What Every Member of the Trade Community Should Know About:

U.S. Rules of Origin

Preferential and Non-Preferential Rules of Origin

U.S. CUSTOMS and BORDER PROTECTION

AN INFORMED COMPLIANCE PUBLICATION

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NOTICE:

This publication is intended to provide guidance and information to the trade community. It reflects the position on or interpretation of the applicable laws or regulations by U.S. Customs and Border Protection (CBP) as of the date of publication, which is shown on the front cover. It does not in any way replace or supersede those laws or regulations. Only the latest official version of the laws or regulations is authoritative.

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PREFACE

On December 8, 1993, Title VI of the North American Free Trade Agreement Implementation Act (Pub. L. 103-182, 107 Stat. 2057), also known as the Customs Modernization or "Mod" Act, became effective. These provisions amended many sections of the Tariff Act of 1930 and related laws.

Two new concepts that emerge from the Mod Act are "informed compliance" and "shared responsibility," which are premised on the idea that in order to maximize voluntary compliance with the laws and regulations of U.S. Customs and Border Protection (CBP), the trade community needs to be clearly and completely informed of its legal obligations. Accordingly, the Mod Act imposes a greater obligation on the CBP to provide the public with improved information concerning the trade community's rights and responsibilities under customs regulations and related laws. In addition, both the trade community and the CBP share responsibility for carrying out these requirements. For example, under Section 484 of the Tariff Act, as amended (19 U.S.C. 1484), the importer of record is responsible for using reasonable care to enter, classify and determine the value of imported merchandise and to provide any other information necessary to enable the CBP to assess duties properly, collect accurate statistics, and determine whether other applicable legal requirements, if any, have been met. The CBP is then responsible for fixing the final classification and value of the merchandise. The failure of an importer of record to exercise reasonable care could delay release of the merchandise and, in some cases, could result in the imposition of penalties.

The Office of Regulations and Rulings has been given a major role in meeting the informed compliance responsibilities of the CBP. In order to provide information to the public, the CBP has issued a series of informed compliance publications and videos on new or revised requirements, regulations or procedures, and a variety of classification and valuation issues.

The Office of Regulations has prepared this publication on U.S. rules of origin. It covers preferential and non-preferential rules of origin. We sincerely hope that this material, together with seminars and increased access to administrative rulings of the CBP, will help the trade community to improve voluntary compliance with customs regulations and laws and to understand the relevant administrative processes.

The material in this publication is provided for general information purposes only. As many complicated factors can be involved in customs issues, an importer may wish to obtain an advance or pre-importation ruling under the CBP regulations (19 CFR Part 177) or to obtain advice from an expert who specializes in customs matters, for example, a licensed customs broker, attorney or consultant.

Comments and suggestions are welcomed and should be addressed to the Assistant Commissioner at the Office of Regulations and Rulings, U.S. Customs and Border Protection, 1300 Pennsylvania Avenue, NW, (Mint Annex), Washington, D.C. 20229.

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INTRODUCTION

The country of origin of merchandise imported into the customs territory of the United States (the fifty states, the District of Columbia and Puerto Rico) is important for several reasons. The country of origin of merchandise can affect, among other things, the rate of duty, the eligibility for special programs, admissibility, quota, procurement by government agencies and marking requirements. This publication summarizes the various rules of origin for goods imported into the customs territory of the United States. The discussion is divided into "non-preferential" and "preferential" rules of origin. "Non-preferential" rules are those that generally apply to merchandise in the absence of bilateral or multilateral trade agreements. On the other hand, "preferential" rules are those that apply to merchandise to determine eligibility for special treatment under various trade agreements or special legislation. Some of the rules use a "tariff-shift" (or "change in tariff classification") method, which is based on the Harmonized Commodity Description and Coding System ("Harmonized System"). [1] The Harmonized System forms the core of the U.S. tariff system, the Harmonized Tariff Schedule of the United States ("HTSUS").[2] The rules of origin discussed below are administered by the U.S. Bureau of Customs and Border Protection ("CBP") of the U.S. Department of Homeland Security.

NON-PREFERENTIAL RULES OF ORIGIN

U.S. Non-preferential rules of origin schemes are used for several purposes:

- Most-Favored-Nation or Normal-Trade-Relations Treatment
- Country of Origin Marking
- Government Procurement
- Textile and Textile Products

All U.S. non-preferential rules of origin schemes employ the "wholly obtained" criterion for goods that are wholly the growth, product, or manufacture of a particular country.

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[1] *See* Annex to the International Convention on the Harmonized Commodity Description and Coding System.

[2] The Harmonized Tariff Schedule of the United States ("HTSUS") went into effect on January 1, 1989, pursuant to section 1204 of the Omnibus Trade and Competitiveness Act of 1988 (Public Law 100-418, August 23, 1988) (19 U.S.C. § 3004) and Presidential Proclamation 5911 (November 19, 1988) (53 Fed. Reg. 47413, November 22, 1988). It replaced the Tariff Schedules of the United States (which had been in effect since August 31, 1963). Merchandise imported into the United States is classified under the HTSUS. *See* the CBP informed compliance publication entitled, "*What Every Member of the Trade Community Should Know About: Tariff Classification*." The HTSUS is available on the U.S. International Trade Commission's web site: www.usitc.gov.

On the other hand, all U.S. non-preferential rules of origin schemes employ the "substantial transformation" criterion for goods that consist in whole or in part of materials from more than one country. In the majority of the non-preferential schemes, the substantial transformation criterion is applied on a case-by-case basis, and it is based on a change in name/character/use method (i.e., an article that consists in whole or in part of materials from more than one country is a product of the country in which it has been substantially transformed into a new and different article of commerce with a name, character, and use distinct from that of the article or articles from which is was so transformed).

A rules of origin scheme for textiles and textile products exists that employs the substantial transformation criterion. It is based on a tariff-shift method. Another rules of origin scheme for products imported from Canada or Mexico exists that also employs the substantial transformation criterion. It is also based on a tariff-shift method. A brief discussion of the U.S. non-preferential rules of origin schemes is set forth below.

