer of a good may choose to accumulate the production, by one or

more producers in the territory of one or more of the NAFTA countries, of materials that are incorporated into that good so that the production of the materials shall be considered to have been performed by that exporter or producer.

(2) Where a good is subject to a regional value-content requirement and an exporter or producer of the good has a statement signed by a producer of a material that is used in the production of the good that

(a) states the net cost incurred and the value of non-originating materials used by the producer of the material in the production of that material,

(i) the net cost incurred by the producer of the good with respect to the material shall be the net cost incurred by the producer of the material plus, where not included in the net cost incurred by the producer of the material, the costs referred to in paragraphs 7(1)*(c)* through *(e)*, and

(ii) the value of non-originating materials used by the producer of the good with respect to the material shall be the value of non-originating materials used by the producer of the material; or

(b) states any amount, other than an amount that includes any of the value of non-originating materials, that is part of the net cost incurred by the producer of the material in the production of that material,

(i) the net cost incurred by the producer of the good with respect to the material shall be the value of the material, determined in accordance with subsection 7(1), and

(ii) the value of non-originating materials used by the producer of the good with respect to the material shall be the value of the material, determined in accordance with subsection 7(1), minus the amount stated in the statement.

(3) Where a good is subject to a regional value-content requirement and an exporter or producer of the good does not have a statement described in subsection (2) but has a statement signed by a producer of a material that is used in the production of the good that

(a) states the sum of the net costs incurred and the sum of the values of non-originating materials used by the producer of the material in the production of that material and identical materials or similar materials, or any combination thereof, produced in a single plant by the producer of the material over a month or any consecutive three, six or twelve month period that falls within the fiscal year of the producer of the good, divided by the number of units of materials with respect to which the statement is made,

(i) the net cost incurred by the producer of the good with respect to the material shall be the sum of the net costs incurred by the producer of the material with respect to that material and the identical materials or similar materials, divided by the number of units of materials with respect to which the statement is made, plus, where not included in the net costs incurred by the producer of the material, the costs referred to in paragraphs 7(1)*(c)* through *(e)*, and

(ii) the value of non-originating materials used by the producer of the good with respect to the material shall be the sum of the values of non-originating materials used by the producer of the material with respect to that material and the identical materials or similar materials divided by the number of units of materials with respect to which the statement is made; or

(b) states any amount, other than an amount that includes any of the values of non-originating materials, that is part of the sum of the net costs incurred by the producer of the material in the production of that material and identical materials or similar materials, or any combination thereof, produced in a single plant by the producer of the material over a month or any consecutive three, six or twelve month period that falls within the fiscal year of the producer of the good, divided by the number of units of materials with respect to which the statement is made,

(i) the net cost incurred by the producer of the good with respect to the material shall be the value of the material, determined in accordance with subsection 7(1), and

(ii) the value of non-originating materials used by the producer of the good with respect to the material shall be the value of the material, determined in accordance with subsection 7(1), minus the amount stated in the statement.

(4) For purposes of subsection 7(4), where a producer of the good chooses to accumulate the production of materials under subsection (1), that production shall be considered to be the production of the producer of the good.

(5) For purposes of this section,

(a) in order to accumulate the production of a material,

(i) where the good is subject to a regional value-content requirement, the producer of the good must have a statement described in subsection (2) or (3) that is signed by the producer of the material, and

(ii) where an applicable change in tariff classification is applied to determine whether the good is an originating good, the producer of the good must have a statement signed by the producer of the material that states the tariff classification of all non-originating materials used by that producer in the production of that material and that the production of the material took place entirely in the territory of one or more of the NAFTA countries;

(b) a producer of a good who chooses to accumulate is not required to accumulate the production of all materials that are incorporated into the good; and

(c) any information set out in a statement referred to in subsection (2) or (3) that concerns the value of materials or costs shall be in the same currency as the currency of the country in which the person who provided the statement is located.

(6) Each of the following examples is an Example as referred to in subsection 2(4).

Example 1: subsection 14(1)

Producer A, located in NAFTA country A, imports unfinished bearing rings of subheading No. 8482.99 into NAFTA country A from outside the territories of the NAFTA countries. Producer A further processes the unfinished bearing rings into finished bearing rings, which are of the same subheading. The finished bearing rings of Producer A do not satisfy an applicable change in tariff classification and therefore do not qualify as originating goods.

The net cost of the finished bearing rings (per unit) is calculated as follows:

Product costs:	
Value of originating materials	*$0.15*
Value of non-originating materials	*0.75*
Other product costs	*0.35*
Period costs: (including $0.05 in excluded costs)	*0.15*
Other costs:	*0.05*
Total cost of the finished bearing rings, per unit:	*$1.45*
Excluded costs: (included in period costs)	*0.05*
Net cost of the finished bearing rings, per unit:	*$1.40*

Producer A sells the finished bearing rings to Producer B who is located in NAFTA country A for $1.50 each. Producer B further processes them into bearings, and intends to export the bearings to NAFTA country B. Although the bearings satisfy the applicable change in tariff classification, the bearings are subject to a regional value-content requirement.

Situation 1

Producer B does not choose to accumulate costs incurred by Producer A with respect to the bearing rings used in the production of the bearings. The net cost of the bearings (per unit) is calculated as follows:

Product costs:	
Value of originating materials	*$0.45*
Value of non-originating materials (value, per unit, of the bearing rings purchased from Producer A)	*1.50*
Other product costs	*0.75*
Period costs: (including $0.05 in excluded costs)	*0.15*
Other costs:	*0.05*
Total cost of the bearings, per unit:	*$2.90*
Excluded costs: (included in period costs)	*0.05*
Net cost of the bearings, per unit:	*$2.85*

Under the net cost method, the regional value content of the bearings is

$$RVC = \frac{NC - VNM}{NC} \times 100$$

$$= \frac{\$2.85 - \$1.50}{\$2.85} \times 100$$

$$= 47.4\%$$

Therefore, the bearings are non-originating goods.

Situation 2

Producer B chooses to accumulate costs incurred by Producer A with respect to the bearing rings used in the production of the bearings. Producer A provides a statement described in paragraph 14(2)(a) *to Producer B. The net cost of the bearings (per unit) is calculated as follows:*

Product costs:	
Value of originating materials ($0.45 + $0.15)	*$0.60*
Value of non-originating materials (value, per unit, of the unfinished bearing rings imported by Producer A)	*0.75*
Other product costs ($0.75 + $0.35)	*1.10*
Period costs: (($0.15 + $0.15), including $0.10 in excluded costs)	*0.30*
Other costs: ($0.05 + $0.05)	*0.10*
Total cost of the bearings, per unit:	*$2.85*
Excluded costs: (included in period costs)	*0.10*
Net cost of the bearings, per unit:	*$2.75*

Under the net cost method, the regional value content of the bearings is

$$RVC = \frac{NC - VNM}{NC} \times 100$$

$$= \frac{\$2.75 - \$0.75}{\$2.75} \times 100$$

$$= 72.7\%$$

Therefore, the bearings are originating goods.

Situation 3

Producer B chooses to accumulate costs incurred by Producer A with respect to the bearing rings used in the production of the bearings. Producer A provides to Producer B a statement described in paragraph 14(2)(b) *that specifies an amount equal to the net cost minus the value of non-originating*

materials used to produce the finished bearing rings ($1.40 - $0.75 = 0.65). The net cost of the bearings (per unit) is calculated as follows:

Product costs:	
Value of originating materials ($0.45 + $0.65)	*$1.10*
Value of non-originating materials ($1.50 - $0.65)	*0.85*
Other product costs	*0.75*
Period costs: (including $0.05 in excluded costs)	*0.15*
Other costs:	*0.05*
Total cost of the bearings, per unit:	*$2.90*
Excluded costs: (included in period costs)	*0.05*
Net cost of the bearings, per unit:	*$2.85*

Under the net cost method, the regional value content of the bearings is

$$RVC = \frac{NC - VNM}{NC} \times 100$$

$$= \frac{\$2.85 - \$0.85}{\$2.85} \times 100$$

$$= 70.2\%$$

Therefore, the bearings are originating goods.

Situation 4

Producer B chooses to accumulate costs incurred by Producer A with respect to the bearing rings used in the production of the bearings. Producer A provides to Producer B a statement described in paragraph 14(2)(b) *that specifies an amount equal to the value of other product costs used in the production of the finished bearing rings ($0.35). The net cost of the bearings (per unit) is calculated as follows:*

Product costs:	
Value of originating materials	*$0.45*
Value of non-originating materials ($1.50 - $0.35)	*1.15*
Other product costs ($0.75 + $0.35)	*1.10*
Period costs: (including $0.05 in excluded costs)	*0.15*
Other costs:	*0.05*
Total cost of the bearings, per unit:	*$2.90*
Excluded costs: (included in period costs)	*0.05*
Net cost of the bearings, per unit:	*$2.85*

Under the net cost method, the regional value content of the bearings is

$$RVC = \frac{NC - VNM}{NC} \times 100$$

$$= \frac{\$2.85 - \$1.15}{\$2.85} \times 100$$

$$= 59.7\%$$

Therefore, the bearings are originating goods.

Example 2: subsection 14(1)

Producer A, located in NAFTA country A, imports non-originating cotton, carded or combed, of heading No. 52.03 for use in the production of cotton yarn of heading No. 52.05. Because the change from cotton, carded or combed, to cotton yarn is a change within the same chapter, the cotton does not satisfy the applicable change in tariff classification for heading No. 52.05, which is a change from any other chapter,

with certain exceptions. Therefore, the cotton yarn that Producer A produces from non-originating cotton is a non-originating good.

Producer A then sells the non-originating cotton yarn to Producer B, also located in NAFTA country A, who uses the cotton yarn in the production of woven fabric of cotton of heading No. 52.08. The change from non-originating cotton yarn to woven fabric of cotton is insufficient to satisfy the applicable change in tariff classification for heading No. 52.08, which is a change from any heading outside heading Nos. 52.08 through 52.12, except from certain headings, under which various yarns, including cotton yarn of heading No. 52.05, are classified. Therefore, the woven fabric of cotton that Producer B produces from non-originating cotton yarn produced by Producer A is a non-originating good.

However, under subsection 14(1), if Producer B chooses to accumulate the production of Producer A, the production of Producer A would be considered to have been performed by Producer B. The rule for heading No. 52.08, under which the cotton fabric is classified, does not exclude a change from heading No. 52.03, under which carded or combed cotton is classified. Therefore, under subsection 14(1), the change from carded or combed cotton of heading No. 52.03 to the woven fabric of cotton of heading No. 52.08 would satisfy the applicable change of tariff classification for heading No. 52.08. The woven fabric of cotton would be considered as an originating good.

Producer B, in order to choose to accumulate Producer As production, must have a statement described in subparagraph 14(4)(a)*(ii).*

Inability to Provide Sufficient Information

15. (1) Where, during a verification of origin of a good, the person from whom a producer of the good acquired a material used in the production of that good is unable to provide the customs administration that is conducting the verification with sufficient information to substantiate that the material is an originating material or that the value of the material declared for purpose of calculating the regional value content of the good is accurate, and the inability of that person to provide the information is due to reasons beyond the control of that person, the customs administration shall, before making a determination as to the origin or value of the material, consider, where relevant, the following:

(a) whether the customs administration of the NAFTA country into the territory of which the good was imported issued an advance ruling under section 43.1 of the *Customs Act* with respect to that material that concluded that the material is an originating material or that the value of the material declared for purposes of calculating the regional value content of the good is accurate;

(b) whether an independent auditor has confirmed the accuracy of

(i) any signed statement referred to in these Regulations with respect to the material,

(ii) the information that was used by the person from whom the producer acquired the material to substantiate whether the material is an originating material, or

(iii) the information submitted by the producer of the material with an application for an advance ruling where, on the basis of that information, the customs administration concluded that the material is an originating material or that the value declared for the purpose of calculating the regional value content of the good is accurate;

(c) whether the customs administration has, before the start of the origin verification of the good, conducted a verification of origin of identical materials or similar materials produced by the producer of the material and determined that

(i) the identical materials or similar materials are originating materials, or

(ii) any signed statement referred to in these Regulations with respect to those identical materials or similar materials is accurate;

(d) whether the producer of the good has exercised due diligence to ensure that any signed statement that is referred to in these Regulations with respect to the material and that was provided by the person from whom the producer acquired the material is accurate;

(e) where the customs administration has access only to partial records of the person from whom the producer acquired the material, whether the records provide sufficient evidence to substantiate that the material is an originating material or that the value of the material declared for purposes of calculating the regional value content of the good is accurate;

(f) whether the customs administration can obtain, subject to sections 107 and 108 of the *Customs Act*, by means other than those referred to in paragraphs *(a)* through *(e)*, relevant information regarding the determination of the origin or value of the material from the customs administration of the NAFTA country in the territory of which the person from whom the producer acquired the material was located; and

(g) whether the producer of the good, the person from whom the producer acquired the material or a representative of that person or producer agrees to bear the expenses incurred in providing the customs administration with the assistance that it may require for determining the origin or value of the material.

(2) For purposes of subsection (1), reasons beyond the control of the person from whom the producer of the good acquired the material includes

(a) the bankruptcy of the person from whom the producer acquired the material or any other financial distress situation or business reorganization that resulted in that person or a related person having lost control of the records containing the information that substantiate that the material is an originating material or the value of the material declared for the purpose of calculating the regional value content of the good; and

(b) any other reason that results in partial or complete loss of records of that producer that the producer could not reasonably have been expected to foresee, including loss of records due to fire, flooding or other natural cause.

(3) Where, during a verification of origin of a good, the exporter or producer of the good is unable to provide the customs administration conducting the verification with sufficient information to substantiate that the good is an originating good, and the inability of that person to provide the information is due to reasons beyond the control of that person, the customs administration shall, before making a determination as to the origin of the good, consider, where relevant, the following:

(a) whether the customs administration of the NAFTA country into the territory of which the good was imported issued an advance ruling under section 43.1 of the *Customs Act* with respect to that good that concluded that the good is an originating good;

(b) whether an independent auditor has confirmed the accuracy of an origin statement with respect to the good;

(c) whether the customs administration has, before the start of the origin verification of the good, conducted a verification of origin of identical goods or similar goods produced by the producer of the good and determined that the identical goods or similar goods are originating goods;

(d) whether the exporter or producer of the good has exercised due diligence to ensure that the information provided to substantiate that the good is an originating good is sufficient;

(e) where the customs administration has access only to partial records of the exporter or producer of the good, whether the records provide sufficient evidence to substantiate that the good is an originating good;

(f) whether the customs administration can obtain, subject to sections 107 and 108 of the *Customs Act*, by means other than those referred to in paragraphs *(a)* through *(e)*, relevant information regarding the determination of the origin of the good from the customs administration of the NAFTA country in the territory of which the exporter or producer of the good was located; and

(g) whether the exporter or producer of the good or a representative of that person agrees to bear the expenses incurred in providing the customs administration with the assistance that it may require for determining the origin or value of the good.

(4) For purposes of subsection (3), "reasons beyond the control" of the exporter or producer of the good includes

(a) the bankruptcy of the exporter or producer or any other financial distress situation or business reorganization that resulted in that person or a related person having lost control of the records containing the information that substantiate that the good is an originating good; and

(b) any other reason that results in partial or complete loss of records of that exporter or producer that that person could not reasonably have been expected to foresee, including loss of records due to fire, flooding or other natural cause.

Transshipment

16. (1) A good is not an originating good by reason of having undergone production that occurs entirely in the territory of one or more of the NAFTA countries that would enable the good to qualify as an originating good if subsequent to that production

(a) the good is withdrawn from customs control outside the territories of the NAFTA countries; or

(b) the good undergoes further production or any other operation outside the territories of the NAFTA countries, other than unloading, reloading or any other operation necessary to preserve the good in good condition, such as inspection, removal of dust that accumulates during shipment, ventilation, spreading out or drying, chilling, replacing salt, sulphur dioxide or other aqueous solutions, replacing damaged packing materials and containers and removal of units of the good that are spoiled or damaged and present a danger to the remaining units of the good, or to transport the good to the territory of a NAFTA country.

(2) A good that is a non-originating good by application of subsection (1) is considered to be entirely non-originating for purposes of these Regulations.

(3) Subsection (1) does not apply with respect to a good of any of subheadings 8541.10 through 8541.60 and 8542.10 through 8542.70 where any further production or other operation that that good undergoes outside the territories of the NAFTA countries does not result in a change in the tariff classification of the good to a subheading outside subheadings 8541.10 through 8542.90.

Non-qualifying Operations

17. A good is not an originating good merely by reason of

(a) mere dilution with water or another substance that does not materially alter the characteristics of the good; or

(b) any production or pricing practice with respect to which it may be demonstrated, on the basis of a preponderance of evidence, that the object was to circumvent these Regulations.

