

## **A Guide for Reviewing and Completing NAFTA Certificates of Origin**

By Lawrence M. Friedman  
Barnes, Richardson & Colburn  
(312) 565-2000, lfriedman@barnesrichardson.com

### **Generally:**

The form must be complete and accurate. The NAFTA CO should be provided by the exporter to the importer to support the importer's claim for duty-free entry. The form can also be provided by the producer for use by the exporter.

### **Field 1: Exporter Name and Address**

This field should contain the name, address and tax identifier of the party exporting or selling the merchandise. In purely domestic transactions, it is appropriate to put the name, address and tax identifier of the seller in this field. It is also permissible, in domestic transactions, to change the word "Exporter" to "Seller." Some domestic producers prefer to place "N/A" or something similar in the field and provide their identifying information only in Field 3.

### **Field 2: Blanket Period**

If the CO covers multiple shipments of identical goods, include a period covered by the CO. The period may be no more than one year. Thus, a certificate covering 01/01/2013 to 01/01/2014 is not correct. The blanket period may begin before the signature date in Field 11. If the CO covers only a single shipment, there is no blanket period to be recorded in this field.

### **Field 3: Producer Name and Address**

Provide the name, address and tax identifier of the producer. If the exporter is the producer, state "Same." If the producer is unknown, state "Unknown." If the person completing the CO does not wish to disclose the producer, it is acceptable to state "Available to Customs Upon Request." Note that there must be agreement between Field 3 and Field 8.

## **Field 4: Importer Name and Address**

State the name, address and tax identifier of the importer if known. If the importer is not known, state “Unknown.” If the CO will be provided by the exporter to multiple importers, as is usually the case with blanket COs, state “Various.” In purely domestic transactions, it is appropriate to put the name, address and tax identifier of the buyer in this field. It is also permissible, in domestic transactions, to change the word “Importer” to “Buyer.”

## **Field 5: Description of the Goods**

This field should contain a clear description of the goods. The description must be detailed enough to permit the tariff classification of the merchandise and to identify that the CO covers the merchandise included in a shipment. For a blanket CO, a part number and description can usually accomplish this. For single shipment COs, include the commercial invoice number, airway bill number or other unique identifier.

## **Field 6: HS Tariff Classification**

In most cases, this field requires only the six-digit tariff classification of the merchandise. However, some rules of origin (see HTSUS General Note 12(t)) operate at the eight-digit level. In those cases, provide or confirm all eight digits. The eight-digit code must be the code appropriate for **the country of importation**. Therefore, you may need to place multiple line items on the CO for the same goods (for the US, Mexico and Canada eight-digit codes).

For COs received from suppliers, review the classification to determine that it is correct. An incorrect classification may result in the incorrect rule of origin being applied. This may invalidate the CO. Do not rely on supplier COs for the classification of your imports. As an importer, you have an independent responsibility to classify merchandise correctly.

## **Field 7: Preference Criterion**

**Purchasing goods from a North American supplier does not ensure that they are originating.**

The four most likely codes that should appear in this field: A, B, C, or D. In some cases, suppliers may identify non-originating goods on the CO and include “N/A,” “X,” or something similar in this field. That is not the best practice as it leads to confusion especially if the origin information in Field 10 identifies a NAFTA party as the country of origin. Certain data processing equipment may be certified with the Criterion E and certain agricultural products with Criterion F.

Preference criterion A signifies that the good was “wholly obtained or produced” in North America. That means that no non-North American materials were used in the production of the good. Preference criterion A applies to raw and natural materials such as minerals and crops and to waste and scrap generated in North America that is only good for the recovery of the raw

material. Preference Criterion A almost never applies to industrial goods and should be questioned.

Preference criterion B is the most commonly correct criterion. This rule is for goods that satisfy the applicable NAFTA rule of origin as a result of production in North America. The specific rules are found in General Note 12(t) of the Harmonized Tariff Schedule of the United States.

Preference criterion C indicates that no non-originating materials were used in the production of the good. This rule differs from preference criterion A in that some components may be originating because—through processing— they satisfied the applicable rule of origin and have been certified. For example, if a good has three components, all of which have been certified as NAFTA originating based on preference criterion B by the supplier, the finished good qualifies as NAFTA originating based on preference criterion C.