OUTLINE OF U.S. NON-PREFERENTIAL RULES OF ORIGIN

Most-Favored-Nation or Normal-Trade-Relations Treatment

There is a rules of origin scheme that is used to determine the country of origin of a product for purposes of most-favored-nation or normal-trade-relations ("NTR") duty treatment. It employs the "wholly obtained" criterion for goods that are wholly the growth, product, or manufacture of a particular country. On the other hand, it employs the "substantial transformation" criterion for goods that consist in whole or in part of materials from more than one country. The substantial transformation criterion is based on a change in name/character/use method (i.e., an article that consists in whole or in part of materials from more than one country is a product of the last country in which it has been substantially transformed into a new and different article of commerce with a name, character, and use distinct from that of the article or articles from which is was so transformed).

Country of Origin Marking

There are two sets of rules of origin schemes for country of origin marking purposes. The first scheme is used to determine the country of origin of a product for all countries except Canada and Mexico. It employs a rules of origin approach similar to that discussed above for NTR duty treatment. The second scheme is based on Annex 311 to the North American Free Trade Agreement ("NAFTA").[3] It is used for products

[3] Annex 311 to the North American Free Trade Agreement requires the parties to the agreement to establish rules for determining whether a good is a good of a party for country of origin marking and duty purposes. *See* Annex 311, North American Free Trade Agreement, December 17, 1992, Can-Mex-U.S., 32 I.L.M. 289 (1993). The North American Free Trade Agreement was implemented into U.S. law through the North America Free Trade Agreement

imported into the United States from Canada or Mexico, and it is set forth in Part 102, Customs Regulations (19 CFR § 102). For goods that consist in whole or in part of materials from more than one country, this scheme employs the substantial transformation criterion, which is expressed or based exclusively on a tariff-shift method. This scheme includes the following general rules:

- a de minimis test of 7 percent of the value of a good except for goods of chapter 22 wherein the test is 10 percent of the value of a good and, except for textile and apparel goods wherein the test is 7 percent of the total weight of the good (goods of chapters 1-4, 7, 8, 11, 12, 15, 17, and 20 are excluded from the de minimis test);

- a chemical reaction origin rule for the goods of chapters 28, 29, 31, 32 or 38; and

- provisions relating to the treatment of certain packaging materials, accessories, spare parts, tools, indirect materials in determining origin, and certain non-qualifying operations (e.g., mere dilution with water).

Government Procurement

There is a rules of origin scheme that is used to determine the country of origin for government procurement for the purpose of granting waivers of certain "Buy American" restrictions in U.S. laws or practice for products for eligible countries. For purposes of this scheme, an article is a product of a country or instrumentality only if:

- it is wholly the growth, product, or manufacture of that country or instrumentality, or

- in the case of an article which consists in whole or in part of materials from another country or instrumentality, it has been substantially transformed into a new and different article of commerce with a name, character, or use distinct from which it was so transformed.

Textile and Textile Products

There is a rules of origin scheme that is used to determine the country of origin for

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Implementation Act. Pub. L. 103-182, 107 Stat. 2057 (December 8, 1993). For the United States, the rules discussed in Annex 311 can be found in part 102 of the Customs Regulations. *See* 19 CFR § 102. They are known as the "NAFTA Marking Rules, " and they are to be used for "determining whether a good is a good of a NAFTA country." *See* 19 CFR § 134.1(j). A good of a NAFTA country is an article for which the country of origin is Canada, Mexico or the United States as determined under the NAFTA Marking Rules. See 19 CFR § 134.1(g). The NAFTA Marking Rules are the rules to be used to determine the country of origin for marking and duty purposes for goods imported into the United States from Canada or Mexico. *See generally, Bestfoods v. United States*, 165 F.3d 1371 (Fed. Cir. 1999).

textiles and textile products for, among other things, the application of quotas. It employs the substantial transformation criterion which is expressed or based exclusively on a tariff-shift method and covers the headings and chapters of the Harmonized System relevant to textile and textile products. A detailed discussion of these rules may be found in the CBP informed compliance publication entitled, "What Every Member of the Trade Community Should Know About: Textile and Apparel Rules of Origin," which is available on the CBP's website: <www.cbp.gov>.

Legislation and Implementing Regulations

Legislation and implementing regulations governing rules of origin in U.S. non-preferential schemes may be found as follows:

- Government Procurement
  - 19 U.S.C. § 2511 et seq. (Specifically § 2518(4)(B).)
  - 19 CFR §177.21
- Marking Rules of Origin
  - 19 U.S.C. §1304 for marking requirement
  - 19 CFR Part 134
  - 19 CFR §102.0
- Most-Favored-Nation or Normal-Trade-Relations Duty Assessment
  - No rules of origin are set forth in legislation, but see General Note 3 to the HTSUS (19 U.S.C. §1202) for a discussion of duty rates and columns.
- Textiles and Textile Products
  - 7 U.S.C. §1854
  - 19 U.S.C. § 3592
  - 19 CFR §§ 12.130, 102.21

PREFERENTIAL RULES OF ORIGIN

U.S. preferential rules of origin schemes are used for several special tariff programs:

- African Growth and Opportunity Act
- Andean Trade Preference Act
- Andean Trade Promotion and Drug Eradication Act
- Automotive Products Trade Act
- Caribbean Basin Economic Recovery Act
- Compact of Free Association Act
- Generalized System of Preferences
- Insular Possessions of the United States
- North American Free Trade Agreement Implementation Act
- Products of the West Bank, the Gaza Strip or a Qualifying Industrial Zone
- United States-Caribbean Basin Trade Partnership Act
- United States-Chile Free Trade Agreement Implementation Act
- United States-Israel Free-Trade Area Implementation Act
- United States-Jordan Free Trade Area Implementation Act
- United States-Singapore Free Trade Agreement Implementation Act

Most of the above-mentioned rules of origin schemes are set forth in the General Notes of the Harmonized Tariff Schedule of the United States ("HTSUS"). U.S. preferential rules of origin schemes employ the "wholly obtained" criterion for goods that are wholly the growth, product, or manufacture of a particular country. On the other hand, for goods that consist in whole or in part of materials from more than one country, the majority of U.S. preferential rules of origin schemes are based:

- on a change in name, character, and use (substantial transformation) and
- on a required minimum local value content; unless specified otherwise, the cost of foreign materials may not be included in local value content unless they undergo a double substantial transformation.

Other preferential rules of origin (e.g., NAFTA preferential rules of origin) are based on a tariff-shift method and/or regional value-content method for goods that are not wholly obtained from the applicable region or country.