2. Schedules II to XII to the Regulations are replaced by the following:

SCHEDULE II

VALUE OF GOODS

1. For purposes of this Schedule, unless otherwise stated:

"buyer" refers to a person who purchases a good from the producer; (*acheteur*)
"buying commissions" means fees paid by a buyer to that buyer's agent for the agent's services in representing the buyer in the purchase of a good; (*commission d'achat*)
"producer" refers to the producer of the good being valued. (*producteur*)

2. For purposes of subsection 6(2) of these Regulations, the transaction value of a good shall be the price actually paid or payable for the good, determined in accordance with section 3 and adjusted in accordance with section 4.

3. (1) The price actually paid or payable is the total payment made or to be made by the buyer to or for the benefit of the producer. The payment need not necessarily take the form of a transfer of money; it may be made by letters of credit or negotiable instruments. The payment may be made directly or indirectly to the producer. For an illustration of this, the settlement by the buyer, whether in whole or in part, of a debt owed by the producer is an indirect payment.

(2) Activities undertaken by the buyer on the buyer's own account, other than those for which an adjustment is provided in section 4, shall not be considered to be an indirect payment, even though the activities might be regarded as being for the benefit of the producer. For an illustration of this, the buyer, by agreement with the producer, undertakes activities relating to the marketing of the good. The costs of such activities shall not be added to the price actually paid or payable.

(3) The transaction value shall not include the following charges or costs, provided that they are distinguished from the price actually paid or payable:

(a) charges for construction, erection, assembly, maintenance or technical assistance related to the good undertaken after the good has been sold to the buyer; or

(b) duties and taxes paid in the country in which the buyer is located with respect to the good.

(4) The flow of dividends or other payments from the buyer to the producer that do not relate to the purchase of the good are not part of the transaction value.

4. (1) In determining the transaction value of a good, the following shall be added to the price actually paid or payable:

(a) to the extent that they are incurred by the buyer, or by a related person on behalf of the buyer, with respect to the good being valued and are not included in the price actually paid or payable

(i) commissions and brokerage fees, except buying commissions,

(ii) the costs of transporting the good to the producer's point of direct shipment and the costs of loading, unloading, handling and insurance that are associated with that transportation, and

(iii) where the packaging materials and containers in which the good is packaged for retail sale are classified with the good under the Harmonized System, the value of the packaging materials and containers;

(b) the value, reasonably allocated in accordance with subsection (12), of the following elements where they are supplied directly or indirectly to the producer by the buyer, free of charge or at reduced cost for use in connection with the production and sale of the good, to the extent that the value is not included in the price actually paid or payable:

(i) a material, other than an indirect material, used in the production of the good,

(ii) tools, dies, moulds and similar indirect materials used in the production of the good,

(iii) an indirect material, other than those referred to in subparagraph (ii) or in paragraphs *(c)*, *(e)* or *(f)* of the definition "indirect material" set out in subsection 2(1) of these Regulations, used in the production of the good, and

(iv) engineering, development, artwork, design work, and plans and sketches necessary for the production of the good, regardless of where performed;

(c) the royalties related to the good, other than charges with respect to the right to reproduce the good in the territory of one or more of the NAFTA countries, that the buyer must pay directly or indirectly as a condition of sale of the good, to the extent that such royalties are not included in the price actually paid or payable; and

(d) the value of any part of the proceeds of any subsequent resale, disposal or use of the good that accrues directly or indirectly to the producer.

(2) The additions referred to in subsection (1) shall be made to the price actually paid or payable under this section only on the basis of objective and quantifiable data.

(3) Where objective and quantifiable data do not exist with regard to the additions required to be made to the price actually paid or payable under subsection (1), the transaction value cannot be determined under section 2.

(4) No additions shall be made to the price actually paid or payable for the purpose of determining the transaction value except as provided in this section.

(5) The amounts to be added under subparagraphs (1)*(a)*(i) and (ii) shall be

(a) those amounts that are recorded on the books of the buyer; or

(b) where those amounts are costs incurred by a related person on behalf of the buyer and are not recorded on the books of the buyer, those amounts that are recorded on the books of that related person.

(6) The value of the packaging materials and containers referred to in subparagraph (1)*(a)*(iii) and the value of the elements referred to in subparagraph (1)*(b)*(i) shall be

(a) where the packaging materials and containers or the elements are imported from outside the territory of the NAFTA country in which the producer is located, the customs value of the packaging materials and containers or the elements,

(b) where the buyer, or a related person on behalf of the buyer, purchases the packaging materials and containers or the elements from an unrelated person in the territory of the NAFTA country in which the producer is located, the price actually paid or payable for the packaging materials and containers or the elements,

(c) where the buyer, or a related person on behalf of the buyer, acquires the packaging materials and containers or the elements from an unrelated person in the territory of the NAFTA country in which the producer is located other than through a purchase, the value of the consideration related to the acquisition of the packaging materials and containers or the elements, based on the cost of the consideration that is recorded on the books of the buyer or the related person, or

(d) where the packaging materials and containers or the elements are produced by the buyer, or by a related person, in the territory of the NAFTA country in which the producer is located, the total cost of the packaging materials and containers or the elements, determined in accordance with subsection (7),

and shall include the following costs that are recorded on the books of the buyer or the related person supplying the packaging materials and containers or the elements on behalf of the buyer, to the extent that such costs are not included under paragraphs *(a)* through *(d)*:

(e) the costs of freight, insurance, packing, and all other costs incurred in transporting the packaging materials and containers or the elements to the location of the producer,

(f) duties and taxes paid or payable with respect to the packaging materials and containers or the elements, other than duties and taxes that are waived, refunded, refundable or otherwise recoverable, including credit against duty or tax paid or payable,

(g) customs brokerage fees, including the cost of in-house customs brokerage services, incurred with respect to the packaging materials and containers or the elements, and

(h) the cost of waste and spoilage resulting from the use of the packaging materials and containers or the elements in the production of the good, less the value of renewable scrap or by-product.

(7) For purposes of paragraph (6)*(d)*, the total cost of the packaging materials and containers referred to in subparagraph (1)*(a)*(iii) or the elements referred to in subparagraph (1)*(b)*(i) shall be

(a) where the packaging materials and containers or the elements are produced by the buyer, at the choice of the buyer,

(i) the total cost incurred with respect to all goods produced by the buyer, calculated on the basis of the costs that are recorded on the books of the buyer, that can be reasonably allocated to the packaging materials and containers or the elements in accordance with Schedule VII, or

(ii) the aggregate of each cost incurred by the buyer that forms part of the total cost incurred with respect to the packaging materials and containers or the elements, calculated on the basis of the costs that are recorded on the books of the buyer, that can be reasonably allocated to the packaging materials and containers or the elements in accordance with Schedule VII; and

(b) where the packaging materials and containers or the elements are produced by a person who is related to the buyer, at the choice of the buyer,

(i) the total cost incurred with respect to all goods produced by that related person, calculated on the basis of the costs that are recorded on the books of that person, that can be reasonably allocated to the packaging materials and containers or the elements in accordance with Schedule VII, or

(ii) the aggregate of each cost incurred by that related person that forms part of the total cost incurred with respect to the packaging materials and containers or the elements, calculated on the basis of the costs that are recorded on the books of that person, that can be reasonably allocated to the packaging materials and containers or the elements in accordance with Schedule VII.

(8) Except as provided in subsections (10) and (11), the value of the elements referred to in subparagraphs (1)*(b)*(ii) through (iv) shall be

(a) the cost of those elements that is recorded on the books of the buyer; or

(b) where such elements are provided by another person on behalf of the buyer and the cost is not recorded on the books of the buyer, the cost of those elements that is recorded on the books of that other person.

(9) Where the elements referred to in subparagraphs (1)*(b)*(ii) through (iv) were previously used by or on behalf of the buyer, the value of the elements shall be adjusted downward to reflect that use.

(10) Where the elements referred to in subparagraphs (1)*(b)*(ii) and (iii) were leased by the buyer or a person related to the buyer, the value of the elements shall be the cost of the lease as recorded on the books of the buyer or that related person.

(11) No addition shall be made to the price actually paid or payable for the elements referred to in subparagraph (1)*(b)*(iv) that are available in the public domain, other than the cost of obtaining copies of them.

(12) The producer shall choose the method of allocating to the good the value of the elements referred to in subparagraphs (1)*(b)*(ii) through (iv), provided that the value is reasonably allocated to the good in a manner appropriate to the circumstances. The methods the producer may choose to allocate the value include allocating the value over the number of units produced up to the time of the first shipment or allocating the value over the entire anticipated production where contracts or firm commitments exist for that production. For an illustration of this, a buyer provides the producer with a mould to be used in the production of the good and contracts with the producer to buy 10,000 units of that good. By the time the first shipment of 1,000 units arrives, the producer has already produced 4,000 units. In these circumstances, the producer may choose to allocate the value of the mould over 4,000 units or 10,000 units but shall not choose to allocate the value of the elements to the first shipment of 1,000 units. The producer may choose to allocate the entire value of the elements to a single shipment of a good only where that single shipment comprises all of the units of the good acquired by the buyer under the contract or commitment for that number of units of the good between the producer and the buyer.

(13) The addition for the royalties referred to in paragraph (1)*(c)* shall be the payment for the royalties that is recorded on the books of the buyer, or where the payment for the royalties is recorded on the books of another person, the payment for the royalties that is recorded on the books of that other person.

(14) The value of the proceeds referred to in paragraph (1)*(d)* shall be the amount that is recorded for such proceeds on the books of the buyer or the producer.

SCHEDULE III

UNACCEPTABLE TRANSACTION VALUE

1. For purposes of this Schedule, unless otherwise stated

"buyer" refers to a person who purchases a good from the producer; (*acheteur*)
"customs administration" refers to the customs administration of the NAFTA country into whose territory the good being valued is imported; (*administration douanière*)
"producer" refers to the producer of the good being valued. (*producteur*)

2. (1) There is no transaction value for a good where the good is not the subject of a sale.

(2) The transaction value of a good is unacceptable where

(a) there are restrictions on the disposition or use of the good by the buyer, other than restrictions that

(i) are imposed or required by law or by the public authorities in the territory of the NAFTA country in which the buyer is located,

(ii) limit the geographical area in which the good may be resold, or

(iii) do not substantially affect the value of the good;

(b) the sale or price actually paid or payable is subject to a condition or consideration for which a value cannot be determined with respect to the good;

(c) part of the proceeds of any subsequent resale, disposal or use of the good by the buyer will accrue directly or indirectly to the producer, and an appropriate addition to the price actually paid or payable cannot be made in accordance with paragraph 4(1)*(d)* of Schedule II; or

(d) except as provided in section 3, the producer and the buyer are related persons and the relationship between them influenced the price actually paid or payable for the good.

(3) The conditions or considerations referred to in paragraph (2)*(b)* include the following circumstances:

(a) the producer establishes the price actually paid or payable for the good on condition that the buyer will also buy other goods in specified quantities;

(b) the price actually paid or payable for the good is dependent on the price or prices at which the buyer sells other goods to the producer of the good; and

(c) the price actually paid or payable is established on the basis of a form of payment extraneous to the good, such as where the good is a semi-finished good that has been provided by the producer to the buyer on condition that the producer will receive a specified quantity of the finished good from the buyer.

(4) For purposes of paragraph (2)*(b)*, conditions or considerations relating to the production or marketing of the good shall not render the transaction value unacceptable, such as where the buyer undertakes on the buyer's own account, even though by agreement with the producer, activities relating to the marketing of the good.

(5) Where objective and quantifiable data do not exist with regard to the additions required to be made to the price actually paid or payable under subsection 4(1) of Schedule II, the transaction value cannot be determined under the provisions of section 2 of that Schedule. For an illustration of this, a royalty is paid on the basis of the price actually paid or payable in a sale of a litre of a particular good that was purchased by the kilogram and made up into a solution. If the royalty is based partially on the purchased good and partially on other factors that have nothing to do with that good, such as when the purchased good is mixed with other ingredients and is no longer separately identifiable, or when the royalty cannot be distinguished from special financial arrangements between the producer and the buyer, it would be inappropriate to add the royalty and the transaction value of the good could not be determined. However, if the amount of the royalty is based only on the purchased good and can be readily quantified, an addition to the price actually paid or payable can be made and the transaction value can be determined.

3. (1) In determining whether the transaction value is unacceptable under paragraph 2(2)*(d)*, the fact that the producer and the buyer are related persons shall not in itself be grounds for the customs administration to render the transaction value unacceptable. In such cases, the circumstances surrounding the sale shall be examined and the transaction value shall be accepted provided that the relationship between the producer and the buyer did not influence the price actually paid or payable. Where the customs administration has reasonable grounds for considering that the relationship between the producer and the buyer influenced the price, the customs administration shall communicate the grounds to the producer, and that producer shall be given a reasonable opportunity to respond to the grounds communicated by the customs administration. If that producer so requests, the customs administration shall communicate in writing the grounds on which it considers that the relationship between the producer and the buyer influenced the price actually paid or payable.

(2) Subsection (1) provides that, where the producer and the buyer are related persons, the circumstances surrounding the sale shall be examined and the transaction value shall be accepted as the value provided that the relationship between the producer and the buyer did not influence the price actually paid or payable. It is not intended under subsection (1) that there should be an examination of the circumstances in all cases where the producer and the buyer are related persons. Such an examination will

only be required where the customs administration has doubts that the price actually paid or payable is acceptable because of the relationship between the producer and the buyer. Where the customs administration does not have doubts that the price actually paid or payable is acceptable, it shall accept that price without requesting further information. For an illustration of this, the customs administration may have previously examined the relationship between the producer and the buyer, or it may already have detailed information concerning the relationship between the producer and the buyer, and may already be satisfied from that examination or information that the relationship between them did not influence the price actually paid or payable.

(3) In applying subsection (1), where the producer and the buyer are related persons and the customs administration has doubts that the transaction value is acceptable without further inquiry, the customs administration shall give the producer an opportunity to supply such further information as may be necessary to enable it to examine the circumstances surrounding the sale. In such a case, the customs administration shall examine the relevant aspects of the sale, including the way in which the producer and the buyer organize their commercial relations and the way in which the price actually paid or payable for the good being valued was arrived at, in order to determine whether the relationship between the producer and the buyer influenced that price actually paid or payable. Where it can be shown that the producer and the buyer buy from and sell to each other as if they were not related persons, the price actually paid or payable shall be considered as not having been influenced by the relationship between them. For an illustration of this, if the price actually paid or payable for the good had been settled in a manner consistent with the normal pricing practices of the industry in question or with the way in which the producer settles prices for sales to unrelated buyers, the price actually paid or payable shall be considered as not having been influenced by the relationship between the buyer and the producer. As another illustration, where it is shown that the price actually paid or payable for the good is adequate to ensure recovery of the total cost of producing the good plus a profit that is representative of the producer's overall profit realized over a representative period of time, such as on an annual basis, in sales of goods of the same class or kind, the price actually paid or payable shall be considered as not having been influenced by the relationship between the producer and the buyer.

(4) In a sale between a producer and a buyer who are related persons, the transaction value shall be accepted and determined in accordance with section 2 of Schedule II wherever the producer demonstrates that the transaction value of the good in that sale closely approximates a test value referred to in sub-section (5).

(5) The value to be used as a test value shall be the transaction value of identical goods or similar goods sold at or about the same time as the good being valued is sold to an unrelated buyer who is located in the territory of the NAFTA country in which the buyer is located.

(6) In applying a test value referred to in subsection (4), due account shall be taken of demonstrated differences in commercial levels, quantity levels, the value of the elements specified in paragraph 4(1)*(b)* of Schedule II and the costs incurred by the producer in sales to unrelated buyers that are not incurred by the producer in sales to a related person.

(7) The application of the test value referred to in subsection (4) shall be used at the initiative of the producer and shall be used only for comparison purposes to determine whether the transaction value of the good is acceptable. The test value shall not be used as the transaction value of that good.

(8) Subsection (4) provides an opportunity for the producer to demonstrate that the transaction value closely approximates a test value previously accepted by the customs administration, and is therefore acceptable under subsections (1) and (4). Where the application of a test value under subsection (4) demonstrates that the transaction value of the good being valued is acceptable, the customs administration shall not examine the question of influence in regard to the relationship between the producer and the buyer under subsection (1). Where the customs administration already has sufficient information available, without further inquiries, that the transaction value closely approximates a test value referred to in subsection (4), the producer is not required to apply a test value to demonstrate that the transaction value is acceptable under that subsection.

(9) A number of factors must be taken into consideration for the purpose of determining whether the transaction value of the identical goods or similar goods closely approximates the transaction value of the good being valued. These factors include the nature of the good, the nature of the industry itself, the season in which the good is sold, and whether the difference in values is commercially significant. Since these factors may vary from case to case, it would be impossible to apply an acceptable standardized difference such as a fixed amount or fixed percentage difference in each case. For an illustration of this, a small difference in value in a case involving one type of good could be unacceptable, while a large difference in a case involving another type of good might be acceptable for the purposes of determining whether the transaction value closely approximates a test value set out in subsection (4).

