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## V. CUSTOMS AND ADMINISTRATIVE PROCEDURES

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U.S. import requirements and their administration by border agencies, such as the U.S. Customs Service and the U.S. Food and Drug Administration (FDA), affect all Canadian exports to the United States and can often impede access to the U.S. market. Canada seeks to resolve border-related problems through various means, including direct discussions with U.S. authorities on specific problems and broader initiatives.

The NAFTA promotes uniform interpretation and application of its rules of origin, establishes a common origin certificate, uniform regulations for certain Customs procedures and provides for cooperation between Customs services in enforcement and in harmonizing documentation. The NAFTA also facilitates the temporary entry of persons for business and professional purposes. NAFTA working groups, such as the origin rules group (and its Customs sub-group) and the temporary entry working group are working to make rules and procedures more compatible.

During United States President Clinton's Ottawa visit in February 1995, Canadian and U.S. immigration and customs agencies signed an accord which establishes common objectives for a joint approach to the management of the Canada-United States border. The objectives are designed to promote international trade; to facilitate the movement of people and goods across the border; to provide enhanced protection against illegal activity and to reduce costs. In January 1996, the agencies issued a progress report which outlined achievements and next steps. No less than thirteen initiatives have been implemented or are being studied or tested to facilitate the cross-border movement of people and merchandise.

### Country of Origin Marking

U.S. Customs law requires that imported goods be marked in a conspicuous place in order to inform the ultimate purchaser in the United States of the English name of the country of origin. This broad and long-standing requirement historically has frustrated Canadian exporters, leading to rejections or delays at the border and additional costs for Canadian exports vis-a-vis U.S. domestic products which are not required to be marked.

In many cases, the U.S. Customs Service administers the country of origin marking requirements in an inflexible and excessive manner. For example, the U.S. Customs Service continues to examine its proposal that retail packages containing imported frozen produce (including imported produce packaged in the United States) be marked with the country of origin specifically on the front of the package with a minimum type-size and two specific type-styles. This overly strict requirement would adversely affect Canadian exporters of frozen produce. Following objections from Canada and other sources, the Customs Service is initiating anew the regulation-making process.

In the past, the Customs Service has administered the key marking concept of "substantial transformation" unevenly and on a case-by-case basis, leading to uncertainty for Canadian exporters. Following the NAFTA, the Customs Service introduced marking rules based on changes in tariff classification, a more objective standard. In addition, Annex 311 of the NAFTA establishes disciplines for marking requirements. These two developments should lead to greater clarity and consistency for Canadian exporters. However, the basic requirement to mark Canadian exports with the country of origin continues to create difficulties for Canadian companies.