Under these preferential programs, qualifying goods may enter the customs territory of the United States free of duty or at reduced rates of duty. A brief discussion of the U.S. preferential rules of origin schemes is set forth below.

OUTLINE OF U.S. NON-PREFERENTIAL RULES OF ORIGIN

African Growth and Opportunity Act

The African Growth and Opportunity Act ("AGOA") provides for the duty free entry of certain non-textile articles previously excluded from preferential treatment under the Generalized System of Preferences program as well as the duty and quota-free entry of certain textile and apparel articles that meet certain specific production requirements, as set forth in subchapter XIX, Chapter 98, HTSUS. The AGOA provides this special treatment to certain articles from the designated beneficiary sub-Saharan African countries. It is intended to encourage economic growth in those countries.

With respect to the non-textile articles to which the AGOA extends duty free treatment, such treatment is granted under the AGOA to any otherwise eligible article that is the growth, product or manufacture of a designated beneficiary country if:

- That article is imported directly from a designated beneficiary country into the U.S. customs territory and

- The sum of (1) the cost or value of the materials produced in one or more designated beneficiary countries, plus (2) the direct costs of processing operations performed in the designated beneficiary country, or in one or more members of an association of countries which is treated as one country under section 507 (2) of the Trade Act of 1974, is at least 35 percent of the appraised value of the article. Up to 15 percent of the 35 percent local value content requirement may be attributable to the cost or value of materials produced in the United States.

Andean Trade Preference Act

The Andean Trade Preference Act (**"**ATPA") provides for the duty free entry of all but a few classes of merchandise from the following designated beneficiary countries: Bolivia, Ecuador, Colombia, and Peru. It is intended to encourage economic growth in those countries. Duty free treatment is granted under the ATPA to any otherwise eligible article that is the growth, product, or manufacture of a designated beneficiary country if:

- That article is imported directly from a beneficiary country into the U.S. customs territory and

- The sum of (1) the cost or value of materials produced in one or more Andean beneficiary countries or one or more Caribbean Basin beneficiary countries, plus (2) the direct costs of processing operations performed in one or more Andean or Caribbean Basin beneficiary countries, is at least 35 percent of the appraised value of the article.

- Puerto Rico and the Virgin Islands are considered "beneficiary countries" for purposes of 35 percent local value content.

- Up to 15 percent of the 35 percent local value content requirement may be attributable to the cost or value of materials produced in the United States.

Andean Trade Promotion and Drug Eradication Act

The Andean Trade Promotion and Drug Eradication Act (**"**ATPDEA") extends and enhances trade benefits available under the ATPA as a way to create additional alternatives to illicit drug production in order to enhance political security in the Andean region and the hemisphere. The expanded trade benefits under the ATPDEA include the duty free entry of certain non-textile articles previously excluded from preferential treatment under the ATPA, as well as the duty and quota-free treatment of certain textile and apparel articles that meet certain specific production requirements, as set forth in subchapter XXI, Chapter 98, HTSUS. The non-textile articles to which the ATPDEA extends duty free treatment must satisfy the ATPA rules of origin.

Automotive Products Trade Act

The Automotive Products Trade Act implements into U.S. law the United States-Canada Automotive Agreement. It provides for the duty free entry of motor vehicles and specified original equipment parts that qualify as "Canadian articles" under General Note 5 to the HTSUS. The term "Canadian articles" refers to articles produced in Canada that satisfy the criteria for originating goods set forth in the NAFTA preferential rules of origin (as found in General Note 12 to the HTSUS).

Caribbean Basin Economic Recovery Act

The Caribbean Basin Economic Recovery Act ("CBERA") is a program that provides for the duty free entry of all but a few classes of merchandise from the designated beneficiary countries or territories surrounding the Caribbean Sea. It is intended to encourage economic growth in those countries. Duty free treatment is granted under the CBERA to any otherwise eligible article that is the growth, product, or manufacture of a designated beneficiary country if:

- That article is imported directly from a beneficiary country into the U.S. customs territory and

- The sum of (1) the cost or value of materials produced in one or more Caribbean Basin beneficiary countries, plus (2) the direct costs of processing operations performed in one or more Caribbean Basin beneficiary countries, is at least 35 percent of the appraised value of the article.

- Puerto Rico and the Virgin Islands are considered "beneficiary countries" for purposes of 35 percent local value content.

- Up to 15 percent of the 35 percent local value content requirement may be attributable to the cost or value of materials produced in the United States.

Compact of Free Association Act

The Compact of Free Association Act ("FAS") provides for the duty free entry of all but a few classes of merchandise from the following freely associated states: Marshall Islands, the Federated States of Micronesia, and the Republic of Palau. It is intended to encourage economic growth and development in those countries. Duty free treatment is granted under the FAS to any otherwise eligible article that is the growth, product, or manufacture of a freely associated state if:

- That article is imported directly from a freely associated state into the U.S. customs territory and
- The sum of (1) the cost or value of materials produced in that freely associated state plus (2) the direct costs of processing operations performed in that freely associated state is at least 35 percent of the appraised value of the article.
- Up to 15 percent of the 35 percent local value content requirement may be attributable to the cost or value of materials produced in the United States.

Generalized System of Preferences

The Generalized System of Preferences ("GSP") is a program that provides for the duty free entry of all but a few classes of merchandise from the designated beneficiary developing countries or territories around the world. It is intended to encourage economic growth and development in those countries. Duty free treatment is granted under the GSP to any otherwise eligible article that is the growth, product, or manufacture of a designated beneficiary developing country if:

- That article is imported directly from a beneficiary developing country into the U.S. customs territory and
- The sum of (1) the cost or value of materials produced in that beneficiary developing country (or produced in one or more members of an association of countries treated as one country under the GSP), plus (2) the direct costs of processing operations performed in that beneficiary developing country (or in one or members of an association of countries treated as one country under the GSP), is at least 35 percent of the appraised value of the article.