SCHEDULE IV

LIST OF TARIFF PROVISIONS FOR THE PURPOSES OF SECTION 9

40.09
4010.31, 4010.34 and 4010.39.10
40.11
4016.93.10
4016.99.30
7007.11 and 7007.21
7009.10
8301.20
8407.31
8407.32
8407.33
8407.34.10
8407.34.21, 8407.34.29
8408.20
84.09
8413.30
8414.80.10
8415.20
8421.39.20
8481.20, 8481.30 and 8481.80
8482.10 through 8482.80
8483.10 through 8483.40
8483.50
8501.10
8501.20
8501.31
8501.32.20
8507.20.10, 8507.30.20, 8507.40.10 and 8507.80.20
8511.30
8511.40
8511.50
8512.20
8512.40
8519.93
8527.21
8527.29
8536.50
8536.90
8537.10.21 and 8537.10.29
8539.10
8539.21
8544.30
87.06
87.07
8708.10.10
8708.21
8708.29.11 and 8708.29.19
8708.29.20
8708.29.30
8708.29.40
8708.39
8708.40
8708.50
8708.60
8708.70.11 and 8708.70.19
8708.80
8708.91
8708.92
8708.93.11 and 8708.93.19
8708.94
8708.99.11, 8708.99.12 and 8708.99.13
8708.99.17, 8708.99.18 and 8708.99.19
8708.99.21, 8708.99.22 and 8708.99.29
8708.99.31, 8708.99.32 and 8708.99.33 and 8708.99.39
8708.99.41, 8708.99.42 and 8708.99.49
8708.99.51, 8708.99.52 and 8708.99.59
8708.99.92, 8708.99.93 and 8708.99.99
9031.80
9032.89
9401.20

SCHEDULE V

LIST OF AUTOMOTIVE COMPONENTS
AND MATERIALS FOR THE PURPOSES
OF SECTION 10

Item	Column I Automotive Components	Column II Listed Materials
1.	Engines of heading No. 84.07 or 84.08	cast blocks, cast heads, fuel nozzles, fuel injector pumps, glow plugs, turbochargers, superchargers, electronic engine controls, intake manifolds, exhaust manifolds, intake valves, exhaust valves, crankshafts, camshafts, alternators, starters, air cleaner assemblies, pistons, connecting rods and assemblies made therefrom, rotor assemblies for rotary engines, flywheels (for manual transmissions), flexplates (for automatic transmissions), oil pans, oil pumps, pressure regulators, water pumps, crankshaft gears, camshaft gears, radiator assemblies, charge-air coolers.
2.	Gear boxes (transmissions) of subheading No. 8708.40	*(a)* for manual transmissions: transmission cases and clutch housings; clutches; internal shifting mechanisms; gear sets, synchronizers and shafts; and *(b)* for torque convertor type transmissions: transmission cases and convertor housings; torque convertor assemblies; gear sets and clutches; electronic transmission controls.

SCHEDULE VI

REGIONAL VALUE-CONTENT
CALCULATION FOR CAMI

1. In this Schedule,

"closed" means, with respect to a plant, a closure

(a) for purposes of re-tooling for a change in model line, or

(b) as a result of any event or circumstance (other than the imposition of antidumping duties or countervailing duties, or an interruption of operations resulting from a labour strike, lock-out, labour dispute, picketing or boycott of or by employees of CAMI Automotive, Inc. or General Motors of Canada Limited) that CAMI Automotive, Inc. or General Motors of Canada Limited could not reasonably have been expected to avert by corrective action or by exercise of due care and diligence, including a shortage of materials, failure of utilities, or inability to obtain or a delay in obtaining raw materials, parts, fuel or utilities; (*fermée*)

"GM" means General Motors of Canada Limited, General Motors Corporation, General Motors de Mexico, S.A. de C.V., and any subsidiary directly or indirectly owned by any of them, or by any combination thereof; (*GM*)

"producer" means CAMI Automotive, Inc. (*producteur)*

2. For purposes of section 11 of these Regulations, for purposes of determining the regional value content, in a fiscal year, of a motor vehicle of a class of motor vehicles or a model line produced by the producer in the territory of Canada and imported into the territory of the United States, the producer may elect to calculate the regional value content by

(a) calculating

(i) the sum of

(A) the net cost incurred by the producer, during that fiscal year, in the production in the territory of Canada of motor vehicles of a category referred to in section 3 that is chosen by the producer, and

(B) the net cost incurred by General Motors of Canada Limited, during the fiscal year that corresponds most closely to the producer's fiscal year, in the production in the territory of Canada of a corresponding class of motor vehicles or model line, and

(ii) the sum of

(A) the value, determined in accordance with section 9 of these Regulations for light-duty vehicles and section 10 of these Regulations for heavy-duty vehicles, of the non-originating materials that are used by the producer, during that fiscal year, in the production in the territory of Canada of motor vehicles of a category referred to in section 3 that is chosen by the producer, and

(B) the value, determined in accordance with section 9 of these Regulations for light-duty vehicles and section 10 of these Regulations for heavy-duty vehicles, of the non-originating materials that are used by General Motors of Canada Limited, during the fiscal year that corresponds most closely to the producer's fiscal year, in the production in the territory of Canada of a corresponding class of motor vehicles or model line, and

(b) using the sums referred to in subparagraphs *(a)*(i) and (ii) as the net cost and the value of non-originating materials, respectively, in the calculation referred to in subsection 6(3) of these Regulations,

provided that

(c) at the beginning of the producer's fiscal year, General Motors of Canada Limited owns 50 per cent or more of the voting common stock of the producer, and

(d) GM acquires 75 per cent or more by unit of quantity of the class of motor vehicles or model line, as the case may be, that the producer produced in the territory of Canada in the producer's fiscal year for sale in the territory of one or more of the NAFTA countries.

3. The categories referred to in clauses 2*(a)*(i)(A) and (ii)(A) are the following:

(a) the class of motor vehicles that the producer produced in the territory of Canada in the producer's fiscal year for sale in the territory of one or more of the NAFTA countries; and

(b) the model line that the producer produced in the territory of Canada in the producer's fiscal year for sale in the territory of one or more of the NAFTA countries.

4. Where GM does not satisfy the requirement set out in paragraph 2*(d)*, the producer may choose that the regional value content be calculated in accordance with section 2 only for those motor vehicles that are acquired by GM for distribution under the GEO marque or another GM marque.

5. (1) The producer may choose that the calculation referred to in section 2 be made over a period of two fiscal years where

(a) any plant operated by the producer or by General Motors of Canada Limited is closed for more than two consecutive months; and

(b) the motor vehicles of a category referred to in section 3, with respect to which the producer elects that the regional value content be calculated in accordance with section 2, are produced in that plant.

(2) Subject to subsection (3), the period of two fiscal years referred to in subsection (1) corresponds to the fiscal year in which the plant is closed and, at the choice of the producer, the preceding or the subsequent fiscal year.

(3) Where the plant is closed for a period that spans two fiscal years, the calculation referred to in section 2 may be made only over those two fiscal years.

(4) Where the producer has elected that the regional value content be calculated over two fiscal years under this section, the election referred to in subsection 11(6) of these Regulations shall be filed not later than 10 days after the end of the period during which the plant is closed, or at such later time as the customs administration may accept.

6. For purposes of this Schedule, a motor vehicle producer shall be deemed to be GM where, as a result of an amalgamation, reorganization, division or similar transaction, that motor vehicle producer

(a) acquires all or substantially all of the assets used by GM, and

(b) directly or indirectly controls, or is controlled by, GM, or both that motor vehicle producer and GM are controlled by the same person.

SCHEDULE VII

REASONABLE ALLOCATION OF COSTS

Definitions and Interpretation

1. For purposes of this Schedule,

"costs" means any costs that are included in total cost and that need to be allocated pursuant to subsections 5(9), 6(11) and 7(6) and subparagraphs 10(1)*(a)*(i) and (ii) of these Regulations, subsection 4(7) of Schedule II and subsections 5(7) and 10(2) of Schedule VIII; (*coûts*)

"discontinued operations," in the case of a producer located in a NAFTA country, has the meaning set out in that NAFTA country's Generally Accepted Accounting Principles; (*activités abandonnées*)

"indirect overhead" means period costs and other costs; (*frais généraux indirects*)

"internal management purpose" means any purpose relating to tax reporting, financial reporting, financial planning, decision-making, pricing, cost recovery, cost control management or performance measurement; (*fins de gestion interne*)

"overhead" means costs, other than direct material costs and direct labour costs. (*frais généraux*)

2. (1) In this Schedule, reference to "producer" shall, for purposes of subsection 4(7) of Schedule II, be read as a reference to "buyer."

(2) In this Schedule, reference to "good" shall,

(a) for purposes of subsection 6(15) of these Regulations, be read as a reference to "identical goods or similar goods, or any combination thereof";

(b) for purposes of subsection 7(6) of these Regulations, be read as a reference to "intermediate material";

(c) for purposes of section 11 of these Regulations, be read as a reference to "category of vehicles that is chosen pursuant to subsection 11(1) of these Regulations";

(d) for purposes of section 12 of these Regulations, be read as a reference to "category of goods chosen pursuant to subsection 12(1) of these Regulations";

(e) for purposes of subsection 13(4) of these Regulations, be read as a reference to "category of vehicles chosen pursuant to subsection 13(4) of these Regulations";

(f) for purposes of subsection 4(7) of Schedule II, be read as a reference to "packaging materials and containers or the elements"; and

(g) for purposes of subsection 5(7) of Schedule VIII, be read as a reference to "elements."

Methods to Reasonably Allocate Costs

3. (1) Where a producer of a good is using, for an internal management purpose, a cost allocation method to allocate to the good direct material costs, or part thereof, and that method reasonably reflects the direct material used in the production of the good based on the criterion of benefit, cause or ability to bear, that method shall be used to reasonably allocate the costs to the good.

(2) Where a producer of a good is using, for an internal management purpose, a cost allocation method to allocate to the good direct labour costs, or part thereof, and that method reasonably reflects the direct labour used in the production of the good based on the criterion of benefit, cause or ability to bear, that method shall be used to reasonably allocate the costs to the good.

(3) Where a producer of a good is using, for an internal management purpose, a cost allocation method to allocate to the good overhead, or part thereof, and that method is based on the criterion of benefit, cause or ability to bear, that method shall be used to reasonably allocate the costs to the good.

4. Where costs are not reasonably allocated to a good under section 3, those costs are reasonably allocated to the good if they are allocated,

(a) with respect to direct material costs, on the basis of any method that reasonably reflects the direct material used in the production of the good based on the criterion of benefit, cause or ability to bear;

(b) with respect to direct labour costs, on the basis of any method that reasonably reflects the direct labour used in the production of the good based on the criterion of benefit, cause or ability to bear; and

(c) with respect to overhead, on the basis of any of the following methods:

(i) the method set out in Appendix A, Appendix B or Appendix C,

(ii) a method based on a combination of the methods set out in Appendices A and B or Appendices A and C, and

(iii) a cost allocation method based on the criterion of benefit, cause or ability to bear.

4.1 Notwithstanding sections 3 and 7, where a producer allocates, for an internal management purpose, costs to a good that is not produced in the period in which the costs are expensed on the books of the producer (such as costs with respect to research and development, and obsolete materials), those costs shall be considered reasonably allocated if

(*a*) for purposes of subsection 6(11)**,** they are allocated to a good that is produced in the period in which the costs are expensed, and

(b) the good produced in that period is within a group or range of goods, including identical goods or similar goods, that is produced by the same industry or industry sector as the goods to which the costs are expensed.

5. Any cost allocation method referred to in section 3, 4 or 4.1 that is used by a producer for the purposes of these Regulations shall be used throughout the producer's fiscal year.

Costs Not Reasonably Allocated

6. The allocation to a good of any of the following is considered not to be reasonably allocated to the good:

(a) costs of a service provided by a producer of a good to another person where the service is not related to the good;

(b) gains or losses resulting from the disposition of a discontinued operation, except gains or losses related to the production of the good;

(c) cumulative effects of accounting changes reported in accordance with a specific requirement of the applicable Generally Accepted Accounting Principles; and

(d) gains or losses resulting from the sale of a capital asset of the producer.

7. Any costs allocated under section 3 on the basis of a cost allocation method that is used for an internal management purpose that is solely for the purpose of qualifying a good as an originating good are considered not to be reasonably allocated.

APPENDIX A

COST RATIO METHOD

Calculation of Cost Ratio

For the overhead to be allocated, the producer may choose one or more allocation bases that reflect a relationship between the overhead and the good based on the criterion of benefit, cause or ability to bear.

With respect to each allocation base that is chosen by the producer for allocating overhead, a cost ratio is calculated for each good produced by the producer in accordance with the following formula:

$$CR = \frac{AB}{TAB}$$

where

CR is the cost ratio with respect to the good;

AB is the allocation base for the good; and

TAB s the total allocation base for all the goods produced by the producer.

Allocation to a Good of Costs included in Overhead

The costs with respect to which an allocation base is chosen are allocated to a good in accordance with the following formula:

$$CAG = CA \times CR$$

where

CAG is the costs allocated to the good;

CA is the costs to be allocated; and

CR is the cost ratio with respect to the good.

Excluded Costs

Under paragraph 6(11)*(b)* of these Regulations, where excluded costs are included in costs to be allocated to a good, the cost ratio used to allocate that cost to the good is used to determine the amount of excluded costs to be subtracted from the costs allocated to the good.

Allocation Bases for Costs

The following is a non-exhaustive list of allocation bases that may be used by the producer to calculate cost ratios:

Direct Labour Hours
Direct Labour Costs
Units Produced
Machine-hours
Sales Dollars or Pesos
Floor Space

"Examples"

The following examples illustrate the application of the cost ratio method to costs included in overhead.

Example 1: Direct Labour Hours

A producer who produces Good A and Good B may allocate overhead on the basis of direct labour hours spent to produce Good A and Good B. A total of 8,000 Direct labour hours have been spent to produce Good A and Good B: 5,000 hours with respect to Good A and 3,000 hours with respect to Good B. The amount of overhead to be allocated is $6,000,000.

Calculation of the Ratios:

Good A: 5,000 hours/8,000 hours = .625
Good B: 3,000 hours/8,000 hours = .375

Allocation of Overhead to Good A and Good B:

Good A: $6,000,000 × .625 = $3,750,000
Good B: $6,000,000 × .375 = $2,250,000

Example 2: Direct Labour Costs

A producer who produces Good A and Good B may allocate overhead on the basis of direct labour costs incurred in the production of Good A and Good B. The total direct labour costs incurred in the production of Good A and Good B is $60,000: $50,000 with respect to Good A and $10,000 with respect to Good B. The amount of overhead to be allocated is $6,000,000.

Calculation of the Ratios:

Good A: $50,000/$60,000 = .833
Good B: $10,000/$60,000 = .167

Allocation of Overhead to Good A and Good B:

Good A: $6,000,000 × .833 = $4,998,000
Good B: $6,000,000 × .167 = $1,002,000

Example 3: Units Produced

A producer of Good A and Good B may allocate overhead on the basis of units produced. The total units of Good A and Good B produced is 150,000: 100,000 units of Good A and 50,000 units of Good B. The amount of overhead to be allocated is $6,000,000.

Calculation of the Ratios:

Good A: 100,000 units/150,000 units = .667
Good B: 50,000 units/150,000 units = .333

Allocation of Overhead to Good A and Good B:

Good A: $6,000,000 × .667 = $4,002,000
Good B: $6,000,000 × .333 = $1,998,000

Example 4: Machine-hours

A producer who produces Good A and Good B may allocate machine-related overhead on the basis of machine-hours utilized in the production of Good A and Good B. The total machine-hours utilized for the production of Good A and Good B is 3,000 hours: 1,200 hours with respect to Good A and 1,800 hours with respect to Good B. The amount of machine-related overhead to be allocated is $6,000,000.

Calculation of the Ratios:

Good A: 1,200 machine-hours/3,000 machine-hours = .40
Good B: 1,800 machine-hours/3,000 machine-hours = .60

Allocation of Machine-related Overhead to Good A and Good B:

Good A: $6,000,000 × .40 = $2,400,000
Good B: $6,000,000 × .60 = $3,600,000

Example 5: Sales Dollars or Pesos

A producer who produces Good A and Good B may allocate overhead on the basis of sales dollars. The producer sold 2,000 units of Good A at $4,000 and 200 units of Good B at $3,000. The amount of overhead to be allocated is $6,000,000.

Total Sales Dollars for Good A and Good B:

Good A: $4,000 × 2,000 = $8,000,000
Good B: $3,000 × 200 = $600,000

Total Sales Dollars: $8,000,000 + $600,000 = $8,600,000

Calculation of the Ratios:

Good A: $8,000,000/$8,600,000 = .93
Good B: $600,000/$8,600,000 = .07

Allocation of Overhead to Good A and Good B:

Good A: $6,000,000 × .93 = $5,580,000
Good B: $6,000,000 × .07 = $420,000

Example 6: Floor Space

A producer who produces Good A and Good B may allocate overhead relating to utilities (heat, water and electricity) on the basis of floor space used in the production and storage of Good A and Good B. The total floor space used in the production and storage of Good A and Good B is 100,000 square feet: 40,000 square feet with respect to Good A and 60,000 square feet with respect to Good B. The amount of overhead to be allocated is $6,000,000.