Preference criterion D should only be used for goods that are unassembled, disassembled, incomplete, or are classified in the same HS provision as their parts. In these cases, tariff shifts are impossible and the merchandise will qualify if it satisfies the applicable regional value content requirements.

## **Field 8: Producer**

If the producer listed in Field 3 is the certifier (as shown in Field 11), Field 8 should contain the word “Yes.” If the certifier is not the producer, the certifier (i.e., most often the exporter) must state the basis of its knowledge that the goods qualify. There are three acceptable bases for certification, presented in descending order of reliability:

No(3)—the certificate is based on a signed CO voluntarily provided to the exporter by the producer

No(2)—the certificate is based on the producer’s written representation that the goods are originating.

No(1)—the certificate is based only on the certifier’s knowledge that the goods are originating

Note that the first two options specify that the CO or other written statement come from the producer. Any other backup, including a document provided by a distributor should be questioned and due diligence undertaken to confirm. If you are satisfied as to origin, the proper code would be No(1).

## **Field 9: Net Cost**

If the goods originate by virtue of a net cost RVC calculation, this field should contain the code

“NC.” In all other cases, it should contain “NO.” Incoming COs should be checked to confirm that if NC was used, it is permitted by the applicable rule of origin (rather than having a tariff-shift only rule).

It is also possible that a date range will be included in this field. This indicates that the supplier applied an averaging methodology to complete the RVC analysis. The period should be no more than one year. The goods considered together for averaging purposes, must be “similar” in nature.

### **Field 10: Country of Origin**

For NAFTA-originating goods, the only codes that can appear in this field are: US, CA, MX or JNT. Country of origin is determined based on rules that differ from the NAFTA rules of origin. See 19 C.F.R. §102 for the US rules. If the good is originating, its country of origin is almost always the country in which it was produced; but, there are exceptions to this for simple assembly and minor processing.

JNT is a code required by Canadian law for goods that are produced jointly in the US and Mexico. It is only applicable to goods being exported to Canada and only where both countries contribute more than 7% of the value of product. Simply producing the same part in separate US and Mexican locations does not require the JNT designation.

### **Field 11: Signature Block**

Someone with knowledge of the facts must sign the CO. Thus, you should question COs completed by shipping or receiving clerks, packers, etc. Reliable COs come from controllers, plant managers, purchasing associates, engineers, and people specifically designated the task of NAFTA or customs compliance. The typed and written names should be the same.

The CO should be dated to reflect the date of signature. The CO may not be more than four years old. All contact information should be provided.

If additional pages are attached, the total number of pages should indicate the proper number above the signature lines.

## **NAFTA CO Checklist**

### **Field 1: Exporter**

- Complete address
- Tax identifier
- May be “Seller”

### **Field 2: Blanket Period**

- One year or less
- CO must cover identical goods

### **Field 3: Producer**

- Complete address with tax identified
- Same
- Available to Customs Upon Request
- Unknown
- Agrees with Field 8

### **Field 4: Importer**

- Complete address with tax identifier
- Various
- Unknown
- May be “Buyer”

### **Field 5: Description**

- Matches PO, invoice or other record
- Sufficiently detailed for classification
- If single CO (not blanket), include invoice number, air waybill number or other unique identifier

### **Field 6: HS Classification**

- Confirm correct code
- Agrees with Field 5
- If eight digits required, use code for country of destination

### **Field 7: Preference Criterion**

- A – follow up with supplier
- B – acceptable
- C – follow up with supplier
- D – confirm product is unassembled, disassembled or no tariff shift possible
- E – applies only to data processing equipment
- F – applies only to agricultural goods

### **Field 8: Producer**

- Yes – should agree with Fields 3 and 11.
- No(1) – follow up with supplier to determine reliability
- No(2) – acceptable
- No(3) – acceptable

### **Field 9: Net Cost**

- No – confirm tariff shift or transaction value method is acceptable
- NC – confirm RVC permitted under applicable rule
- NC – is required for many related party transactions and automotive goods

### **Field 10: Country of Origin**

- For US apply 19 C.F.R. §102 rules
- US, CA, MX – acceptable
- JNT for exports to Canada for goods produced partially in US and Mexico

### **Field 11: Signature**

- Signature present matches typed name
- Not back dated
- Page count correct
- Not more than four years old