Insular Possessions of the United States

General Note 3(a)(iv) provides for the duty free entry of merchandise from the insular possessions of the United States that are outside the customs territory of the United States: U.S. Virgin Islands, Guam, American Samoa, Wake Island, Midway Islands, and Johnston Atoll. (For purpose of this provision, merchandise from the Commonwealth of the Northern Mariana Islands is given the same tariff treatment as merchandise from

Guam.) Duty free treatment is granted under General Note 3(a)(iv) to any article which is the growth, product, or manufacture of an insular possession of the United States if:

- That article is imported directly from the insular possession into the U.S. customs territory and
- That article does not contain foreign materials (i.e., materials produced in other than an insular possession or the United States) valued at more than 70 percent of the appraised value of the imported article, or in the case of certain articles such as textiles subject to textile agreements, 50 percent of the appraised value of such articles.

North American Free Trade Agreement Implementation Act

The North American Free Trade Agreement Implementation Act implements into U.S. law the North American Free Trade Agreement ("NAFTA"). The NAFTA eliminates tariffs on most goods originating in Canada, Mexico, and the United States over a maximum transition period of fifteen years. There are NAFTA rules of origin for preferential tariff purposes. The rules of origin for goods that are not wholly obtained from the NAFTA region are based on a tariff-shift method and/or regional value-content method. For the United States, these rules can be found in General Note 12 to the HTSUS. Detailed regulations implementing the NAFTA rules of origin may be found in the Appendix to Part 181 of the Customs Regulations (19 CFR Part 181, Appendix).

Products of the West Bank, the Gaza Strip or a Qualifying Industrial Zone

General Note 3(a)(v) provides for duty free entry of merchandise imported into the United States from the West Bank, Gaza Strip, or a Qualifying Industrial Zone. This provision is intended to promote peace within that region by stimulating economic growth and trade between those areas and the United States and Israel. Reduced or duty free treatment is granted under this program to any article that is the growth, product, or manufacture of the West Bank, Gaza Strip, or a Qualifying Industrial Zone if:

- That article is imported directly from the West Bank, Gaza Strip, or a Qualifying Industrial Zone or Israel into the U.S. customs territory and
- The sum of (1) the cost or value of materials produced in the West Bank, Gaza Strip, or a Qualifying Industrial Zone or Israel, plus (2) the direct costs of processing operations performed in the West Bank, Gaza Strip, or a Qualifying Industrial Zone or Israel, is at least 35 percent of the appraised value of the article.
- Up to 15 percent of the 35 percent local value content requirement may be attributable to the cost or value of materials produced in the United States.

United States-Caribbean Basin Trade Partnership Act

The United States-Caribbean Basin Trade Partnership Act ("CBTPA") builds on the CBERA and extends additional trade benefits to designated countries in the Caribbean Basin from October 1, 2002, and ending on the earlier of September 30, 2008, or on the date on which a free trade agreement enters into force between the United States and the CBTPA beneficiary countries. The expanded trade benefits under the CBTPA include the duty free entry of certain non-textile articles previously excluded from preferential treatment under the CBERA, as well as the duty and quota-free treatment of certain textile and apparel articles that meet certain specific production requirements, as set forth in subchapter XX, Chapter 98, HTSUS.

With respect to the non-textile articles to which the CBTPA extends preferential treatment, such treatment is granted under the CBTPA to any otherwise eligible good that is the growth, product or manufacture of a designated beneficiary country if:

- That article is imported directly from a beneficiary country into the U.S. customs territory and

- The article meets the rules of origin for a good as set forth in General Note 12, HTSUS.

United States-Chile Free Trade Agreement Implementation Act

The United States-Chile Free Trade Agreement Implementation Act implements into U.S. law the United States-Chile Free Trade Agreement ("UCFTA"). The UCFTA eliminates tariffs on most goods originating in the United States and Chile over a maximum transition period of twelve years. There are UCFTA rules of origin for preferential tariff purposes. The rules of origin for goods that are not wholly obtained from the United States or Chile are based on a tariff-shift method and/or regional value-content method. For the United States, these rules can be found in General Note 26 to the HTSUS.

United States-Israel Free Trade Area Implementation Act

The United States-Israel Free Trade Area Implementation Act implements into U.S. law the United States-Israel Free Trade Area Agreement ("IFTA"). The IFTA provides for free or reduced rates of duty for merchandise imported into the United States from Israel. The IFTA is intended to stimulate trade between the United States and Israel. Reduced or duty free treatment is granted under the IFTA to any article which is the growth, product, or manufacture of Israel if:

- That article is imported directly from Israel, West Bank, Gaza Strip, or a Qualifying Industrial Zone into the U.S. customs territory and

- The sum of (1) the cost or value of materials produced in Israel, West Bank, Gaza Strip, or a Qualifying Industrial Zone, plus (2) the direct costs of processing operations performed in Israel, West Bank, Gaza Strip, or a Qualifying Industrial Zone, is at least 35 percent of the appraised value of the article.

- Up to 15 percent of the 35 percent local value content requirement may be attributable to the cost or value of materials produced in the United States.

United States-Jordan Free Trade Area Implementation Act

The United States-Jordan Free Trade Area Implementation Act implements into U.S. law the "Agreement between the United States of America and the Hashemite Kingdom of Jordan on the Establishment of a Free Trade Area" (United States-Jordan Free Trade Area Agreement). The Agreement eliminates tariffs on most goods originating in Jordan and the United States over a maximum transition period of ten years.

Duty free treatment is granted under the Act to any otherwise eligible article that is imported directly from Jordan into the U.S. customs territory and

- That is wholly the growth, product or manufacture of Jordan or a new or different article of commerce that has been grown, produced or manufactured in Jordan and

- The sum of (1) the cost or value of the materials produced in Jordan, plus (2) the direct costs of processing operations performed in Jordan is not less than 35 percent of the appraised value of such article. Up to 15 percent of the 35 percent local value content requirement may be attributable to the cost or value of materials produced in the United States.

United States-Singapore Free Trade Agreement Implementation Act

The United States-Singapore Free Trade Agreement Implementation Act implements into U.S. law the United States-Singapore Free Trade Agreement ("SFTA"). The SFTA eliminates tariffs on most goods originating in the United States and Singapore over a maximum transition period of ten years. There are SFTA rules of origin for preferential tariff purposes. The rules of origin for goods that are not wholly obtained from the United States or Singapore are based on a tariff-shift method and/or regional value-content method. For the United States, these rules can be found in General Note 25 to the HTSUS.