Calculation of the Ratios:

Good A: 40,000 square feet/100,000 square feet = .40
Good B: 60,000 square feet/100,000 square feet = .60

Allocation of Overhead (Utilities) to Good A and Good B:

Good A: $6,000,000 × .40 = $2,400,000
Good B: $6,000,000 × .60 = $3,600,000

APPENDIX B

DIRECT LABOUR
AND DIRECT MATERIAL
RATIO METHOD

Calculation of Direct Labour and Direct Material Ratio

For each good produced by the producer, a direct labour and direct material ratio is calculated in accordance with the following formula:

$$DLDMR = \frac{DLC + DMC}{TDLC + TDMC}$$

where

DLDMR is the direct labour and direct material ratio for the good;

DLC is the direct labour costs of the good;

DMC is the direct material costs of the good;

TDLC is the total direct labour costs of all goods produced by the producer; and

TDMC is the total direct material costs of all goods produced by the producer.

Allocation of Overhead to a Good

Overhead is allocated to a good in accordance with the following formula:

$$OAG = O \times DLDMR$$

where

OAG is the overhead allocated to the good;

O is the overhead to be allocated; and

DLDMR is the direct labour and direct material ratio for the good.

Excluded Costs

Under paragraph 6(11)*(b)* of these Regulations, where excluded costs are included in overhead to be allocated to a good, the direct labour and direct material ratio used to allocate overhead to the good is used to determine the amount of excluded costs to be subtracted from the overhead allocated to the good.

"Examples"

Example 1

The following example illustrates the application of the direct labour and direct material ratio method used by a producer of a good to allocate overhead where the producer chooses to calculate the net cost of the good in accordance with paragraph 6(11)(a) *of these Regulations.*

A producer produces Good A and Good B. Overhead (O) minus excluded costs (EC) is $30 and the other relevant costs are set out in the following table:

	Good A	*Good B*	*Total*
Direct labour costs (DLC)	*$ 5*	*$ 5*	*$10*
Direct material costs (DMC)	*10*	*5*	*15*
Totals	*$15*	*$10*	*$25*

Overhead Allocated to Good A

OAG (Good A) = O ($30) ×DLDMR ($15/$25)

OAG (Good A) = $18.00

Overhead Allocated to Good B

OAG (Good B) = O ($30)´×DLDMR ($10/$25)

OAG (Good B) = $12

Example 2

The following example illustrates the application of the direct labour and direct material ratio method used by a producer of a good to allocate overhead where the producer chooses to calculate the net cost of the good in accordance with paragraph 6(11)(b) *of these Regulations and where excluded costs are included in overhead.*

A producer produces Good A and Good B. Overhead (O) is $50 (including excluded costs (EC) of $20). The other relevant costs are set out in the table to Example 1.

Overhead Allocated to Good A

OAG (Good A) = [O ($50) ×DLDMR ($15/$25)] - [EC ($20) ×DLDMR ($15/$25)]

OAG (Good A) = $18

Overhead Allocated to Good B

OAG (Good B) = [O ($50) ×DLDMR ($10/$25)] - [EC ($20) ×DLDMR ($10/$25)]

OAG (Good B) = $12

APPENDIX C

DIRECT COST RATIO METHOD

Direct Overhead

Direct overhead is allocated to a good on the basis of a method based on the criterion of benefit, cause or ability to bear.

Indirect Overhead

Indirect overhead is allocated on the basis of a direct cost ratio.

Calculation of Direct Cost Ratio

For each good produced by the producer, a direct cost ratio is calculated in accordance with the following formula:

$$DCR = \frac{DLC + DMC + DO}{TDLC + TDMC + TDO}$$

where

DCR is the direct cost ratio for the good;

DLC is the direct labour costs of the good;

DMC is the direct material costs of the good;

DO is the direct overhead of the good;

TDLC is the total direct labour costs of all goods produced by the producer;

TDMC is the total direct material costs of all goods produced by the producer; and

TDO is the total direct overhead of all goods produced by the producer.

Allocation of Indirect Overhead to a Good

Indirect overhead is allocated to a good in accordance with the following formula:

IOAG = IO × DCR

where

IOAG is the indirect overhead allocated to the good;

IO is the indirect overhead of all goods produced by the producer; and

DCR is the direct cost ratio of the good.

Excluded Costs

Under paragraph 6(11)*(b)* of these Regulations, where excluded costs are included in

(a) direct overhead to be allocated to a good, those excluded costs are subtracted from the direct overhead allocated to the good; and

(b) indirect overhead to be allocated to a good, the direct cost ratio used to allocate indirect overhead to the good is used to determine the amount of excluded costs to be subtracted from the indirect overhead allocated to the good.

"Examples"

Example 1

The following example illustrates the application of the direct cost ratio method used by a producer of a good to allocate indirect overhead where the producer chooses to calculate the net cost of the good in accordance with paragraph 6(11)(a) *of these Regulations.*

A producer produces Good A and Good B. Indirect overhead (IO) minus excluded costs (EC) is $30. The other relevant costs are set out in the following table:

	Good A	*Good B*	*Total*
Direct labour costs (DLC)	*$ 5*	*$ 5*	*$10*
Direct material costs (DMC)	*10*	*5*	*15*
Direct overhead (DO)	*8*	*2*	*10*
Totals	*$23*	*$12*	*$35*

Indirect Overhead Allocated to Good A

IOAG (Good A) = IO ($30) ×DCR ($23/$35)

IOAG (Good A) = $19.71

Indirect Overhead Allocated to Good B

IOAG (Good B) = IO ($30) ×DCR ($12/$35)

IOAG (Good B) = $10.29

Example 2

The following example illustrates the application of the direct cost ratio method used by a producer of a good to allocate indirect overhead where the producer has chosen to calculate the net cost of the good in accordance with paragraph 6(11)(b) *of these Regulations and where excluded costs are included in indirect overhead.*

A producer produces Good A and Good B. The indirect overhead (IO) is $50 (including excluded costs (EC) of $20). The other relevant costs are set out in the table to Example 1.

Indirect Overhead Allocated to Good A

IOAG (Good A) = [IO ($50) ×DCR ($23/$35)] - [EC ($20) ×DCR ($23/$35)]

IOAG (Good A) = $19.72

Indirect Overhead Allocated to Good B

IOAG (Good B) = [IO ($50)× DCR ($12/$35)] - [EC ($20) ×DCR ($12/$35)]

IOAG (Good B) = $10.28

SCHEDULE VIII

VALUE OF MATERIALS

1. (1) For purposes of this Schedule, unless otherwise stated,

"buying commissions" means fees paid by a producer to that producer's agent for the agent's services in representing the producer in the purchase of a material; (*commission d'achat*)

"customs administration" refers to the customs administration of the NAFTA country into whose territory the good, in the production of which the material being valued is used, is imported; (*administration douanière*)

"materials of the same class or kind" means, with respect to materials being valued, materials that are within a group or range of materials that

(a) is produced by a particular industry or industry sector, and

(b) includes identical materials or similar materials; (*matières de la même nature ou de la même espèce*)

"producer" refers to

(a) in the case of subparagraph 10(1)*(b)*(i) of these Regulations, the producer of the listed material, and

(b) in any other case, the producer who used the material in the production of a good that is subject to a regional value-content requirement; (*producteur*)

"seller" refers to a person who sells the material being valued to the producer. (*vendeur*)

(2) Where it is to be determined under subsection 9(3) of these Regulations whether the customs value of a material was determined in a manner consistent with this Schedule for purposes of paragraph 9(2)*(c)* or *(d)* of these Regulations, a reference in this Schedule to "producer" shall be read as a reference to "person other than the producer who imports the traced material from outside the territories of the NAFTA countries."

2. (1) Except as provided under subsections (2) and (3), the transaction value of a material under paragraph 7(1)*(b)* and subsections 9(5) and 10(2) of these Regulations shall be the price actually paid or payable for the material determined in accordance with section 4 and adjusted in accordance with section 5.

(2) There is no transaction value for a material where the material is not the subject of a sale.

(3) The transaction value of a material is unacceptable where

(a) there are restrictions on the disposition or use of the material by the producer, other than restrictions that

(i) are imposed or required by law or by the public authorities in the territory of the NAFTA country in which the producer of the good or the seller of the material is located,

(ii) limit the geographical area in which the material may be used, or

(iii) do not substantially affect the value of the material;

(b) the sale or price actually paid or payable is subject to a condition or consideration for which a value cannot be determined with respect to the material;

(c) part of the proceeds of any subsequent disposal or use of the material by the producer will accrue directly or indirectly to the seller, and an appropriate addition to the price actually paid or payable cannot be made in accordance with paragraph 5(1)*(d)*; or

(d) except as provided in section 3, the producer and the seller are related persons and the relationship between them influenced the price actually paid or payable for the material.

(4) The conditions or considerations referred to in paragraph (3)*(b)* include the following circumstances:

(a) the seller establishes the price actually paid or payable for the material on condition that the producer will also buy other materials or goods in specified quantities;

(b) the price actually paid or payable for the material is dependent on the price or prices at which the producer sells other materials or goods to the seller of the material; and

(c) the price actually paid or payable is established on the basis of a form of payment extraneous to the material, such as where the material is a semi-finished material that has been provided by the seller to the producer on condition that the seller will receive a specified quantity of the finished material from the producer.

(5) For purposes of paragraph (3)*(b)*, conditions or considerations relating to the use of the material shall not render the transaction value unacceptable, such as where the producer undertakes on the producer's own account, even though by agreement with the seller, activities relating to the warranty of the material used in the production of a good.

(6) Where objective and quantifiable data do not exist with regard to the additions required to be made to the price actually paid or payable under subsection 5(1), the transaction value cannot be determined under the provisions of subsection 2(1). For an illustration of this, a royalty is paid on the basis of the price actually paid or payable in a sale of a litre of a particular good that is produced by using a material that was purchased by the kilogram and made up into a solution. If the royalty is based partially on the purchased material and partially on other factors that have nothing to do with that material, such as when the purchased material is mixed with other ingredients and is no longer separately identifiable, or when the royalty cannot be distinguished from special financial arrangements between the seller and the producer, it would be inappropriate to add the royalty and the transaction value of the material could not be determined. However, if the amount of the royalty is based only on the purchased material and can be readily quantified, an addition to the price actually paid or payable can be made and the transaction value can be determined.

3. (1) In determining whether the transaction value is unacceptable under paragraph 2(3)*(d)*, the fact that the seller and the producer are related persons shall not in itself be grounds for the customs administration to render the transaction value unacceptable. In such cases, the circumstances surrounding the sale shall be examined and the transaction value shall be accepted provided that the relationship between the seller and the producer did not influence the price actually paid or payable. Where the customs administration has reasonable grounds for considering that the relationship between the seller and the producer influenced the price, the customs administration shall communicate the grounds to the producer, and that producer shall be given a reasonable opportunity to respond to the grounds communicated by the customs administration. If that producer so requests, the customs administration shall communicate in writing the grounds on which it considers that the relationship between the seller and the producer influenced the price actually paid or payable.

(2) Subsection (1) provides that, where the seller and the producer are related persons, the circumstances surrounding the sale shall be examined and the transaction value shall be accepted as the value provided that the relationship between the seller and the producer did not influence the price actually paid or payable. It is not intended under subsection (1) that there should be an examination of the circumstances in all cases where the seller and the producer are related persons. Such an examination will

only be required where the customs administration has doubts that the price actually paid or payable is acceptable because of the relationship between the seller and the producer. Where the customs administration does not have doubts that the price actually paid or payable is acceptable, it shall accept that price without requesting further information. For an illustration of this, the customs administration may have previously examined the relationship between the seller and the producer, or it may already have detailed information concerning the relationship between the seller and the producer, and may already be satisfied from that examination or information that the relationship between them did not influence the price actually paid or payable.

(3) In applying subsection (1), where the seller and the producer are related persons and the customs administration has doubts that the transaction value is acceptable without further inquiry, the customs administration shall give the producer an opportunity to supply such further information as may be necessary to enable it to examine the circumstances surrounding the sale. In such a case, the customs administration shall examine the relevant aspects of the sale, including the way in which the seller and the producer organize their commercial relations and the way in which the price actually paid or payable by that producer for the material being valued was arrived at, in order to determine whether the relationship between the seller and the producer influenced that price actually paid or payable. Where it can be shown that the seller and the producer buy from and sell to each other as if they were not related persons, the price actually paid or payable shall be considered as not having been influenced by the relationship between them. For an illustration of this, if the price actually paid or payable for the material had been settled in a manner consistent with the normal pricing practices of the industry in question or with the way in which the seller settles prices for sales to unrelated buyers, the price actually paid or payable shall be considered as not having been influenced by the relationship between the producer and the seller. For another illustration of this, where it is shown that the price actually paid or payable for the material is adequate to ensure recovery of the total cost of producing the material plus a profit that is representative of the seller's overall profit realized over a representative period of time, such as on an annual basis, in sales of materials of the same class or kind, the price actually paid or payable shall be considered as not having been influenced by the relationship between the seller and the producer.

(4) In a sale between a seller and a producer who are related persons, the transaction value shall be accepted and determined in accordance with subsection 2(1), wherever the seller or the producer demonstrates that the transaction value of the material in that sale closely approximates one of the following test values that occurs at or about the same time as the sale and is chosen by the seller or the producer:

(a) the transaction value in sales to unrelated buyers of identical materials or similar materials, as determined in accordance with subsection 2(1);

(b) the value of identical materials or similar materials, as determined in accordance with section 9; or

(c) the value of identical materials or similar materials, as determined in accordance with section 10.

(5) In applying a test value referred to in subsection (4), due account shall be taken of demonstrated differences in commercial levels, quantity levels, the value of the elements specified in paragraph 5(1)*(b)* and the costs incurred by the seller in sales to unrelated buyers that are not incurred by the seller in sales by the seller to a related person.

(6) The application of a test value referred to in subsection (4) shall be used at the initiative of the seller, or at the initiative of the producer with the consent of the seller, and shall be used only for comparison purposes to determine whether the transaction value of the material is acceptable. The test value shall not be used as the transaction value of that material.

(7) Subsection (4) provides an opportunity for the seller or the producer to demonstrate that the transaction value closely approximates a test value previously accepted by the customs administration of the NAFTA country in which the producer is located, and is therefore acceptable under subsection (1). Where the application of a test value under subsection (4) demonstrates that the transaction value of the material being valued is acceptable, the customs administration shall not examine the question of influence in regard to the relationship between the seller and the producer under subsection (1). Where the customs administration already has sufficient information available, without further inquiries, that the transaction value closely approximates one of the test values determined under subsection (4), the seller or the producer

is not required to apply a test value to demonstrate that the transaction value is acceptable under that subsection.

(8) A number of factors must be taken into consideration for the purpose of determining whether the transaction value of the identical materials or similar materials closely approximates the transaction value of the material being valued. These factors include the nature of the material, the nature of the industry itself, the season in which the material is sold, and whether the difference in values is commercially significant. Since these factors may vary from case to case, it would be impossible to apply an acceptable standardized difference such as a fixed amount or fixed percentage difference in each case. For an illustration of this, a small difference in value in a case involving one type of material could be unacceptable, while a large difference in a case involving another type of material might be acceptable for the purposes of determining whether the transaction value closely approximates a test value set out in subsection (4).

4. (1) The price actually paid or payable is the total payment made or to be made by the producer to or for the benefit of the seller of the material. The payment need not necessarily take the form of a transfer of money: it may be made by letters of credit or negotiable instruments. Payment may be made directly or indirectly to the seller. For an illustration of this, the settlement by the producer, whether in whole or in part, of a debt owed by the seller, is an indirect payment.

(2) Activities undertaken by the producer on the producer's own account, other than those for which an adjustment is provided in section 5, shall not be considered to be an indirect payment, even though the activities might be regarded as being for the benefit of the seller.

(3) The transaction value shall not include charges for construction, erection, assembly, maintenance or technical assistance related to the use of the material by the producer, provided that they are distinguished from the price actually paid or payable.

(4) The flow of dividends or other payments from the producer to the seller that do not relate to the purchase of the material are not part of the transaction value.

