RULES OF ORIGIN

UNDER THE FREE TRADE AGREEMENT

The Free Trade Agreement will eliminate all tariffs on trade – between Canada and the United States over a ten-year period – of all goods qualifying under the FTA Rules of Origin.

Other tariff treatments, however, will continue to be applied to imports from other countries, and on goods that do not meet the rules.

It is necessary, therefore, to differentiate between those goods entitled to FTA treatment and those subject to some other tariff treatment.

If FTA treatment is desired for goods, the onus is on the exporter to determine whether the goods being exported qualify for exemption or reduced tariff treatment under the Rules of Origin.

Once that determination has been made, the exporter must provide the importer with a completed Certificate of Origin and retain a copy on record. The goods must be shipped directly from Canada with or without transhipment on a through bill of lading.

Basically, three conditions must be met to qualify for FTA treatment: proof of origin; qualification under the Rules of Origin; and direct shipment.

The FTA Rules of Origin — which are set out in Chapter Three and Annex 301.2 of the Free Trade Agreement— are based on the Harmonized System of Tariff Classification and Statistical Coding (HS), adopted by Canada on January 1, 1988 and by the U.S. on January 1, 1989. There are general requirements as well as specific rules that apply to goods classified in each section of the HS.

The first step in determining whether an export qualifies for FTA treatment is to establish or identify the correct tariff classification under the HS. If the tariff classification is not known, Canadian exporters should seek advice from the U.S. Customs Service or from their U.S. customs broker. All available product documentation should accompany the request to ensure the goods are classified properly.

Since the FTA is intended to benefit Canadian and American producers and generate employment in both countries, the Rules of Origin require that goods traded under the Agreement be produced in either or both countries.

The origin rules establish the general principle that goods wholly produced or obtained in either Canada or the U.S., or both, qualify for area treatment.

However, goods incorporating third-country raw materials or components will also qualify for tariff reduction or exemption if they have been sufficiently transformed, processed or assembled either in Canada or the U.S., or both, to meet a specified change from the raw materials or components from which they are made.

In some cases, in addition to being classified differently from the imported raw materials or components, goods will need to incur at least 50 per cent of their value in either or both countries to qualify for FTA treatment.

Simply translated, this means that goods, other than those that originate wholly in either Canada and/or the United States, will have to incorporate some significant Canadian or American content before they are considered for special tariff treatment.

For example, a bicycle assembled in Canada, using Canadian steel for its frame, but using imported wheels and gears, would qualify as a product of Canadian origin, if 50 per cent of its manufacturing cost (i.e. materials and labour) is accounted for in Canada and/ or the U.S.

Under specific FTA Rules of Origin, most textile and apparel products must undergo a two-step transformation process to be considered as goods originating in either Canada or the U.S.