Preferential Duty Trade Initiatives

Initiative	Status	Preference Flow
African Growth and Opportunity Act	Unilateral	Non-reciprocal
Andean Trade Preference Act	Unilateral	Non-reciprocal
Andean Trade Promotion and Drug Eradication Act	Unilateral	Non-reciprocal
Automotive Products Trade Act	Bilateral	Reciprocal
Caribbean Basin Economic Recovery Act	Unilateral	Non-reciprocal
Compact of Free Association Act	Unilateral	Non-reciprocal
Generalized System of Preferences	Unilateral	Non-reciprocal
North American Free Trade Agreement	Trilateral	Reciprocal
Products of Insular Possessions	Unilateral	Non-reciprocal
Products of the West Bank, Gaza Strip or a Qualifying Industrial Zone	Unilateral	Non-reciprocal
United States-Caribbean Basin Trade Partnership Act	Unilateral	Non-reciprocal
United States-Chile Free Trade Agreement	Bilateral	Reciprocal
United States-Israel Free Trade Area Agreement	Bilateral	Reciprocal
United States-Jordan Free Trade Agreement	Bilateral	Reciprocal
United States-Singapore Free Trade Agreement	Bilateral	Reciprocal

Eligible Products & Preferential Rates of Duty in the HTSUS

The HTSUS lists the eligible products and preferential rates of duty throughout the schedule for particular special tariff programs. The rates of duty for the preferential tariff programs are generally found in the column 1 sub-column entitled “Special.” A summary of the symbols used in the “Special” sub-column and a list of the programs they represent may be found in General Note 3(c) to the HTSUS. Some articles may be subject to temporary modifications found in Chapter 99, HTSUS. As indicated above, the goods must meet the requirements for the particular special tariff program in order to be eligible for the applicable preferential rate of duty.

Legislation and Implementing Regulations

Legislation and implementing regulations governing rules of origin in U.S. preferential schemes may be found as follows:

- African Growth and Opportunity Act
  - General Note 16 to HTSUS (19 U.S.C. § 1202)
  - 19 U.S.C. § 3701
  - 19 CFR §§ 10.178a,10.211
- Andean Trade Preference Act
  - General Note 11 to HTSUS (19 U.S.C. § 1202)
  - 19 U.S.C. § 3201
  - 19 CFR § 10.201
- Andean Trade Promotion and Drug Eradication Act
  - 19 U.S.C. § 3201
  - 19 CFR §§ 10.241, 251
- Automotive Products Trade Act
  - General Note 5 to HTSUS (19 U.S.C. § 1202)
  - 19 CFR § 10.84
  - 19 U.S.C. § 2001
- Caribbean Basin Economic Recovery Act
  - General Note 7 to HTSUS (19 U.S.C. § 1202)
  - 19 CFR § 10.191
  - 19 U.S.C. § 2701
- Compact of Free Association Act
  - General Note 10 to HTSUS (19 U.S.C. § 1202)
- Generalized System of Preferences
  - General Note 4 to HTSUS (19 U.S.C. § 1202)
  - 19 CFR § 10.171
  - 19 U.S.C. § 2461
- North American Free Trade Agreement Implementation Act
  - Article 401 of the North American Free Trade Agreement
  - General Note 12 to HTSUS (19 U.S.C. § 1202)
  - 19 CFR Part 181 (including Appendix)
  - 19 U.S.C. § 3332

- Products of Insular Possessions
  - General Note 3(a)(iv) to HTSUS (19 U.S.C. § 1202)
  - 19 CFR §§ 7.2,7.3
- Products of the West Bank, the Gaza Strip or a Qualifying Industrial Zone
  - General Note 3(a)(v) to HTSUS (19 U.S.C. § 1202)
  - 19 U.S.C. § 2112
- United States-Caribbean Basin Trade Partnership Act
  - General Note 17 to HTSUS (19 U.S.C. § 1202)
  - 19 U.S.C. § 2701
  - 19 CFR §§ 10.221 & 10.231
- United States-Chile Free Trade Agreement Implementation Act
  - General Note 26 to HTSUS (19 U.S.C. § 1202)
  - 19 U.S.C. § 3805
- United States-Israel Free Trade Area Implementation Act
  - General Note 8 to HTSUS (19 U.S.C. § 1202)
  - 19 U.S.C. § 2112
- United States-Jordan Free Trade Area Implementation Act
  - General Note 18 to HTSUS (19 U.S.C. § 1202)
  - 19 U.S.C. § 2112
- United States-Singapore Free Trade Agreement Implementation Act
  - General Note 25 to HTSUS (19 U.S.C. § 1202)
  - 19 U.S.C. § 3805

ADDITIONAL LEGAL RESOURCES

In addition to the above-mentioned legislation and regulations, additional legal resources one can consult with respect to U.S. rules of origin include CBP administrative rulings and U.S. federal court decisions (which deal with the interpretation and application of the various U.S. rules of origin with regard to specific factual circumstances). CBP administrative rulings are available free of charge on the CBP's Customs Rulings Online Search System (CROSS) as located on the CBP's website: www.cbp.gov.

RESPONSIBILITY FOR CORRECT DETERMINATION OF ORIGIN

Pursuant to 19 U.S.C. §§1481, 1484, and the applicable implementing regulations, importers of record are required to use "reasonable care" to declare the correct country of origin of imported goods. CBP officials at CBP ports of entry are responsible for verifying the accuracy of those declarations during the clearance of goods through customs. That responsibility is discharged and monitored though the review of pertinent documents (or electronically transmitted information) and through selected audits of the merchandise and the importer. Pertinent entry documents (which may include declarations) are used to declare the country of origin of a good for non-preferential rules of origin purposes. Incorrect country of origin information may lead to delays and detentions and, if the country of origin affects admissibility, to denials of entry. In addition, negligent or fraudulent country of origin information can lead to monetary penalties or, in certain cases, to criminal sanctions.

OBTAINING PRE-IMPORTATION (ADVANCE) RULINGS

As explained above, it is the responsibility of the importer of record to use "reasonable care" when declaring the correct country of origin. In order to meet the reasonable care requirement, a person may seek a pre-importation or advance ruling from the CBP with respect to whether merchandise is eligible for preferential tariff treatment under a particular U.S. rules of origin scheme.