5. (1) In determining the transaction value of the material, the following shall be added to the price actually paid or payable:

(a) to the extent that they are incurred by the producer with respect to the material being valued and are not included in the price actually paid or payable,

(i) commissions and brokerage fees, except buying commissions, and

(ii) the costs of containers which, for customs purposes, are classified with the material under the Harmonized System;

(b) the value, reasonably allocated in accordance with subsection (12), of the following elements where they are supplied directly or indirectly to the seller by the producer free of charge or at reduced cost for use in connection with the production and sale of the material, to the extent that the value is not included in the price actually paid or payable:

(i) a material, other than an indirect material, used in the production of the material being valued,

(ii) tools, dies, moulds and similar indirect materials used in the production of the material being valued,

(iii) an indirect material, other than those referred to in subparagraph (ii) or in paragraphs *(c)*, *(e)* or *(f)* of the definition "indirect material" set out in subsection 2(1) of these Regulations, used in the production of the material being valued, and

(iv) engineering, development, artwork, design work, and plans and sketches performed outside the territory of the NAFTA country in which the producer is located that are necessary for the production of the material being valued;

(c) the royalties related to the material, other than charges with respect to the right to reproduce the material in the territory of the NAFTA country in which the producer is located that the producer must

pay directly or indirectly as a condition of sale of the material, to the extent that such royalties are not included in the price actually paid or payable; and

(d) the value of any part of the proceeds of any subsequent disposal or use of the material that accrues directly or indirectly to the seller.

(2) The additions referred to in subsection (1) shall be made to the price actually paid or payable under this section only on the basis of objective and quantifiable data.

(3) Where objective and quantifiable data do not exist with regard to the additions required to be made to the price actually paid or payable under subsection (1), the transaction value cannot be determined under subsection 2(1).

(4) No additions shall be made to the price actually paid or payable for the purpose of determining the transaction value except as provided in this section.

(5) The amounts to be added under paragraph (1)*(a)* shall be those amounts that are recorded on the books of the producer.

(6) The value of the elements referred to in subparagraph (1)*(b)*(i) shall be

(a) where the elements are imported from outside the territory of the NAFTA country in which the seller is located, the customs value of the elements,

(b) where the producer, or a related person on behalf of the producer, purchases the elements from an unrelated person in the territory of the NAFTA country in which the seller is located, the price actually paid or payable for the elements,

(c) where the producer, or a related person on behalf of the producer, acquires the elements from an unrelated person in the territory of the NAFTA country in which the seller is located other than through a purchase, the value of the consideration related to the acquisition of the elements, based on the cost of the consideration that is recorded on the books of the producer or the related person, or

(d) where the elements are produced by the producer, or by a related person, in the territory of the NAFTA country in which the seller is located, the total cost of the elements, determined in accordance with subsection (7),

and shall include the following costs, that are recorded on the books of the producer or the related person supplying the elements on behalf of the producer, to the extent that such costs are not included under paragraphs *(a)* through *(d)*:

(e) the costs of freight, insurance, packing, and all other costs incurred in transporting the elements to the location of the seller,

(f) duties and taxes paid or payable with respect to the elements, other than duties and taxes that are waived, refunded, refundable or otherwise recoverable, including credit against duty or tax paid or payable,

(g) customs brokerage fees, including the cost of in-house customs brokerage services, incurred with respect to the elements, and

(h) the cost of waste and spoilage resulting from the use of the elements in the production of the material, minus the value of reusable scrap or by-product.

(7) For the purposes of paragraph (6)*(d)*, the total cost of the elements referred to in sub-paragraph (1)*(b)*(i) shall be

(a) where the elements are produced by the producer, at the choice of the producer,

(i) the total cost incurred with respect to all goods produced by the producer, calculated on the basis of the costs that are recorded on the books of the producer, that can be reasonably allocated to the elements in accordance with Schedule VII, or

(ii) the aggregate of each cost incurred by the producer that forms part of the total cost incurred with respect to the elements, calculated on the basis of the costs that are recorded on the books of the producer, that can be reasonably allocated to the elements in accordance with Schedule VII; and

(b) where the elements are produced by a person who is related to the producer, at the choice of the producer,

(i) the total cost incurred with respect to all goods produced by that related person, calculated on the basis of the costs that are recorded on the books of that person, that can be reasonably allocated to the elements in accordance with Schedule VII, or

(ii) the aggregate of each cost incurred by that related person that forms part of the total cost incurred with respect to the elements, calculated on the basis of the costs that are recorded on the books of that person, that can be reasonably allocated to the elements in accordance with Schedule VII.

(8) Except as provided in subsections (10) and (11), the value of the elements referred to in subparagraphs (1)*(b)*(ii) through (iv) shall be

(a) the cost of those elements that is recorded on the books of the producer; or

(b) where such elements are provided by another person on behalf of the producer and the cost is not recorded on the books of the producer, the cost of those elements that is recorded on the books of that other person.

(9) Where the elements referred to in subparagraphs (1)*(b)*(ii) through (iv) were previously used by or on behalf of the producer, the value of the elements shall be adjusted downward to reflect that use.

(10) Where the elements referred to in subparagraphs (1)*(b)*(ii) and (iii) were leased by the producer or a person related to the producer, the value of the elements shall be the cost of the lease that is recorded on the books of the producer or that related person.

(11) No addition shall be made to the price actually paid or payable for the elements referred to in subparagraph (1)*(b)*(iv) that are available in the public domain, other than the cost of obtaining copies of them.

(12) The producer shall choose the method of allocating to the material the value of the elements referred to in subparagraphs (1)*(b)*(ii) through (iv), provided that the value is reasonably allocated to the material in a manner appropriate to the circumstances. The methods the producer may choose to allocate the value include allocating the value over the number of units produced up to the time of the first shipment or allocating the value over the entire anticipated production where contracts or firm commitments exist for that production. For an illustration of this, a producer provides the seller with a mould to be used in the production of the material and contracts with the seller to buy 10,000 units of that material. By the time the first shipment of 1,000 units arrives, the seller has already produced 4,000 units. In these circumstances, the producer may choose to allocate the value of the mould over 4,000 units or 10,000 units but shall not choose to allocate the value of the elements to the first shipment of 1,000 units. The producer may choose to allocate the entire value of the elements to a single shipment of material only where that single shipment comprises all of the units of the material acquired by the producer under the contract or commitment for that number of units of the material between the seller and the producer.

(13) The addition for the royalties referred to in paragraph (1)*(c)* shall be the payment for the royalties that is recorded on the books of the producer, or where the payment for the royalties is recorded on the books of another person, the payment for the royalties that is recorded on the books of that other person.

(14) The value of the proceeds referred to in paragraph (1)*(d)* shall be the amount that is recorded for such proceeds on the books of the producer or the seller.

6. (1) If there is no transaction value under subsection 2(2) or the transaction value is unacceptable under subsection 2(3), the value of the material, referred to in subparagraph 7(1)*(b)*(ii) of Part IV of these Regulations, shall be the transaction value of identical materials sold, at or about the same time as the material being valued was shipped to the producer, to a buyer located in the same country as the producer.

(2) In applying this section, the transaction value of identical materials in a sale at the same commercial level and in substantially the same quantity of materials as the material being valued shall be used to determine the value of the material. Where no such sale is found, the transaction value of identical materials sold at a different commercial level or in different quantities, adjusted to take into account the differences attributable to the commercial level or quantity, shall be used, provided that such adjustments can be made on the basis of evidence that clearly establishes that the adjustment is reasonable and accurate, whether the adjustment leads to an increase or a decrease in the value.

(3) A condition for adjustment under subsection (2) because of different commercial levels or different quantities is that such adjustment be made only on the basis of evidence that clearly establishes that an adjustment is reasonable and accurate. For an illustration of this, a bona fide price list contains prices for different quantities. If the material being valued consists of a shipment of 10 units and the only identical materials for which a transaction value exists involved a sale of 500 units, and it is recognized that the seller grants quantity discounts, the required adjustment may be accomplished by resorting to the seller's bona fide price list and using the price applicable to a sale of 10units. This does not require that sales had to have been made in quantities of 10 as long as the price list has been established as being bona fide through sales at other quantities. In the absence of such an objective measure, however, the determination of a value under this section is not appropriate.

(4) If more than one transaction value of identical materials is found, the lowest such value shall be used to determine the value of the material under this section.

7. (1) If there is no transaction value under subsection 2(2) or the transaction value is unacceptable under section 2(3), and the value of the material cannot be determined under section 6, the value of the material, referred to in subparagraph 7(1)*(b)*(ii) of Part IV of these Regulations, shall be the transaction value of similar materials sold, at or about the same time as the material being valued was shipped to the producer, to a buyer located in the same country as the producer.

(2) In applying this section, the transaction value of similar materials in a sale at the same commercial level and in substantially the same quantity of materials as the material being valued shall be used to determine the value of the material. Where no such sale is found, the transaction value of similar materials sold at a different commercial level or in different quantities, adjusted to take into account the differences attributable to the commercial level or quantity, shall be used, provided that such adjustments can be made on the basis of evidence that clearly establishes that the adjustment is reasonable and accurate, whether the adjustment leads to an increase or a decrease in the value.

(3) A condition for adjustment under subsection (2) because of different commercial levels or different quantities is that such adjustment be made only on the basis of evidence that clearly establishes that an adjustment is reasonable and accurate. For an illustration of this, a bona fide price list contains prices for different quantities. If the material being valued consists of a shipment of 10 units and the only similar materials for which a transaction value exists involved a sale of 500 units, and it is recognized that the seller grants quantity discounts, the required adjustment may be accomplished by resorting to the seller's bona fide price list and using the price applicable to a sale of 10 units. This does not require that sales had to have been made in quantities of 10 as long as the price list has been established as being bona fide through sales at other quantities. In the absence of such an objective measure, however, the determination of a value under this section is not appropriate.

(4) If more than one transaction value of similar materials is found, the lowest such value shall be used to determine the value of the material under this section.

8. If there is no transaction value under subsection 2(2) or the transaction value is unacceptable under subsection 2(3), and the value of the material cannot be determined under section 6 or 7, the value of the material, referred to in subparagraph 7(1)*(b)*(ii) of Part IV of these Regulations, shall be determined under section 9 or, when the value cannot be determined under that section, under section 10 except that, at the request of the producer, the order of application of sections 9 and 10 shall be reversed.

9. (1) Under this section, if identical materials or similar materials are sold in the territory of the NAFTA country in which the producer is located, in the same condition as the material was in when received by the producer, the value of the material, referred to in subparagraph 7(1)*(b)*(ii) of Part IV of these Regulations, shall be based on the unit price at which those identical materials or similar materials are sold, in the greatest aggregate quantity by the producer or, where the producer does not sell those identical materials or similar materials, by a person at the same trade level as the producer, at or about the same time as the material being valued is received by the producer, to persons located in that territory who are not related to the seller, subject to deductions for the following:

(a) either the amount of commissions usually earned or the amount generally reflected for profit and general expenses, in connection with sales, in the territory of that NAFTA country, of materials of the same class or kind as the material being valued; and

(b) taxes, if included in the unit price, payable in the territory of that NAFTA country, which are either waived, refunded or recoverable by way of credit against taxes actually paid or payable.

(2) If neither identical materials nor similar materials are sold at or about the same time the material being valued is received by the producer, the value shall, subject to the deductions provided for under subsection (1), be based on the unit price at which identical materials or similar materials are sold in the territory of the NAFTA country in which the producer is located, in the same condition as the material was in when received by the producer, at the earliest date within 90 days after the date the material being valued was received by the producer.

(3) The expression "unit price at which those identical materials or similar materials are sold, in the greatest aggregate quantity" in subsection (1) means the price at which the greatest number of units is sold in sales between unrelated persons. For an illustration of this, materials are sold from a price list which grants favourable unit prices for purchases made in larger quantities.

Sale Quantity	**Unit Price**	**Number of Sales**	**Total Quantity Sold at Each Price**
1-10 units	100	10 sales of 5 units	65
		5 sales of 3 units	
11-25 units	95	5 sales of 11 units	55
over 25 units	90	1 sale of 30 units	80
		1 sale of 50 units	

The greatest number of units sold at a particular price is 80; therefore, the unit price in the greatest aggregate quantity is 90.

As another illustration of this, two sales occur. In the first sale 500 units are sold at a price of 95 currency units each. In the second sale 400 units are sold at a price of 90 currency units each. In this illustration, the greatest number of units sold at a particular price is 500; therefore, the unit price in the greatest aggregate quantity is 95.

(4) Any sale to a person who supplies, directly or indirectly, free of charge or at reduced cost for use in connection with the production of the material, any of the elements specified in paragraph 5(1)*(b)*, shall not be taken into account in establishing the unit price for the purposes of this section.

(5) The amount generally reflected for profit and general expenses referred to in paragraph (1)*(a)* shall be taken as a whole. The figure for the purposes of deducting an amount for profit and general expenses shall be determined on the basis of information supplied by or on behalf of the producer unless the figures provided by the producer are inconsistent with those usually reflected in sales, in the country in which the producer is located, of materials of the same class or kind as the material being valued. Where the figures provided by the producer are inconsistent with those figures, the amount for profit and general expenses shall be based on relevant information other than that supplied by or on behalf of the producer.

(6) For the purposes of this section, general expenses are the direct and indirect costs of marketing the material in question.

(7) In determining either the commissions usually earned or the amount generally reflected for profit and general expenses under this section, the question as to whether certain materials are materials of the same class or kind as the material being valued shall be determined on a case-by-case basis with reference to the circumstances involved. Sales in the country in which the producer is located of the narrowest group or range of materials of the same class or kind as the material being valued, for which the necessary information can be provided, shall be examined. For the purposes of this section, "materials of the same class or kind" includes materials imported from the same country as the material being valued as well as materials imported from other countries or acquired within the territory of the NAFTA country in which the producer is located.

(8) For the purposes of subsection (2), the earliest date shall be the date by which sales of identical materials or similar materials are made, in sufficient quantity to establish the unit price, to other persons in the territory of the NAFTA country in which the producer is located.

10. (1) Under this section, the value of a material, referred to in subparagraph 7(1)*(b)*(ii) of Part IV of these Regulations, shall be the sum of

(a) the cost or value of the materials used in the production of the material being valued, as determined on the basis of the costs that are recorded on the books of the producer of the material,

(b) the cost of producing the material being valued, as determined on the basis of the costs that are recorded on the books of the producer of the material, and

(c) an amount for profit and general expenses equal to that usually reflected in sales

(i) where the material being valued is imported by the producer into the territory of the NAFTA country in which the producer is located, to persons located in the territory of the NAFTA country in which the producer is located by producers of materials of the same class or kind as the material being valued who are located in the country in which the material is produced, and

(ii) where the material being valued is acquired by the producer from another person located in the territory of the NAFTA country in which the producer is located, to persons located in the territory of the NAFTA country in which the producer is located by producers of materials of the same class or kind as the material being valued who are located in the country in which the producer is located,

and shall include, to the extent they are not already included under paragraph *(a)* or *(b)* and where the elements are supplied directly or indirectly to the producer of the material being valued by the producer free of charge or at a reduced cost for use in the production of that material,

(d) the value of elements referred to in subparagraph 5(1)*(b)*(i), determined in accordance with subsection 5(6), and

(e) the value of elements referred to in subparagraphs 5(1)*(b)*(ii) through (iv), determined in accordance with subsection 5(8) and reasonably allocated to the material in accordance with subsection 5(12).

(2) For purposes of paragraphs (1)*(a)* and *(b)*, where the costs recorded on the books of the producer of the material relate to the production of other goods and materials as well as to the production of the material being valued, the costs referred to in paragraphs (1)*(a)* and *(b)* with respect to the material being

valued shall be those costs recorded on the books of the producer of the material that can be reasonably allocated to that material in accordance with Schedule VII.

(3) The amount for profit and general expenses referred to in paragraph (1)*(c)* shall be determined on the basis of information supplied by or on behalf of the producer of the material being valued unless the profit and general expenses figures that are supplied with that information are inconsistent with those usually reflected in sales by producers of materials of the same class or kind as the material being valued who are located in the country in which the material is produced or the producer is located, as the case may be. The information supplied shall be prepared in a manner consistent with generally accepted accounting principles of the country in which the material being valued is produced. Where the material is produced in the territory of a NAFTA country, the information shall be prepared in accordance with the Generally Accepted Accounting Principles set out in the authorities listed for that NAFTA country in Schedule XII.

(4) For purposes of paragraph (1)*(c)* and subsection (3), general expenses means the direct and indirect costs of producing and selling the material that are not included under paragraphs (1)*(a)* and *(b)*.

(5) For purposes of subsection (3), the amount for profit and general expenses shall be taken as a whole. Where, in the information supplied by or on behalf of the producer of a material, the profit figure is low and the general expenses figure is high, the profit and general expense figures taken together may nevertheless be consistent with those usually reflected in sales of materials of the same class or kind as the material being valued. Where the producer of a material can demonstrate that it is taking a nil or low profit on its sales of the material because of particular commercial circumstances, its actual profit and general expense figures shall be taken into account, provided that the producer of the material has valid commercial reasons to justify them and its pricing policy reflects usual pricing policies in the branch of industry concerned. For an illustration of this, such a situation might occur where producers have been forced to lower prices temporarily because of an unforeseeable drop in demand, or where the producers sell the material to complement a range of materials and goods being produced in the country in which the material is sold and accept a low profit to maintain competitiveness. A further illustration is where a material was being launched and the producer accepted a nil or low profit to offset high general expenses associated with the launch.

