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Customs and US Chemicals

Customs' origin and verification unit in Ottawa is responsible for reviewing and verifying the NAFTA origin of various goods for import into Canada duty-free. Currently, attention is focused on the US chemical and petrochemical industry and its products and byproducts. If such imports do not qualify for NAFTA status, the Canadian importer ultimately must pay the applicable duties.

A customs verification review begins with Customs' contacting Canadian importers of the particular imported goods and requesting copies of any certificates of origin relied upon by the importer in claiming duty-free status. After reviewing the certificates, Customs may request a NAFTA verification questionnaire from the US exporter and scrutinize the certificate's accuracy and veracity. Some significant issues seem to be developing with respect to US compliance and NAFTA qualification for chemical and petrochemical goods: in particular, improper or no tracking of originating and non-originating fungible materials, especially those obtained under so-called exchange contacts; reliance on improper or inaccurate producer's certificates; and improper accounting for foreign trade zone production. If Customs determines that the US exporter issued an improper NAFTA certificate of origin and denies NAFTA status to the goods, under US domestic law the US exporter must notify all importers within 30 days. On being so notified, the Canadian importer must voluntarily adjust the affected imports within 90 days, which usually means significant additional duties payable by the Canadian importer; in practice, Customs usually initiates with a detailed adjustment statement. With their advisers' assistance, Canadian importers may head off problems by helping to educate their US exporters about the Canadian process and about what Canada Customs will look for.

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