General Requirements for Origin Ruling Requests

Subject to special provisions for certain government procurement and NAFTA rulings (which are both discussed below), Subpart A of Part 177 of title 19 of the Code of Federal Regulations (19 CFR Part 177, Subpart A) permits interested persons to obtain a binding ruling on prospective importations of merchandise into the United States. A pre-importation administrative ruling may be obtained by submitting a written request to:

Chief, Special Classification and Marking Branch
Office of Regulations and Rulings,
U.S. Bureau of Customs & Border Protection
1300 Pennsylvania Avenue, NW, Mint Annex
Washington, DC 20229

Marking ruling requests may also be submitted to:

Director, National Commodity Specialist Division,
U.S. Bureau of Customs & Border Protection
One Penn Plaza, 10th Floor
New York, NY 10119

The ruling will be binding at all ports of entry unless modified or revoked by the CBP's Commercial Rulings Division of the Office of Regulations and Rulings, pursuant to 19 U.S.C. §1625, or overturned by a federal court. In some cases, CBP may issue an information letter or guidance rather than a ruling.

The following general information must be submitted as part of a pre-importation ruling request:

- The names, addresses and other identifying information of all interested parties (if known) and the manufacturer identification code (if known).
- The name(s) of the port(s) in which the merchandise will be entered (if known).
- A description of the transaction, for example, a prospective importation of (merchandise) from (country).
- A statement that there are, to the best of the exporter's or importer's knowledge, no issues concerning the commodity for which a ruling is sought pending before the CBP (including by any CBP field office or at any port of entry) or before any court (including the U.S. Court of International Trade and the U.S. Court of Appeals for the Federal Circuit).
- A statement indicating whether advice has been previously sought from the CBP concerning the commodity for which a ruling is sought, and if so, then from whom and what advice was rendered, if any.

Ruling requests must contain sufficient detailed information to enable the CBP to determine the proper tariff classification and country of origin of the merchandise. Accordingly, ruling requests should include the following information:

- A complete and detailed written description of the goods. Samples (if practical), list of ingredients and percentages thereof, sketches, diagrams, or other illustrative material should be submitted with the request if useful in supplementing the written description.
- Cost breakdowns of component materials or parts and their respective quantities shown in percentages of the goods, if possible.
- A description of the principal use of the goods, as a class or kind of merchandise, in the United States.

- Information as to the commercial, scientific, technical or common name or designation of the merchandise (or as otherwise may be applicable).

- A detailed description of each of the manufacturing or production processes which the goods undergo, and the country or countries in which they are performed.

- Any other information or materials that may be pertinent or required for classifying the merchandise and determining its origin.

Government Procurement Advisory Rulings and Determinations

If the ruling is for the purpose of determining origin for government procurement eligibility, the procedures in 19 CFR Part 177, Subpart B (Sections 177.21- 177.31) must be followed. Country of origin rulings in the government procurement arena fall into two categories: "advisory rulings" and "final determinations." An advisory ruling is a non-binding, non-reviewable written statement which calls attention to a well-established interpretation or principle of law relating to the country of origin without applying it to a particular set of facts. A final determination is a binding, judicially reviewable statement issued by CBP in response to a written request under 19 CFR 177, Subpart B that interprets and applies the provisions of law and regulation relating to the country of origin to a specific set of facts. Country of origin rulings may be requested under Subpart B by:

- foreign manufacturers, producers or exporters or U. S. importers;
- manufacturers, producers, or wholesalers in the United States of like products;
- U. S. members of labor unions or workers' organizations who are employed in the manufacture, production or wholesale in the United States of like products; or
- trade or business associations, a majority of whose members manufacture, produce or wholesale a like product in the United States.

A request for an advisory ruling shall be in writing and shall contain such information as will enable the CBP to provide the requester with the applicable principle of law or well-established interpretation relating to the particular country of origin. A request for a final determination shall be in writing and shall contain the following information:

- The name of the requester, the requester's principal place of business, and a statement that the requester is authorized to file the request under the provisions of §177.24;
- A description of the existing article for which a country-of-origin determination is requested;
- The country or instrumentality an article is claimed to be the product of;
- Such further information as will enable the CBP to determine if an article is a product of a specific country or instrumentality, and;
- If applicable, the specific procurement for which the final determination is requested.

The CBP will issue an advisory ruling in response to a request for a final determination if:

- The request suggests that general information, rather than a final determination, is actually being sought,
- The request is incomplete or otherwise fails to meet the requirements set forth in §177.25(a), or
- The ruling requested cannot be issued for any other reason, and CBP believes that the general information supplied by an advisory ruling may be of some benefit to the party making the request.

An advisory ruling is not a ruling issued prior to importation under 28 U.S.C. 1581(h). Notices of a final determination are published in the Federal Register and are subject to administrative reconsideration and judicial review.

Procurement ruling requests should be submitted to:

Office of Regulations and Rulings
U. S. Bureau of Customs & Border Protection
1300 Pennsylvania Avenue, N.W., Mint Annex
Washington, DC 20229

NAFTA Advance Rulings

In the case of NAFTA transactions, requests for rulings may fall under Part 177 or 19 CFR Part 181, Subpart I (19 CFR 181.92, et seq.) depending on the nature of the request. Part 181, Subpart I sets forth the rules which govern the issuance and application of advance rulings under Article 509 of the NAFTA and the procedures which apply for purposes of review of advance rulings under Article 510 of the NAFTA. Importers in the United States and exporters and producers located in Canada or Mexico (or their duly authorized agents) may request and obtain an advance ruling on a NAFTA transaction only in accordance with the provisions of Subpart I whenever the requested ruling involves the subject matters specified in §181.92(b)(6), which are summarized as follows:

- Whether materials imported from a country other than the United States, Canada or Mexico and used in the production of a good undergo an applicable change in tariff classification, as a result of production occurring entirely in the United States, Canada and/or Mexico;
- Whether a good satisfies a regional value-content requirement under the transaction value method or under the net cost method;
- For purposes of determining whether a good satisfies a regional value-content requirement, the appropriate basis or method for value to be applied by an exporter or a producer in Canada or Mexico, for calculating the transaction value of the good or of the materials used in the production of the good;

- For purposes of determining whether a good satisfies a regional value-content requirement, the appropriate basis or method for reasonably allocating costs, for calculating the net cost of the good or the value of an intermediate material;
- Whether a good qualifies as an originating good;
- Whether a good that re-enters the United States after having been exported from the United States to Canada or Mexico for repair or alteration qualifies for duty-free treatment;
- Whether the proposed or actual marking of a good satisfies country of origin marking requirements;
- Whether an originating good qualifies as a good of Canada or Mexico under Annex 300 - B, Annex 302.2 and Chapter Seven of the NAFTA; and
- Whether a good is a qualifying good under Chapter Seven of the NAFTA.