(6) Where the figures for the profit and general expenses supplied by or on behalf of the producer of the material are not consistent with those usually reflected in sales of materials of the same class or kind as the material being valued that are made by other producers in the country in which that material is sold, the amount for profit and general expenses may be based on relevant information other than that supplied by or on behalf of the producer of the material.

(7) Where a customs administration uses information other than that supplied by or on behalf of the producer of the material for the purposes of determining the value of a material under this section, the customs administration shall communicate to the producer, if that producer so requests, the source of such information, the data used and the calculations based upon such data, subject to the provisions on confidentiality under sections 107 and 108 of the *Customs Act*.

(8) Whether certain materials are of the same class or kind as the material being valued shall be determined on a case-by-case basis with reference to the circumstances involved. For purposes of determining the amount for profit and general expenses usually reflected under the provisions of this section, sales of the narrowest group or range of materials of the same class or kind, which includes the material being valued, for which the necessary information can be provided, shall be examined. For the purposes of this section, the materials of the same class or kind must be from the same country as the material being valued.

11. (1) Where there is no transaction value under subsection 2(2) or the transaction value is unacceptable under subsection 2(3), and the value of the material cannot be determined under sections 6 through 10, the value of the material, referred to in subparagraph 7(1)*(b)*(ii) of Part IV of these Regulations, shall be determined under this section using reasonable means consistent with the principles and general provisions of this Schedule and on the basis of data available in the country in which the producer is located.

(2) The value of the material determined under this section shall not be determined on the basis of

(a) a valuation system which provides for the acceptance of the higher of two alternative values;

(b) a cost of production other than the value determined in accordance with section 10;

(c) minimum values;

(d) arbitrary or fictitious values;

(e) where the material is produced in the territory of the NAFTA country in which the producer is located, the price of the material for export from that territory; or

(f) where the material is imported, the price of the material for export to a country other than to the territory of the NAFTA country in which the producer is located.

(3) To the greatest extent possible, the value of the material determined under this section shall be based on the methods of valuation set out in sections 2 through 10, but a reasonable flexibility in the application of such methods would be in conformity with the aims and provisions of this section. For an illustration of this, under section 6, the requirement that the identical materials should be sold at or about the same time as the time the material being valued is shipped to the producer could be flexibly interpreted. Similarly, identical materials produced in a country other than the country in which the material is produced could be the basis for determining the value of the material, or the value of identical materials already determined under section 9 could be used. For another illustration, under section 7, the requirement that the similar materials should be sold at or about the same time as the material being valued are shipped to the producer could be flexibly interpreted. Likewise, similar materials produced in a country other than the country in which the material is produced could be the basis for determining the value of the material, or the value of similar materials already determined under the provisions of section 9 could be used. For a further illustration, under section 9, the ninety days requirement could be administered flexibly.

SCHEDULE IX

METHODS FOR DETERMINING THE VALUE OF NON-ORIGINATING MATERIALS THAT ARE IDENTICAL MATERIALS AND THAT ARE USED IN THE PRODUCTION OF A GOOD

Definitions and Interpretation

1. For purposes of this Schedule,

"FIFO method" means the method by which the value of non-originating materials first received in materials inventory, determined in accordance with section 7 of these Regulations, is considered to be the value of non-originating materials used in the production of the good first shipped to the buyer of the good; (*méthode PEPS*)

"identical materials" means, with respect to a material, materials that are the same as that material in all respects, including physical characteristics, quality and reputation but excluding minor differences in appearance; (*matières identiques*)

"LIFO method" means the method by which the value of non-originating materials last received in materials inventory, determined in accordance with section 7 of these Regulations, is considered to be the value of non-originating materials used in the production of the good first shipped to the buyer of the good; (*méthode DEPS*)

"materials inventory" means, with respect to a single plant of the producer of a good, an inventory of non-originating materials that are identical materials and that are used in the production of the good; (*stock de matières*)

"rolling average method" means the method by which the value of non-originating materials used in the production of a good that is shipped to the buyer of the good is based on the average value, calculated in accordance with section 4, of the non-originating materials in materials inventory. (*méthode de la moyenne mobile*)

General

2. For purposes of subsections 5(11) and (12) and 6(10) of these Regulations, the following are the methods for determining the value of non-originating materials that are identical materials and are used in the production of a good:

(a) FIFO method;

(b) LIFO method; and

(c) rolling average method.

3. (1) Where a producer of a good chooses, with respect to non-originating materials that are identical materials, any of the methods referred to in section 2, the producer may not use another of those methods with respect to any other non-originating materials that are identical materials and that are used in the production of that good or in the production of any other good.

(2) Where a producer of a good produces the good in more than one plant, the method chosen by the producer shall be used with respect to all plants of the producer in which the good is produced.

(3) The method chosen by the producer to determine the value of non-originating materials may be chosen at any time during the producer's fiscal year and may not be changed during that fiscal year.

Average Value for Rolling Average Method

4. (1) The average value of non-originating materials that are identical materials and that are used in the production of a good that is shipped to the buyer of the good is calculated by dividing

(a) the total value of non-originating materials that are identical materials in materials inventory prior to the shipment of the good, determined in accordance with section 7 of these Regulations,

by

(b) the total units of those non-originating materials in materials inventory prior to the shipment of the good.

(2) The average value calculated under subsection (1) is applied to the remaining units of non-originating materials in materials inventory.

APPENDIX

"EXAMPLES" ILLUSTRATING THE APPLICATION OF THE METHODS FOR DETERMINING THE VALUE OF NON-ORIGINATING MATERIALS THAT ARE IDENTICAL MATERIALS AND THAT ARE USED IN THE PRODUCTION OF A GOOD

The following examples are based on the figures set out in the table below and on the following assumptions:

(a) *Materials A are non-originating materials that are identical materials that are used in the production of Good A;*

(b) *one unit of Materials A is used to produce one unit of Good A;*

(c) *all other materials used in the production of Good A are originating materials; and*

(d) *Good A is produced in a single plant.*

MATERIALS INVENTORY (RECEIPTS OF MATERIALS A)		*SALES (SHIPMENTS OF GOOD A)*	
DATE (M/D/Y)	*QUANTITY (UNITS)*	*UNIT COST**	*QUANTITY(UNITS)*
01/01/94	*200*	*$1.05*	
01/03/94	*1,000*	*1.00*	
01/05/94	*1,000*	*1.10*	
01/08/94			*500*
01/09/94			*500*
01/10/94	*1,000*	*1.05*	
01/14/94			*1,500*
01/16/94	*2,000*	*1.10*	
01/18/94			*1,500*

* *unit cost is determined in accordance with section 7 of these Regulations*

Example 1: FIFO method

By applying the FIFO method:

(1) the 200 units of Materials A received on 01/01/94 and valued at $1.05 per unit and 300 units of the 1,000 units of Material A received on 01/03/94 and valued at $1.00 per unit are considered to have been used in the production of the 500 units of Good A shipped on 01/08/94; therefore, the value of the non-originating materials used in the production of those goods is considered to be $510 [(200 units × $1.05) + (300 units × $1.00)];

(2) 500 units of the remaining 700 units of Materials A received on 01/03/94 and valued at $1.00 per unit are considered to have been used in the production of the 500 units of Good A shipped on 01/09/94; therefore, the value of the non-originating materials used in the production of those goods is considered to be $500 (500 units × $1.00);

(3) the remaining 200 units of the 1,000 units of Materials A received on 01/03/94 and valued at $1.00 per unit, the 1,000 units of Materials A received on 01/05/94 and valued at $1.10 per unit, and 300 units of the 1,000 units of Materials A received on 01/10/94 and valued at $1.05 per unit are considered to have been used in the production of the 1,500 units of Good A shipped on 01/14/94; therefore, the value of non-originating materials used in the production of those goods is considered to be $1,615 [(200 units × $1.00) + (1,000 units × $1.10) + (300 units × $1.05)]; and

(4) the remaining 700 units of the 1,000 units of Materials A received on 01/10/94 and valued at $1.05 per unit and 800 units of the 2,000 units of Materials A received on 01/16/94 and valued at $1.10 per unit are considered to have been used in the production of the 1,500 units of Good A shipped on 01/18/94; therefore, the value of non-originating materials used in the production of those goods is considered to be $1,615 [(700 units × $1.05) + (800 units × $1.10)].

Example 2: LIFO method

By applying the LIFO method:

(1) 500 units of the 1,000 units of Materials A received on 01/05/94 and valued at $1.10 per unit are considered to have been used in the production of the 500 units of Good A shipped on 01/08/94;

therefore, the value of the non-originating materials used in the production of those goods is considered to be $550 (500 units × $1.10);

(2) the remaining 500 units of the 1,000 units of Materials A received on 01/05/94 and valued at $1.10 per unit are considered to have been used in the production of the 500 units of Good A shipped on 01/09/94; therefore, the value of non-originating materials used in the production of those goods is considered to be $550 (500 units × $1.10);

(3) the 1,000 units of Materials A received on 01/10/94 and valued at $1.05 per unit and 500 units of the 1,000 units of Material A received on 01/03/94 and valued at $1.00 per unit are considered to have been used in the production of the 1,500 units of Good A shipped on 01/14/94; therefore, the value of non-originating materials used in the production of those goods is considered to be $1,550 [(1,000 units × $1.05) + (500 units × $1.00)]; and

(4) 1,500 units of the 2,000 units of Materials A received on 01/16/94 and valued at $1.10 per unit are considered to have been used in the production of the 1,500 units of Good A shipped on 01/18/94; therefore, the value of non-originating materials used in the production of those goods is considered to be $1,650 (1,500 units × $1.10).

Example 3: Rolling average method

The following table identifies the average value of non-originating Materials A as determined under the rolling average method. For purposes of this example, a new average value of non-originating Materials A is calculated after each receipt.

	MATERIALS INVENTORY			
	DATE (M/D/Y)	*QUANTITY (UNITS)*	*UNIT COST**	*TOTAL VALUE*
Beginning Inventory	*01/01/94*	*200*	*$1.05*	*$ 210*
Receipt	*01/03/94*	*1,000*	*1.00*	*1,000*
AVERAGE VALUE		*1,200*	*1.008*	*1,210*
Receipt	*01/05/94*	*1,000*	*1.10*	*1,100*
AVERAGE VALUE		*2,200*	*1.05*	*2,310*
Shipment	*01/08/94*	*500*	*1.05*	*525*
AVERAGE VALUE		*1,700*	*1.05*	*1,785*
Shipment	*01/09/94*	*500*	*1.05*	*525*
AVERAGE VALUE		*1,200*	*1.05*	*1,260*
Receipt	*01/16/94*	*2,000*	*1.10*	*2,200*
AVERAGE VALUE		*3,200*	*1.08*	*3,460*

** unit cost is determined in accordance with section 7of these Regulations*

By applying the rolling average method:

(1) the value of non-originating materials used in the production of the 500 units of Good A shipped on 01/08/94 is considered to be $525 (500 units × $1.05); and

(2) the value of non-originating materials used in the production of the 500 units of Good A shipped on 01/09/94 is considered to be $525 (500 units × $1.05).

SCHEDULE X

INVENTORY MANAGEMENT METHODS

PART I

FUNGIBLE MATERIALS

Definitions and Interpretation

1. For purposes of this Part,

"average method" means the method by which the origin of fungible materials withdrawn from materials inventory is based on the ratio, calculated under section 5, of originating materials and non-originating materials in materials inventory; (*méthode de la moyenne*)

"FIFO method" means the method by which the origin of fungible materials first received in materials inventory is considered to be the origin of fungible materials first withdrawn from materials inventory; (*méthode PEPS*)

"LIFO method" means the method by which the origin of fungible materials last received in materials inventory is considered to be the origin of fungible materials first withdrawn from materials inventory; (*méthode DEPS*)

"materials inventory" means,

(a) with respect to a producer of a good, an inventory of fungible materials that are used in the production of the good, and

(b) with respect to a person from whom the producer of the good acquired those fungible materials, an inventory from which fungible materials are sold or otherwise transferred to the producer of the good; (*stock de matières*)

"opening inventory" means the materials inventory at the time an inventory management method is chosen; (*stock d'ouverture*)

"origin identifier" means any mark that identifies fungible materials as originating materials or non-originating materials. (*identificateur d'origine*)

General

2. The inventory management methods for determining whether fungible materials referred to in paragraph 7(16)*(a)* of these Regulations are originating materials are the following:

(a) specific identification method;

(b) FIFO method;

(c) LIFO method; and

(d) average method.

3. A producer of a good, or a person from whom the producer acquired the fungible materials that are used in the production of the good, may choose only one of the inventory management methods referred to in section 2, and, if the averaging method is chosen, only one averaging period in each fiscal year of that producer or person for the materials inventory.

Specific Identification Method

4. (1) Except as otherwise provided under subsection (2), where the producer or person referred to in section 3 chooses the specific identification method, the producer or person shall physically segregate, in materials inventory, originating materials that are fungible materials from non-originating materials that are fungible materials.

(2) Where originating materials or non-originating materials that are fungible materials are marked with an origin identifier, the producer or person need not physically segregate those materials under subsection (1) if the origin identifier remains visible throughout the production of the good.

Average Method

5. Where the producer or person referred to in section 3 chooses the average method, the origin of fungible materials withdrawn from materials inventory is determined on the basis of the ratio of originating materials and non-originating materials in materials inventory that is calculated under sections 6 through 8.

6. (1) Except as otherwise provided in sections 7 and 8, the ratio is calculated with respect to a month or three-month period, at the choice of the producer or person, by dividing

(a) the sum of

(i) the total units of originating materials or non-originating materials that are fungible materials and that were in materials inventory at the beginning of the preceding one-month or three-month period, and

(ii) the total units of originating materials or non-originating materials that are fungible materials and that were received in materials inventory during that preceding one-month or three-month period,

by

(b) the sum of

(i) the total units of originating materials and non-originating materials that are fungible materials and that were in materials inventory at the beginning of the preceding one-month or three-month period, and

(ii) the total units of originating materials and non-originating materials that are fungible materials and that were received in materials inventory during that preceding one-month or three-month period.

(2) The ratio calculated with respect to a preceding month or three-month period under subsection (1) is applied to the fungible materials remaining in materials inventory at the end of the preceding month or three-month period.

7. (1) Where the good is subject to a regional value-content requirement and the regional value content is calculated under the net cost method and the producer or person chooses to average over a period under subsections 6(15), 11(1), (3) or (6), 12(1) or 13(4) of these Regulations, the ratio is calculated with respect to that period by dividing

(a) the sum of

(i) the total units of originating materials or non-originating materials that are fungible materials and that were in materials inventory at the beginning of the period, and

(ii) the total units of originating materials or non-originating materials that are fungible materials and that were received in materials inventory during that period,

by

(b) the sum of

(i) the total units of originating materials and non-originating materials that are fungible materials and that were in materials inventory at the beginning of the period, and

(ii) the total units of originating materials and non-originating materials that are fungible materials and that were received in materials inventory during that period.

(2) The ratio calculated with respect to a period under subsection (1) is applied to the fungible materials remaining in materials inventory at the end of the period.

8. (1) Where the good is subject to a regional value-content requirement and the regional value content of that good is calculated under the transaction value method or the net cost method, the ratio is calculated with respect to each shipment of the good by dividing

(a) the total units of originating materials or non-originating materials that are fungible materials and that were in materials inventory prior to the shipment,

by

(b) the total units of originating materials and non-originating materials that are fungible materials and that were in materials inventory prior to the shipment.

(2) The ratio calculated with respect to a shipment of a good under subsection (1) is applied to the fungible materials remaining in materials inventory after the shipment.

Manner of Dealing with Opening Inventory

9. (1) Except as otherwise provided under subsections (2) and (3), where the producer or person referred to in section 3 has fungible materials in opening inventory, the origin of those fungible materials is determined by

(a) identifying, in the books of the producer or person, the latest receipts of fungible materials that add up to the amount of fungible materials in opening inventory;

(b) determining the origin of the fungible materials that make up those receipts; and

(c) considering the origin of those fungible materials to be the origin of the fungible materials in opening inventory.

(2) Where the producer or person chooses the specific identification method and has, in opening inventory, originating materials or non-originating materials that are fungible materials and that are marked with an origin identifier, the origin of those fungible materials is determined on the basis of the origin identifier.

(3) The producer or person may consider all fungible materials in opening inventory to be non-originating materials.

