

**§ 10.308**

United States-Canada Free-Trade Agreement.

Check One:

- ( ) Manufacturer
- ( ) Supplier
- ( ) Exporter

Signature \_\_\_\_\_

Title \_\_\_\_\_

Date: \_\_\_\_\_

(ii) *Noncommercial goods which qualify for informal entry.* The importation of goods from Canada by a person for non-commercial use may be exempt from documentation requirements if the goods are legally marked "Made in Canada", or it can otherwise be shown that they are originating goods under the Agreement and there is no evidence to the contrary.

(2) *Waiver of evidence of direct shipment.* The port director may waive the submission of evidence of direct shipment when otherwise satisfied, taking into consideration the kind and value of the goods, that the goods were, in fact, imported directly from Canada, and that they otherwise qualify for a preference in accordance with the Agreement.

[T.D. 89-3, 53 FR 51766, Dec. 23, 1988, as amended by T.D. 92-8, 57 FR 2455, Jan. 22, 1992]

**§ 10.308 Records retention.**

(a) *Importer.* The importer of record shall retain the exporter's certificate of origin required by §10.307(d) for a period of 5 years and it must be made available upon request by the appropriate Customs official.

(b) *Exporter.* Any person who exports, or who knowingly causes to be exported, any merchandise to Canada shall make, keep, and render for examination and inspection, such records (including certifications of origin or copies thereof), which pertain to such exportation for a period of 5 years from the date of exportation. In the event that the appropriate Customs official requests submission of the records, they shall be submitted directly to the requesting official.

**§ 10.309 Verification of documentation.**

Any evidence of country of origin or of direct shipment submitted in sup-

port of a preference under the Agreement shall be subject to such verification as the appropriate Customs official may deem necessary. If the U.S. importer or U.S. exporter or their agent does not provide the information requested by the appropriate Customs officer, the port director may refuse to grant the claim for preference, in addition to other available sanctions.

**§ 10.310 Election to average for motor vehicles.**

(a) *Election.* In determining whether a motor vehicle is originating for purposes of the preferences under the Agreement or a Canadian article under the Automotive Products Trade Act of 1965 (APTA), a manufacturer may elect to average, over its 12-month financial year, its calculation of the value-content requirement for vehicles of the same class or sister vehicles which are assembled in the same plant as provided for in the Agreement. A manufacturer must declare its election to average before the importation of any vehicles produced within the identified 12-month period. The election to average is subject to the conditions and requirements set forth in §§10.310 and 10.311.

(b) *Effect of election.* An election to average shall be binding at the time of the first entry of vehicles for which the election has been made and shall remain binding for the plant for the entire period covered by the election. If a manufacturer's annual report, required by §10.311, does not verify the claim that the vehicles are originating goods under the Agreement or Canadian articles under APTA, or if a manufacturer otherwise fails to comply with the reporting requirements, entries of the vehicles identified in the averaging declaration will be subject to liquidation in accordance with the rate of duty which would otherwise apply.

(c) *Election in lieu of certificate of origin.* In lieu of the Exporter's Certificate of Origin required in §10.307(c), an importer of vehicles covered by an election to average under this section may

have its claim for preference based on a copy of the declaration of election.

[T.D. 89-3, 53 FR 51766, Dec. 23, 1988, as amended by T.D. 92-8, 57 FR 2455, Jan. 22, 1992]

**§ 10.311 Documentation for election to average for motor vehicles.**

A manufacturer who elects to average for motor vehicles shall submit a declaration of election to average, quarterly reports, and an annual report in the form and manner as follows:

(a) *Declaration of election.* A declaration of election to average, signed by an authorized company official, shall be submitted by the manufacturer to the U.S. Customs Service, Regulatory Audit Division, Detroit, Michigan 48226-2568 on Customs Form 355, Declaration of Election to Average.

(b) *Quarterly Report.* A quarterly report shall be submitted to the Regulatory Audit Division, at the above address, on Customs Form 356, Vehicle Cost Report (Quarterly), within 30 days after the end of each quarter. In lieu of the Customs Form 356, the manufacturer may submit the information required on the form in an approved computerized format or such other format as is approved by the U.S. Customs Service, Regulatory Audit Division, Detroit, Michigan 48226-2568. Alternative formats must contain the same information set forth on the Customs Form 356. Negative quarterly reports are required.

(c) *Annual Report.* An annual report shall be submitted to the U.S. Customs Service, Regulatory Audit Division, Detroit, Michigan 48226-2568, on Customs Form 357, Vehicle Cost Report (Annual), within 90 days of the end of the financial year identified in the Election to Average, Customs Form 355. In lieu of the Customs Form 357, Vehicle Cost Report (Annual), the manufacturer may submit the information required on the form in an approved computerized format or such other format as is approved by the U.S. Customs Service, Regulatory Audit Division, Detroit, Michigan 48226-2568. Alternative formats must contain the same information set forth on Customs Form 357.

**Subpart H—United States-Chile Free Trade Agreement**

SOURCE: CBP Dec. 05-07, 70 FR 10873, Mar. 7, 2005, unless otherwise noted.

GENERAL PROVISIONS

**§ 10.401 Scope.**

This subpart implements the duty preference and related customs provisions applicable to imported goods under the United States-Chile Free Trade Agreement (the US-CFTA) entered into on June 6, 2003, and under the United States-Chile Free Trade Agreement Implementation Act (the Act; 117 Stat. 909). Except as otherwise specified in this subpart, the procedures and other requirements set forth in this subpart are in addition to the customs procedures and requirements of general application contained elsewhere in this chapter. Additional provisions implementing certain aspects of the US-CFTA and the Act are contained in parts 12, 24, 162, 163 and 191 of this chapter.

**§ 10.402 General definitions.**

As used in this subpart, the following terms will have the meanings indicated unless either the context in which they are used requires a different meaning or a different definition is prescribed for a particular section of this subpart:

(a) *Certification.* “Certification” means, either when used by itself or in the expression “certification of origin”, the certification established under article 4.13 of the US-CFTA, that a good qualifies as an originating good under the US-CFTA;

(b) *Claim of origin.* “Claim of origin” means a claim that a textile or apparel good is an originating good or a good of a Party;

(c) *Claim for preferential tariff treatment.* “Claim for preferential tariff treatment” means a claim that a good is entitled to the duty rate applicable under the US-CFTA to an originating good;

(d) *Customs authority.* “Customs authority” means the competent authority that is responsible under the law of a Party for the administration of customs laws and regulations;