The provisions of Subpart I of Part 181 apply in lieu of the administrative ruling provisions contained in subpart A of part 177 of this chapter except where the request for a ruling involves a subject matter not specified in §181.92(b)(6).

A request for an advance ruling under NAFTA should be written in English in the form of a letter directed either to:

Commissioner
U.S. Bureau of Customs & Border Protection
Attention: Office of Regulations and Rulings (Mint Annex)
1300 Pennsylvania Avenue, NW
Washington, DC 20229,

or to:

Director, National Commodity Specialist Division,
U.S. Bureau of Customs & Border Protection
One Penn Plaza, 10th Floor
New York, NY 10119

unless the subject matter relates to regional value content, in which case it must be directed to the Commissioner, U.S. Bureau of Customs & Border Protection, Attention: Office of Regulations and Rulings (Mint Annex), 1300 Pennsylvania Avenue, NW, Washington, DC 20229. The request for an advance ruling must be signed. An advance ruling requested by a principal or authorized agent may direct that the advance ruling letter be addressed to the other.

Each request for an advance ruling must identify the specific subject matter to which the request relates, and must contain:

- A complete statement of all relevant facts relating to the NAFTA transaction and must state that the information presented is accurate and complete;
- The names, addresses, and other identifying information of all interested parties (if known);
- The name of the port or place at which any good involved in the transaction will be imported or which will otherwise have jurisdiction with respect to the act or activity described in the transaction; and
- A description of the transaction itself, appropriate in detail to the subject matter of the requested advance ruling.

Where the request for an advance ruling is submitted by or on behalf of the importer of the good involved in the transaction, the request must include the name and address of the exporter and, if known, producer of the good. Where the request for an advance ruling is submitted by or on behalf of the exporter of the good involved in the transaction, the request must include the name and address of the producer and importer of the good, if known. Where the request for an advance ruling is submitted by or on behalf of the producer of the good involved in the transaction, the request must include the name and address of the exporter and importer of the good, if known.

In addition, where relevant to the issue that is the subject of the request for an advance ruling, and regardless of the specific nature of the advance ruling requested, the request must include:

- A copy of any advance ruling or other ruling with respect to the tariff classification of the good that has been issued by the CBP to the person submitting the request; or
- Sufficient information to enable the CBP to classify the good where no advance ruling or other ruling with respect to the tariff classification of the good has been issued by the CBP to the person submitting the request. Such information includes a full description of the good, including, where relevant, the composition of the good, a description of the process by which the good is manufactured, a description of the packaging in which the good is contained, the anticipated use of the good and its commercial, common or technical designation, and product literature, drawings, photographs or schematics.

The prospective customs transaction to which the advance ruling request relates must be described in sufficient detail in order to permit proper the application of the relevant NAFTA provisions.

In addition, 19 CFR § 181.93 lists specific requirements for the rulings listed below:

- Tariff change rulings
- Issues involving a change in tariff classification of a material
- NAFTA rulings on regional value content
- NAFTA rulings on producer materials

Each request for an advance ruling should be accompanied by photographs, drawings, or other pictorial representations of the good and, whenever possible, by a sample of the good (which may be damaged or consumed in the course of examination, testing, analysis, or other actions) unless a precise description of the good is not essential to the advance ruling requested. Any good consisting of materials in chemical or physical combination for which a laboratory analysis has been prepared by or for the manufacturer should include a copy of that analysis, flow charts, CAS number, and related information.

If the question or questions presented in the advance ruling request directly relate to matters set forth in any invoice, contract, agreement, or other document, a copy of the document must be submitted with the request. The relevant facts reflected in any documents submitted, and an explanation of their bearing on the question or questions presented, must be expressly set forth in the advance ruling request.

Each request for an advance ruling must also state:

- Whether, to the knowledge of the person submitting the request, the same transaction or issue, or one identical to it, has ever been considered, or is currently being considered by any CBP office;

- Whether, to the knowledge of the person submitting the request, the issue involved has ever been, or is currently, the subject of: (1) review by the United States Court of International Trade, or any court of appeal therefrom, or review by a judicial or quasi-judicial body in Canada or Mexico; (2) a verification of origin performed in the United States, Canada or Mexico; (3) an administrative appeal in the United States, Canada or Mexico; or (4) a request for an advance ruling under this subpart, or a request for an advance ruling in Canada or Mexico under an appropriate authority referred to in §181.76 of the regulations; and (5) the status or disposition of any of these matters; and

- Whether the transaction described in the advance ruling request is but one of a series of similar and related transactions.

FOIA AND INFORMATION SUBMITTED FOR A RULING REQUEST

As a general rule, no part of a ruling is deemed to constitute privileged or confidential commercial or financial information or trade secrets unless confidentially was requested

as provided for in 19 CFR § 177.2(b)(7), or 181.93(b)(7) and granted as provided for in 19 CFR § 177.8(a)(3), or 181.99(a)(3). Pursuant to 19 U.S.C. § 1625, rulings are published electronically. Information submitted to the CBP as part of a ruling request may be disclosed or withheld in accordance with the provisions of the Freedom of Information Act, as amended. See 5 U.S.C. § 552 and 19 CFR § 177.8(a)(3).

ADMINISTRATIVE REVIEW OF PRE-IMPORTATION RULINGS

A recipient of a pre-importation ruling who disagrees with the decision contained in the ruling may seek an administrative review of the decision from the Director, Commercial Rulings Division, Office of Regulations and Rulings (Mint Annex), U. S. Bureau of Customs and Border Protection, 1300 Pennsylvania Avenue, N.W., Washington, D.C. 20229. A request for an administrative review of a decision contained in a pre-importation ruling must be in writing and must set forth the basis for disagreement with the decision and provide all information and materials necessary to conduct a proper and complete review.