PART II

FUNGIBLE GOODS

Definitions and Interpretation

10. For purposes of this Part,

"average method" means the method by which the origin of fungible goods withdrawn from finished goods inventory is based on the ratio, calculated under section 14, of originating goods and non-originating goods in finished goods inventory; (*méthode de la moyenne*)

"FIFO method" means the method by which the origin of fungible goods first received in finished goods inventory is considered to be the origin of fungible goods first withdrawn from finished goods inventory; (*méthode PEPS*)

"finished goods inventory" means an inventory from which fungible goods are sold or otherwise transferred to another person; (*stock de produits finis*)

"LIFO method" means the method by which the origin of fungible goods last received in finished goods inventory is considered to be the origin of fungible goods first withdrawn from finished goods inventory; (*méthode DEPS*)

"opening inventory" means the finished goods inventory at the time an inventory management method is chosen; (*stock d'ouverture*)

"origin identifier" means any mark that identifies fungible goods as originating goods or non-originating goods. (*identificateur d'origine*)

General

11. The inventory management methods for determining whether fungible goods referred to in paragraph 7(16)*(b)* of these Regulations are originating goods are the following:

(a) specific identification method;

(b) FIFO method;

(c) LIFO method; and

(d) average method.

12. An exporter of a good, or a person from whom the exporter acquired the fungible good, may choose only one of the inventory management methods referred to in section 11, including only one averaging period in the case of the average method, in each fiscal year of that exporter or person for each finished goods inventory of the exporter or person.

Specific Identification Method

13. (1) Except as provided under subsection (2), where the exporter or person referred to in section 12 chooses the specific identification method, the exporter or person shall physically segregate, in finished goods inventory, originating goods that are fungible goods from non-originating goods that are fungible goods.

(2) Where originating goods or non-originating goods that are fungible goods are marked with an origin identifier, the exporter or person need not physically segregate those goods under subsection (1) if the origin identifier is visible on the fungible goods.

Average Method

14. (1) Where the exporter or person referred to in section 12 chooses the average method, the origin of each shipment of fungible goods withdrawn from finished goods inventory during a month or three-month period, at the choice of the exporter or person, is determined on the basis of the ratio of originating goods and non-originating goods in finished goods inventory for the preceding one-month or three-month period that is calculated by dividing

(a) the sum of

(i) the total units of originating goods or non-originating goods that are fungible goods and that were in finished goods inventory at the beginning of the preceding one-month or three-month period, and

(ii) the total units of originating goods or non-originating goods that are fungible goods and that were received in finished goods inventory during that preceding one-month or three-month period,

by

(b) the sum of

(i) the total units of originating goods and non-originating goods that are fungible goods and that were in finished goods inventory at the beginning of the preceding one-month or three-month period, and

(ii) the total units of originating goods and non-originating goods that are fungible goods and that were received in finished goods inventory during that preceding one-month or three-month period.

(2) The ratio calculated with respect to a preceding month or three-month period under subsection (1) is applied to the fungible goods remaining in finished goods inventory at the end of the preceding month or three-month period.

Manner of Dealing with Opening Inventory

15. (1) Except as otherwise provided under subsections (2) and (3), where the exporter or person referred to in section 12 has fungible goods in opening inventory, the origin of those fungible goods is determined by

(a) identifying, in the books of the exporter or person, the latest receipts of fungible goods that add up to the amount of fungible goods in opening inventory;

(b) determining the origin of the fungible goods that make up those receipts; and

(c) considering the origin of those fungible goods to be the origin of the fungible goods in opening inventory.

(2) Where the exporter or person chooses the specific identification method and has, in opening inventory, originating goods or non-originating goods that are fungible goods and that are marked with an origin identifier, the origin of those fungible goods is determined on the basis of the origin identifier.

(3) The exporter or person may consider all fungible goods in opening inventory to be non-originating goods.

APPENDIX A

"EXAMPLES" ILLUSTRATING THE APPLICATION OF THE INVENTORY MANAGEMENT METHODS TO DETERMINE THE ORIGIN OF FUNGIBLE MATERIALS

The following examples are based on the figures set out in the table below and on the following assumptions:

(a) originating Material A and non-originating Material A that are fungible materials are used in the production of Good A;

(b) one unit of Material A is used to produce one unit of Good A;

(c) Material A is only used in the production of Good A;

(d) all other materials used in the production of Good A are originating materials; and

(e) the producer of Good A exports all shipments of Good A to the territory of a NAFTA country.

MATERIALS INVENTORY (RECEIPTS OF MATERIAL A)				*SALES (SHIPMENTS OF GOOD A)*
DATE (M/D/Y)	*QUANTITY (UNITS)*	*UNIT COST**	*TOTAL VALUE*	*QUANTITY (UNITS*
12/18/93	*100 (O[1])*	*$1.00*	*$ 100*	
12/27/93	*100 (N[2])*	*1.10*	*110*	
01/01/94	*200 (OI[3])*			
01/01/94	*1,000 (O)*	*1.00*	*1,000*	
01/05/94	*1,000 (N)*	*1.10*	*1,100*	
01/10/94				*100*
01/10/94	*1,000 (O)*	*1.05*	*1,050*	
01/15/94				*700*
01/16/94	*2,000 (N)*	*1.10*	*2,200*	
01/20/94				*1,000*
01/23/94				*900*

* unit cost is determined in accordance with section 7 of these Regulations
1 *"O" denotes originating materials*
2 *"N" denotes non-originating materials*
3 *"OI" denotes opening inventory*

Example 1: FIFO method

Good A is subject to a regional value-content requirement. Producer A is using the transaction value method to determine the regional value content of Good A.

By applying the FIFO method:

(1) the 100 units of originating Material A in opening inventory that were received in materials inventory on 12/18/93 are considered to have been used in the production of the 100 units of Good A shipped on 01/10/94; therefore, the value of non-originating materials used in the production of those goods is considered to be $0;

(2) the 100 units of non-originating Material A in opening inventory that were received in materials inventory on 12/27/93 and 600 units of the 1,000 units of originating Material A that were received in materials inventory on 01/01/94 are considered to have been used in the production of the 700 units of Good A shipped on 01/15/94; therefore, the value of non-originating materials used in the production of those goods is considered to be $110 (100 units × $1.10);

(3) the remaining 400 units of the 1,000 units of originating Material A that were received in materials inventory on 01/01/94 and 600 units of the 1,000 units of non-originating Material A that were received in materials inventory on 01/05/94 are considered to have been used in the production of the 1,000 units of Good A shipped on 01/20/94; therefore, the value of non-originating materials used in the production of those goods is considered to be $660 (600 units × $1.10); and

(4) the remaining 400 units of the 1,000 units of non-originating Material A that were received in materials inventory on 01/05/94 and 500 units of the 1,000 units of originating Material A that

were received in materials inventory on 01/10/94 are considered to have been used in the production of the 900 units of Good A shipped on 01/23/94; therefore, the value of non-originating materials used in the production of those goods is considered to be $440 (400 units × $1.10).

Example 2: LIFO method

Good A is subject to a change in tariff classification requirement and the non-originating Material A used in the production of Good A does not undergo the applicable change in tariff classification. Therefore, where originating Material A is used in the production of Good A, Good A is an originating good and, where non-originating Material A is used in the production of Good A, Good A is a non-originating good.

By applying the LIFO method:

(1) 100 units of the 1,000 units of non-originating Material A that were received in materials inventory on 01/05/94 are considered to have been used in the production of the 100 units of Good A shipped on 01/10/94;

(2) 700 units of the 1,000 units of originating Material A that were received in materials inventory on 01/10/94 are considered to have been used in the production of the 700 units of Good A shipped on 01/15/94;

(3) 1,000 units of the 2,000 units of non-originating Material A that were received in materials inventory on 01/16/94 are considered to have been used in the production of the 1,000 units of Good A shipped on 01/20/94; and

(4) 900 units of the remaining 1,000 units of non-originating Material A that were received in materials inventory on 01/16/94 are considered to have been used in the production of the 900 units of Good A shipped on 01/23/94.

Example 3: Average method

Good A is subject to an applicable regional value-content requirement. Producer A is using the transaction value method to determine the regional value content of Good A. Producer A determines the average value of non-originating Material A and the ratio of originating Material A to total value of originating Material A and non-originating Material A in the following table.

	MATERIAL INVENTORY						SALES	
	(RECEIPTS OF MATERIAL A)				(NON-ORIGINATING MATERIAL)		(SHIPMENTS OF GOOD A	
	DATE (M/D/Y)	QUANTITY (UNITS)	TOTAL VALUE $	UNIT COST* $	QUANTITY (UNITS)	TOTAL VALUE $	RATIO	QUANTITY (UNITS)
Receipt	12/18/93	100 (O[1])	100	1.00				
Receipt	12/27/93	100 (N[2])	110	1.10	100	110.00		
NEW AVG INV VALUE		200 (OI[3])	210	1.05	100	105.00	0.50	
Receipt	01/01/94	1,000 (O)	1,000	1.00				
NEW AVG INV VALUE		1,200	1,210	1.01	100	101.00	0.08	
Receipt	01/05/94	1,000 (N)	1,100	1.10	1,000	1,100.00		
NEW AVG INV VALUE		2,200	2,310	1.05	1,100	1,155.00	0.50	
Shipment	01/10/94	(100)	(105)	1.05	(50)	(52.50)		100
Receipt	01/10/94	1,000 (O)	1,050	1.05				
NEW AVG INV VALUE		3,100	3,255	1.05	1,050	1,102.50	0.34	
Shipment	01/15/94	(700)	(735)	1.05	(238)	(249.90)		700
Receipt	01/16/94	2,000 (N)	2,200	1.10	2,000	2,200.00		
NEW AVG INV VALUE		4,400	4,720	1.07	2,812	3,008.84	0.64	
Shipment	01/20/94	(1,000)	(1,070)	1.07	(640)	(684.80)		1,000
Shipment	01/23/94	(900)	(963)	1.07	(576)	(616.32)		900
NEW AVG INV VALUE		2,500	2,687	1.07	1,596	1,707.24	0.64	

* *unit cost is determined in accordance with section 7 of these Regulations*

1 *"O" denotes originating materials*
2 *"N" denotes non-originating materials*
3 *"OI" denotes opening inventory*

By applying the average method:

(1) before the shipment of the 100 units of Material A on 01/10/94, the ratio of units of originating Material A to total units of Material A in materials inventory was .50 (1,100 units/2,200 units) and the ratio of units of non-originating Material A to total units of Material A in materials inventory was .50 (1,100 units/2,200 units);

based on those ratios, 50 units (100 units × .50) of originating Material A and 50 units (100 units ×.50) of non-originating Material A are considered to have been used in the production of the 100 units of Good A shipped on 01/10/94; therefore, the value of non-originating Material A used in the production of those goods is considered to be $52.50 [100 units x $1.05 (average unit value) ×.50];

the ratios are applied to the units of Material A remaining in materials inventory after the shipment: 1,050 units (2,100 units ×.50) are considered to be originating materials and 1,050 units (2,100 units ×.50) are considered to be non-originating materials;

(2) before the shipment of the 700 units of Good A on 01/15/94, the ratio of units of originating Material A to total units of Material A in materials inventory was 66% (2,050 units/3,100 units) and the ratio of

units of non-originating Material A to total units of Material A in materials inventory was 34% (1,050 units/3,100 units);

based on those ratios, 462 units (700 units ×.66) of originating Material A and 238 units (700 units ×.34) of non-originating Material A are considered to have been used in the production of the 700 units of Good A shipped on 01/15/94; therefore, the value of non-originating Material A used in the production of those goods is considered to be $249.90 [700 units ×$1.05 (average unit value) ×34%];

the ratios are applied to the units of Material A remaining in materials inventory after the shipment: 1,584 units (2,400 units ×.66) are considered to be originating materials and 816 units (2,400 units ×.34) are considered to be non-originating materials;

(3) before the shipment of the 1,000 units of Material A on 01/20/94, the ratio of units of originating Material A to total units of Material A in materials inventory was 36% (1,584 units/4,400 units) and the ratio of units of non-originating Material A to total units of Material A in materials inventory was 64% (2,816 units/4,400 units);

based on those ratios, 360 units (1,000 units ×.36) of originating Material A and 640 units (1,000 units ×.64) of non-originating Material A are considered to have been used in the production of the 1,000 units of Good A shipped on 01/20/94; therefore, the value of non-originating Material A used in the production of those goods is considered to be $684.80 [1,000 units ×$1.07 (average unit value) ×64%];

those ratios are applied to the units of Material A remaining in materials inventory after the shipment: 1,224 units (3,400 units ×.36) are considered to be originating materials and 2,176 units (3,400 units ×.64) are considered to be non-originating materials;

(4) before the shipment of the 900 units of Good A on 01/23/94, the ratio of units of originating Material A to total units of Material A in materials inventory was 36% (1,224 units/3,400 units) and the ratio of units of non-originating Material A to total units of Material A in materials inventory was 64% (2,176 units/3,400 units);

based on those ratios, 324 units (900 units ×.36) of originating Material A and 576 units (900 units ×.64) of non-originating Material A are considered to have been used in the production of the 900 units of Good A shipped on 01/23/94; therefore, the value of non-originating Material A used in the production of those goods is considered to be $616.32 [900 units ×$1.07 (average unit value) ×64%];

those ratios are applied to the units of Material A remaining in materials inventory after the shipment: 900 units (2,500 units ×.36) are considered to be originating materials and 1,600 units (2,500 units ×.64) are considered to be non-originating materials.

Example 4: Average method

Good A is subject to an applicable regional value-content requirement. Producer A is using the net cost method and is averaging over a period of one month under paragraph 6(15)(a) of these Regulations to determine the regional value content of Good A.

By applying the average method:

the ratio of units of originating Material A to total units of Material A in materials inventory for January 1994 is 40.4% (2,100 units/5,200 units);

based on that ratio, 1,091 units (2,700 units ×.404) of originating Material A and 1,609 units (2,700 units - 1,091 units) of non-originating Material A are considered to have been used in the production of the 2,700 units of Good A shipped in January 1994; therefore, the value of non-originating materials used in the production of those goods is considered to be $0.64 per unit [$5,560 (total value of Material A in materials inventory)/5,200 (units of Material A in materials inventory) = $1.07 (average unit value) ×(1 - .404)] or $1,728 ($0.64 ×2,700 units); and

that ratio is applied to the units of Material A remaining in materials inventory on January 31, 1994: 1,010 units (2,500 units ×.404) are considered to be originating materials and 1,490 units (2,500 units - 1,010 units) are considered to be non-originating materials.

APPENDIX B

"EXAMPLES" ILLUSTRATING THE APPLICATION OF THE INVENTORY MANAGEMENT METHODS TO DETERMINE THE ORIGIN OF FUNGIBLE GOODS

The following examples are based on the figures set out in the table below and on the assumption that Exporter A acquires originating Good A and non-originating Good A that are fungible goods and physically combines or mixes Good A before exporting those goods to the buyer of those goods.

FINISHED GOODS INVENTORY (RECEIPTS OF GOOD A)		*SALES (SHIPMENTS OF GOOD A)*
DATE (M/D/Y)	*QUANTITY (UNITS)*	*QUANTITY (UNITS)*
12/18/93	*100 (O[1])*	
12/27/93	*100 (N[2])*	
01/01/94	*200 (OI[3])*	
01/01/94	*1,000 (O)*	
01/05/94	*1,000 (N)*	
01/10/94		*100*
01/10/94	*1,000 (O)*	
01/15/94		*700*
01/16/94	*2,000 (N)*	
01/20/94		*1,000*
01/23/94		*900*

1 *"O" denotes originating goods*
2 *"N" denotes non-originating goods*
3 *"OI" denotes opening inventory*

Example 1: FIFO method

By applying the FIFO method:

(1) the 100 units of originating Good A in opening inventory that were received in finished goods inventory on 12/18/93 are considered to be the 100 units of Good A shipped on 01/10/94;

(2) the 100 units of non-originating Good A in opening inventory that were received in finished goods inventory on 12/27/93 and 600 units of the 1,000 units of originating Good A that were received in finished goods inventory on 01/01/94 are considered to be the 700 units of Good A shipped on 01/15/94;

(3) the remaining 400 units of the 1,000 units of originating Good A that were received in finished goods inventory on 01/01/94 and 600 units of the 1,000 units of non-originating Good A that were received in finished goods inventory on 01/05/94 are considered to be the 1,000 units of Good A shipped on 01/20/94; and

(4) the remaining 400 units of the 1,000 units of non-originating Good A that were received in finished goods inventory on 01/05/94 and 500 units of the 1,000 units of originating Good A that were received in finished goods inventory on 01/10/94 are considered to be the 900 units of Good A shipped on 01/23/94.

Example 2: LIFO method

By applying the LIFO method:

(1) 100 units of the 1,000 units of non-originating Good A that were received in finished goods inventory on 01/05/94 are considered to be the 100 units of Good A shipped on 01/10/94;

(2) 700 units of the 1,000 units of originating Good A that were received in finished goods inventory on 01/10/94 are considered to be the 700 units of Good A shipped on 01/15/94;

(3) 1,000 units of the 2,000 units of non-originating Good A that were received in finished goods inventory on 01/16/94 are considered to be the 1,000 units of Good A shipped on 01/20/94; and

(4) 900 units of the remaining 1,000 units of non-originating Good A that were received in finished goods inventory on 01/16/94 are considered to be the 900 units of Good A shipped on 01/23/94.

Example 3: Average method

Exporter A chooses to determine the origin of Good A on a monthly basis. Exporter A exported 3,000 units of Good A during the month of February 1994. The origin of the units of Good A exported during that month is determined on the basis of the preceding month, that is January 1994.

By applying the average method:

the ratio of originating goods to all goods in finished goods inventory for the month of January 1994 is 40.4% (2,100 units/5,200 units);

based on that ratio, 1,212 units (3,000 units ×.404) of Good A shipped in February 1994 are considered to be originating goods and 1,788 units (3,000 units - 1,212 units) of Good A are considered to be non-originating goods; and

that ratio is applied to the units of Good A remaining in finished goods inventory on January 31, 1994: 1,010 units (2,500 units ×.404) are considered to be originating goods and 1,490 units (2,500 units - 1,010 units) are considered to be non-originating goods.

SCHEDULE XI

METHOD FOR CALCULATING NON-ALLOWABLE INTEREST COSTS

Definitions and Interpretation

1. For purposes of this Schedule,

"fixed-rate contract" means a loan contract, instalment purchase contract or other financing agreement in which the interest rate remains constant throughout the life of the contract or agreement; (*contrat à taux fixe*)

"linear interpolation" means, with respect to the yield on federal government debt obligations, the application of the following mathematical formula:

$$A + [((B - A) \times (E - D)) / (C - D)]$$

where

A is the yield on federal government debt obligations that are nearest in maturity but of shorter maturity than the weighted average principal maturity of the payment schedule under the fixed-rate contract or variable-rate contract to which they are being compared,

B is the yield on federal government debt obligations that are nearest in maturity but of greater maturity than the weighted average principal maturity of that payment schedule,

C is the maturity of federal government debt obligations that are nearest in maturity but of greater maturity than the weighted average principal maturity of that payment schedule,

D is the maturity of federal government debt obligations that are nearest in maturity but of shorter maturity than the weighted average principal maturity of that payment schedule, and

E is the weighted average principal maturity of that payment schedule; (*interpolation linéaire*)

"payment schedule" means the schedule of payments, whether on a weekly, bi-weekly, monthly, yearly or other basis, of principal and interest, or any combination thereof, made by a producer to a lender in accordance with the terms of a fixed-rate contract or variable-rate contract; (*échéancier*)

"variable-rate contract" means a loan contract, instalment purchase contract or other financing agreement in which the interest rate is adjusted at intervals during the life of the contract or agreement in accordance with its terms; (*contrat à taux variable*)

"weighted average principal maturity" means, with respect to fixed-rate contracts and variable-rate contracts, the numbers of years, or portion thereof, that is equal to the number obtained by

(a) dividing the sum of the weighted principal payments,

(i) in the case of a fixed-rate contract, by the original amount of the loan, and

(ii) in the case of a variable-rate contract, by the principal balance at the beginning of the interest rate period for which the weighted principal payments were calculated, and

(b) rounding the amount determined under paragraph *(a)* to the nearest single decimal place and, where that amount is the midpoint between two such numbers, to the greater of those two numbers; (*échéance moyenne pondérée applicable au principal*)

"weighted principal payment" means,

(a) with respect to fixed-rate contracts, the amount determined by multiplying each principal payment under the contract by the number of years, or portion thereof, between the date the producer entered into the contract and the date of that principal payment, and

(b) with respect to variable-rate contracts

(i) the amount determined by multiplying each principal payment made during the current interest rate period by the number of years, or portion thereof, between the beginning of that interest rate period and the date of that payment, and

(ii) the amount equal to the outstanding principal owing, but not necessarily due, at the end of the current interest rate period, multiplied by the number of years, or portion thereof, between the beginning and the end of that interest rate period; (*paiement de principal pondéré*)

"yield on federal government debt obligations" means

(a) in the case of a producer located in Canada, the yield for federal government debt obligations set out in the Bank of Canada's *Weekly Financial Statistics*

(i) where the interest rate is adjusted at intervals of less than one year, under the title "Treasury Bills," and

(ii) in any other case, under the title "Selected Government of Canada benchmark bond yields,"

for the week that the producer entered into the contract or the week of the most recent interest rate adjustment date, if any, under the contract,

(b) in the case of a producer located in Mexico, the yield for federal government debt obligations set out in *La Sección de Indicadores Monetarios, Financierós, y de Finanzas Publicas*, *de los Indicadores*

Economicos, published by the Banco de Mexico under the title "*Certificados de la Tesoreria de la Federacion*" for the week that the producer entered into the contract or the week of the most recent interest rate adjustment date, if any, under the contract, and

(c) in the case of a producer located in the United States, the yield for federal government debt obligations set out in the Federal Reserve statistical release (H.15) *Selected Interest Rates*

(i) where the interest rate is adjusted at intervals of less than one year, under the title "U.S. government securities, Treasury bills, Secondary market," and

(ii) in any other case, under the title "U.S. Government Securities, Treasury constant maturities,"

for the week that the producer entered into the contract or the week of the most recent interest rate adjustment date, if any, under the contract. (*rendement des titres d'emprunt du gouvernement fédéral*)

General

2. For purposes of calculating non-allowable interest costs

(a) with respect to a fixed-rate contract, the interest rate under that contract shall be compared with the yield on federal government debt obligations that have maturities of the same length as the weighted average principal maturity of the payment schedule under the contract (that yield determined by linear interpolation, where necessary);

(b) with respect to a variable-rate contract

(i) in which the interest rate is adjusted at intervals of less than or equal to one year, the interest rate under that contract shall be compared with the yield on federal government debt obligations that have maturities closest in length to the interest rate adjustment period of the contract, and

(ii) in which the interest rate is adjusted at intervals of greater than one year, the interest rate under the contract shall be compared with the yield on federal government debt obligations that have maturities of the same length as the weighted average principal maturity of the payment schedule under the contract (that yield determined by linear interpolation, where necessary); and

(c) with respect to a fixed-rate or variable-rate contract in which the weighted average principal maturity of the payment schedule under the contract is greater than the maturities offered on federal government debt obligations, the interest rate under the contract shall be compared to the yield on federal government debt obligations that have maturities closest in length to the weighted average principal maturity of the payment schedule under the contract.

APPENDIX

"EXAMPLE" ILLUSTRATING THE APPLICATION
OF THE METHOD FOR CALCULATING NON-ALLOWABLE INTEREST COSTS
IN THE CASE OF A FIXED-RATE CONTRACT

The following example is based on the figures set out in the table below and on the following assumptions:

(a) *a producer in a NAFTA country borrows $1,000,000 from a person of the same NAFTA country under a fixed-rate contract;*

(b) *under the terms of the contract, the loan is payable in 10 years with interest paid at the rate of 6 per cent per year on the declining principal balance;*

(c) *the payment schedule calculated by the lender based on the terms of the contract requires the producer to make annual payments of principal and interest of $135,867.36 over the life of the contract;*

(d) *there are no federal government debt obligations that have maturities equal to the 6-year weighted average principal maturity of the contract; and*

(e) *the federal government debt obligations that are nearest in maturity to the weighted average principal maturity of the contract are of 5- and 7-year maturities, and the yields on them are 4.7 per cent and 5.0 per cent, respectively.*

Years of Loan	*Principal Balance* $*	*Interest Payment** $*	*Principal Payment*** $*	*Payment Schedule $*	*Weighted Principal Payment**** $*
1	*924,132.04*	*60,000.00*	*75,867.96*	*135,867.96*	*75,867.96*
2	*843,712.00*	*55,447.92*	*80,420.04*	*135,867.96*	*160,840.08*
3	*758,466.76*	*50,622.72*	*85,245.24*	*135,867.96*	*255,735.72*
4	*668,106.81*	*45,508.01*	*90,359.95*	*135,867.96*	*361,439.82*
5	*572,325.26*	*40,086.41*	*95,781.55*	*135,867.96*	*478,907.76*
6	*470,796.81*	*34,339.52*	*101,528.44*	*135,867.96*	*609,170.67*
7	*363,176.66*	*28,247.81*	*107,620.15*	*135,867.96*	*753,341.06*
8	*249,099.30*	*21,790.60*	*114,077.36*	*135,867.96*	*912,618.88*
9	*128,177.30*	*14,945.96*	*120,922.00*	*135,867.96*	*1,088,298.02*
10	*(0.00)*	*7,690.66*	*128,177.32*	*135,867.96*	*1,281,773.22*
					5,977,993.19

*Weighted Average Principal Maturity: $5,977,993.19 / $1,000,000 = 5.977993 or 6 years*****

** the principal balance represents the loan balance at the end of each full year the loan is in effect and is calculated by subtracting the current year's principal payment from the prior year's ending loan balance*

*** interest payments are calculated by multiplying the prior year's ending loan balance by the contract interest rate of 6 per cent*

**** principal payments are calculated by subtracting the current year's interest payments from the annual payment schedule amount*

***** the weighted principal payment is determined by, for each year of the loan, multiplying that year's principal payment by the number of years the loan had been in effect at the end of that year*

****** the weighted average principal maturity of the contract is calculated by dividing the sum of the weighted principal payments by the original loan amount and rounding the amount determined to the nearest decimal place*

By applying the above method,

(1) the weighted average principal maturity of the payment schedule under the 6 per cent contract is 6 years;

(2) the yields on the closest maturities for comparable federal government debt obligations of 5 years and 7 years are 4.7 per cent and 5.0 per cent, respectively; therefore, using linear interpolation, the yield

on a federal government debt obligation that has a maturity equal to the weighted average principal maturity of the contract is 4.85 per cent. This number is calculated as follows:

4.7 + [((5.0 - 4.7) × (6 - 5)) / (7 - 5)]

= 4.7 + 0.15

= 4.85%; and

(3) the producer's contract interest rate of 6 per cent is within 700 basis points of the 4.85 per cent yield on the comparable federal government debt obligation; therefore, none of the producer's interest costs are considered to be non-allowable interest costs for purposes of the definition "non-allowable interest costs."

"EXAMPLE" ILLUSTRATING THE APPLICATION
OF THE METHOD FOR CALCULATING
NON-ALLOWABLE INTEREST COSTS IN THE
CASE OF A VARIABLE-RATE CONTRACT

The following example is based on the figures set out in the tables below and on the following assumptions:

(a) *a producer in a NAFTA country borrows $1,000,000 from a person of the same NAFTA country under a variable-rate contract;*

(b) *under the terms of the contract, the loan is payable in 10 years with interest paid at the rate of 6 per cent per year for the first two years and 8 per cent per year for the next two years on the principal balance, with rates adjusted each two years after that;*

(c) *the payment schedule calculated by the lender based on the terms of the contract requires the producer to make annual payments of principal and interest of $135,867.96 for the first two years of the loan, and of $146,818.34 for the next two years of the loan;*

(d) *there are no federal government debt obligations that have maturities equal to the 1.9-year weighted average principal maturity of the first two years of the contract;*

(e) *there are no federal government debt obligations that have maturities equal to the 1.9-year weighted average principal maturity of the third and fourth years of the contract; and*

(f) *the federal government debt obligations that are nearest in maturity to the weighted average principal maturity of the contract are 1- and 2-year maturities, and the yields on them are 3.0 per cent and 3.5 per cent respectively.*

Beginning of Year	*Principal Balance $*	*Interest Rate (%)*	*Interest Payment $*	*Principal Payment $*	*Payment Schedule $*	*Weighted Principal Payment $*
1	*1,000,000.00*	*6.00*	*60,000.00*	*75,867.96*	*135,867.96*	*75,867.96*
2	*924,132.04*	*6.00*	*55,447.92*	*80,420.04*	*135,867.86*	*1,848,264.08*
						1,924,132.04

Weighted Average Principal Maturity: $1,924,132.04 / $1,000,000 = 1.92413204 or 1.9 years

By applying the above method:

(1) the weighted average principal maturity of the payment schedule of the first two years of the contract is 1.9 years;

(2) the yield on the closest maturities of federal government debt obligations of 1 year and 2 years are 3.0 and 3.5 per cent, respectively; therefore, using linear interpolation, the yield on a federal government debt obligation that has a maturity equal to the weighted average principal maturity of the payment schedule of the first two years of the contract is 3.45 per cent. This amount is calculated as follows:

3.0 + [((3.5 - 3.0) × (1.9 - 1.0)) / (2.0 - 1.0)];

= 3.0 + 0.45

= 3.45%; and

(3) the producer's contract rate of 6 per cent for the first two years of the loan is within 700 basis points of the 3.45 per cent yield on federal government debt obligations that have maturities equal to the 1.9-year weighted average principal maturity of the payment schedule of the first two years of the producer's loan contract; therefore, none of the producer's interest costs are considered to be non-allowable interest costs for purposes of the definition "non-allowable interest costs."

Beginning of Year	*Principal Balance $*	*Interest Rate (%)*	*Interest Payment $*	*Principal Payment $*	*Payment Schedule $*	*Weighted Principal Payment $*
1	*1,000,000.00*	*6.00*	*60,000.00*	*75,867.96*	*135,867.96*	
2	*924,132.04*	*6.00*	*55,447.92*	*80,420.04*	*135,867.86*	
3	*843,712.01*	*8.00*	*67,496.96*	*79,321.38*	*146,818.34*	*79,321.38*
4	*764,390.62*	*8.00*	*61,151.25*	*85,667.09*	*146,818.34*	*1,528,781.24*
						1,608,102.62

Weighted Average Principal Maturity
$1,608,102.62 / $843,712.01 = 1.905985 or 1.9 years

By applying the above method:

(1) the weighted average principal maturity of the payment schedule under the first two years of the contract is 1.9 years;

(2) the federal government debt obligations that are nearest in maturities to the weighted average principal maturity of the contract are 1- and 2-year maturities, and the yields on them are 3.0 and 3.5 per cent, respectively; therefore, using linear interpolation, the yield on a federal government debt obligation that has a maturity equal to the weighted average principal maturity of the payment schedule of the first two years of the contract is 3.45 per cent. This amount is calculated as follows:

3.0 + [((3.5 - 3.0) × (1.9 - 1.0)) / (2.0 - 1.0)];

= 3.0 + 0.45

= 3.45%

(3) the producer's contract interest rate, for the third and fourth years of the loan, of 8 per cent is within 700 basis points of the 3.45 per cent yield on federal government debt obligations that have maturities equal to the 1.9-year weighted average principal maturity of the payment schedule under the third and fourth years of the producer's loan contract; therefore, none of the producer's interest costs are

considered to be non-allowable interest costs for purposes of the definition "non-allowable interest costs."

SCHEDULE XII

GENERALLY ACCEPTED ACCOUNTING PRINCIPLES

1. Generally Accepted Accounting Principles means the recognized consensus or substantial authoritative support in the territory of a NAFTA country with respect to the recording of revenues, expenses, costs, assets and liabilities, disclosure of information and preparation of financial statements. These standards may be broad guidelines of general application as well as detailed standards, practices and procedures.

2. For purposes of Generally Accepted Accounting Principles, the recognized consensus or authoritative support are referred to or set out in the following publications:

(a) with respect to the territory of Canada, *The Canadian Institute of Chartered Accountants Handbook*, as updated from time to time;

(b) with respect to the territory of Mexico, *Los Principios de Contabilidad Generalmente Aceptados*, issued by the Instituto *Mexicano de Contadores Públicos A.C. (IMCP)*, including the boletines complementarios, as updated from time to time; and

(c) with respect to the territory of the United States,

(i) the following publications of the American Institute of Certified Public Accountants (AICPA), as updated from time to time:

(A) *AICPA Professional Standards,*

(B) *Committee on Accounting Procedure Accounting Research Bulletins,*

(C) *Accounting Principles Board Opinions and Statements,*

(D) *APB Accounting and Auditing Guides*,

(E) *AICPA Statements of Position,* and

(F) *AICPA Issues Papers and Practice Bulletins,*

(ii) the following publications of the Financial Accounting Standards Board (FASB), as updated from time to time:

(A) *FASB Accounting Standards and Interpretations,*

(B) *FASB Technical Bulletins,* and

(C) *FASB Concepts Statements.*

3. (1) Except as otherwise provided in subsections (2) and (3), sections 1 and 2 come into force on October 1, 1995.

(2) If October 1, 1995 is after the beginning of the fiscal year of a producer of goods, the producer may choose to have the *NAFTA Rules of Origin Regulations*, as they read on September 30, 1995, continue to apply in respect of all goods produced by that producer for the remainder of that fiscal year.

(3) Notwithstanding subsection (2), where

(a) a producer of goods has, with respect to goods, made an election under subsection 12(1) of the *NAFTA Rules of Origin Regulations*, or provided a statement referred to in subsection 9(8) or

10(8) of those Regulations that states the value of non-originating materials determined in accordance with subsection 12(3) of the Regulations, and

(b) the period chosen under subsection 12(5) of the Regulations is the fiscal year of the motor vehicle producer to whom those goods are sold and October 1, 1995 is after the beginning of that fiscal year,

the producer of the goods may choose to have the *NAFTA Rules of Origin Regulations*, as they read on September 30, 1995, continue to apply in respect of the goods for the remainder of that fiscal year.