POST-IMPORTATION REVIEW PROCEDURES

After importation of the merchandise and liquidation of the entry, one may seek an administrative review of a country of origin decision by the CBP by protesting the decision to the CBP. A protest will result in the decision being internally reviewed by the CBP at a higher level of authority than the level at which the decision was originally rendered. If not satisfied with the decision resulting from a protest, one may seek judicial review of the decision by the United States Court of International Trade (www.cit.uscourts.gov). If not satisfied with the decision by the United States Court of International Trade, one may seek review of the decision through an appeal to the United States Court of Appeals for the Federal Circuit (www.fedcir.gov). Finally, if not satisfied with the decision of the United States Court of Appeals for the Federal Circuit, one may request a review of the decision by the United States Supreme Court (www.supremecourtus.gov), which is the final court of review at the federal level in the United States.

ADDITIONAL INFORMATION

The Internet

The home page of U.S. Customs and Border Protection on the Internet's World Wide Web, provides the trade community with current, relevant information regarding CBP operations and items of special interest. The site posts information -- which includes proposed regulations, news releases, publications and notices, etc. -- that can be searched, read on-line, printed or downloaded to your personal computer. The web site was established as a trade-friendly mechanism to assist the importing and exporting community. The web site also links to the home pages of many other agencies whose importing or exporting regulations that U.S. Customs and Border Protection helps to enforce. The web site also contains a wealth of information of interest to a broader public than the trade community. For instance, on June 20, 2001, CBP launched the "Know Before You Go" publication and traveler awareness campaign designed to help educate international travelers.

The web address of U.S. Customs and Border Protection is www.cbp.gov.

Customs Regulations

The current edition of Customs Regulations of the United States is a loose-leaf, subscription publication available from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402; telephone (202) 512-1800. A bound, 2003 edition of Title 19, Code of Federal Regulations, which incorporates all changes to the Regulations as of April 1, 2003, is also available for sale from the same address. All proposed and final regulations are published in the Federal Register, which is published daily by the Office of the Federal Register, National Archives and Records Administration, and distributed by the Superintendent of Documents. Information about on-line access to the Federal Register may be obtained by calling (202) 512-1530 between 7 a.m. and 5 p.m. Eastern time. These notices are also published in the weekly Customs Bulletin described below.

Customs Bulletin

The Customs Bulletin and Decisions ("Customs Bulletin") is a weekly publication that contains decisions, rulings, regulatory proposals, notices and other information of interest to the trade community. It also contains decisions issued by the U.S. Court of International Trade, as well as customs-related decisions of the U.S. Court of Appeals for the Federal Circuit. Each year, the Government Printing Office publishes bound volumes of the Customs Bulletin. Subscriptions may be purchased from the Superintendent of Documents at the address and phone number listed above.

Importing Into the United States

This publication provides an overview of the importing process and contains general information about import requirements. The February 2002 edition of Importing Into the United States contains much new and revised material brought about pursuant to the Customs Modernization Act ("Mod Act"). The Mod Act has fundamentally altered the relationship between importers and U.S. Customs and Border Protection by shifting to the importer the legal responsibility for declaring the value, classification, and rate of duty applicable to entered merchandise.

The February 2002 edition contains a section entitled "Informed Compliance." A key component of informed compliance is the shared responsibility between U.S. Customs and Border Protection and the import community, wherein CBP communicates its requirements to the importer, and the importer, in turn, uses reasonable care to assure that CBP is provided accurate and timely data pertaining to his or her importation.

Single copies may be obtained from local offices of U.S. Customs and Border Protection, or from the Office of Public Affairs, U.S. Customs and Border Protection, 1300 Pennsylvania Avenue NW, Washington, DC 20229. An on-line version is available at the CBP web site. Importing Into the United States is also available for sale, in single copies or bulk orders, from the Superintendent of Documents by calling (202) 512-1800, or by mail from the Superintendent of Documents, Government Printing Office, P.O. Box 371954, Pittsburgh, PA 15250-7054.

Informed Compliance Publications

U.S. Customs and Border Protection has prepared a number of Informed Compliance publications in the "What Every Member of the Trade Community Should Know About:…" series. Check the Internet website www.cbp.gov for current publications.

Value Publications

Customs Valuation under the Trade Agreements Act of 1979 is a 96-page book containing a detailed narrative description of the customs valuation system, the customs valuation title of the Trade Agreements Act (§402 of the Tariff Act of 1930, as amended by the Trade Agreements Act of 1979 (19 U.S.C. §1401a)), the Statement of Administrative Action which was sent to the U.S. Congress in conjunction with the TAA, regulations (19 C.F.R. §§152.000-152.108) implementing the valuation system (a few sections of the regulations have been amended subsequent to the publication of the book) and questions and answers concerning the valuation system. A copy may be obtained from U.S. Customs and Border Protection, Office of Regulations and Rulings, Value Branch, 1300 Pennsylvania Avenue, NW, (Mint Annex), Washington, D.C. 20229.

Customs Valuation Encyclopedia (with updates) is comprised of relevant statutory provisions, CBP Regulations implementing the statute, portions of the Customs Valuation Code, judicial precedent, and administrative rulings involving application of valuation law. A copy may be purchased for a nominal charge from the Superintendent of Documents, Government Printing Office, P.O. Box 371954, Pittsburgh, PA 15250-7054. This publication is also available on the Internet web site of U.S. Customs and Border Protection.

The information provided in this publication is for general information purposes only. Recognizing that many complicated factors may be involved in customs issues, an importer may wish to obtain a ruling under CBP Regulations, 19 C.F.R. Part 177, or obtain advice from an expert (such as a licensed Customs Broker, attorney or consultant) who specializes in customs matters. Reliance solely on the general information in this pamphlet may not be considered reasonable care.

Additional information may also be obtained from U.S. Customs and Border Protection ports of entry. Please consult your telephone directory for an office near you. The listing will be found under U.S. Government, Department of Homeland Security.

"Your Comments are Important"

The Small Business and Regulatory Enforcement Ombudsman and 10 regional Fairness Boards were established to receive comments from small businesses about Federal agency enforcement activities and rate each agency's responsiveness to small business. If you wish to comment on the enforcement actions of U.S. Customs and Border Protection, call 1-888-REG-FAIR (1-888-734-3247).

REPORT SMUGGLING 1-800-BE-ALERT OR 1-800-NO-DROGA

Visit our Internet web site: http://www.cbp.gov