International Lawyer

Volume 27 | Number 1 | Article 10

1993

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Recommended Citation

Kenneth G. Weigel, *Significant New Developments Every Business Lawyer Should Know about Customs Law*, 27 INT'L L. 177 (1993)

https://scholar.smu.edu/til/vol27/iss1/10

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Kenneth G. Weigel*

Significant New Developments Every Business Lawyer Should Know About Customs Law**

This article discusses certain significant new developments that every business lawyer should know about customs law. The developments discussed include: (1) the determination of the origin of merchandise under the U.S.-Canada Free Trade Agreement (CFTA); (2) the valuation of imported merchandise in a consignment situation; (3) the relationship between U.S. Customs Service (Customs) value and the tax basis of merchandise imported between related parties; (4) the finality of liquidation; and (5) the importance of recordkeeping.

I. Origin Under the U.S.-Canada Free Trade Agreement

Perhaps the most significant customs law development that affects U.S. business attorneys is the CFTA. The recent North American Free Trade Agreement (NAFTA) will have a similar effect. These agreements limit their preferential tariff treatment to merchandise produced in one or more of the signatory countries. Thus, a company that produces a component in the United States or Canada, which is sold either directly for export or through another company that uses the component to make another product for export to Canada or the United States (or soon also to Mexico), will need to know whether it can inform its purchaser that the component is an "originating good" and, thus, qualifies for preferential duty treatment under the CFTA. Unfortunately, making this determination under the CFTA is not easy. For example, Honda has had significant origin determination problems in connection with claiming that its merchandise qualifies under the CFTA.

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**This article was originally presented as a paper at the Spring 1992 Meeting of the ABA Section of International Law and Practice.

Basically, the CFTA applies to merchandise that originates in the United States or Canada. Merchandise originates in the United States or Canada if (1) it is wholly obtained or produced in either country or (2) the materials used to make the merchandise have been transformed in either country in accordance with a prescribed change in tariff classification, and in some instances, additional requirements, or to alternative requirements as described in the CFTA rules. General Note (3)(c)(vii)(A)-(R) of the Harmonized Tariff Schedule of the United States (HTSUS) sets forth the CFTA original rules.[1] In some instances both a change in tariff classification plus a 50 percent test must be met. The changes in tariff classification required by the CFTA rules of origin are based on the Harmonized Commodity Description and Coding System (HS) published by the Customs Cooperation Council.[2]

To claim CFTA treatment the importer must possess an exporter's certificate of origin.[3] Customs has held that all of the goods in each shipment documented by a blanket exporter's certificate of origin actually must satisfy the CFTA rules of origin.[4] Except for motor vehicle manufacturers, averaging the calculation of value content is not permissible.[5] A blanket certification is valid only to the extent that it accurately identifies the shipment of goods at issue and states that the actual goods shipped under the blanket certificate qualify under the CFTA rules of origin.[6] The certifier must retain supporting records that will permit a review of the eligibility of the goods in each shipment to determine both the change in classification and the value content.[7] Any documents required in support of the claims made on the certification must be made available upon request in accordance with the regulations.[8] The certifying exporter has the responsibility to document any changes in sources or costs of materials that affect the status of the goods. If, after such changes, the goods no longer qualify, the certifying exporter must cancel the blanket certification and notify importers that this certification is no longer valid.

Customs, through its rulings, has imposed significant recordkeeping require-

1. 19 U.S.C. § 1202 (1988). CFTA rules of origin were set forth in section 202 of the United States-Canada Free Trade Agreement Implementation Act of 1988, Pub. L. No. 100-449 (Sept. 28, 1988). Citations are to subdivisions of General Note 3(c)(vii) incorporated into the HTSUS by Proclamation No. 5923 (Dec. 14, 1988).

2. Customs Serv. Rul. 000116 (1991).

3. *See* 19 C.F.R. § 10.307(c) (1992).

4. *See* Customs Serv. Rul. 000112 (1991).

5. *See* 19 C.F.R. § 10.310 (1992). A manufacturer of motor vehicles is allowed to average its calculation of the value content requirement. The Customs regulations allow for averaging over a manufacturer's twelve-month financial year. *See* 19 C.F.R. § 10.310(a) (1992). There is no other time period over which the manufacturer can average. *See* Customs Serv. Rul. 000161 (1992). Further, if the CFTA began in the middle of a company's fiscal year, the manufacturer can average over the partial fiscal year.

6. Customs Serv. Rul. 000112 (1991).

7. *See* 19 U.S.C. §§ 1508(b)-(e) (1988); 19 C.F.R. § 10.308 (1992).

8. 19 C.F.R. § 10.309 (1992).

ments. For example, when a component was sourced both domestically and from foreign producers, actual identification of the component or FIFO practices must be used to decide whether CFTA treatment is permissible. No averaging is allowed unless an automobile is being exported and produced.[9] Customs has held that it will not accept as evidence of the number of U.S. parts supplied to the automobile manufacturer data derived from the parts producer's accounting records establishing the number of parts produced in the United States versus the number of parts imported into the United States. The issue is the number of U.S.-made parts actually shipped to the auto manufacturer during a particular time period.

As noted, when foreign parts are used to make the article, origin is generally based on a change in tariff classification as prescribed in the rules.[10] When a number of foreign components are used to produce an article, Customs has ruled that the CFTA rule of origin does not contain a de minimis principle or standard for third-country materials or components.[11] Therefore, all third-country materials or components must undergo the requisite change in tariff heading for the article to be considered "originating."[12]

The CFTA origin test is basically a change in tariff classification test; value added in Canada or the United States generally is not determinative.[13] In two instances, however, a 50 percent value test is an alternative test to the change in classification rules.[14] This alternative value test, however, is expressly limited to goods assembled in Canada or the United States that either: (1) fail to result in a change in tariff classification because they were imported into Canada in an unassembled or disassembled form and were classified as if assembled pursuant to General Rule of Interpretation (GRI) 2(a) to the HTSUS;[15] or (2) the tariff provision for the goods provides for both the goods themselves and their parts. In these two situations, the value added test in General Note 3(c)(vii)(H) is applicable. Thus, the goods are treated as being transformed into a U.S. or Canadian product if the value of materials originating in Canada and the United States that are used or consumed in them plus the direct cost of assembly of the goods in the United States or Canada constitute not less than 50 percent of the value of the goods exported to the United States or Canada. Additionally, the goods must not

9. *See* Customs Serv. Rul. 556,346 (1992). In this ruling, Customs, highlighting the recordkeeping requirements, noted that it must be satisfied that the number of U.S. products claimed to have been supplied to the automobile manufacturer during the period must actually represent only U.S. manufactured parts. *See also* Canadian regulations and commentary in Memorandum D11-4-12 (Dec. 1988).

10. *See* General Note, *supra* note 1, 3(c)(vii)(R).

11. Customs Serv. Informational Memorandum 000117 (1991). While not technically a ruling within the meaning of part 177 of the Customs Regulations, this Informational Memorandum and others are cited herein as rulings..

12. *Id.*

13. *See* Customs Serv. Rul. 000119 (1991).

14. General Note, *supra* note 1, 3(c)(vii)(G).

15. 19 U.S.C. § 1202 (1988).

have, subsequent to assembly, undergone processing or further assembly in a third country and, basically, not have entered the commerce of a third country.[16]

One issue that has arisen in connection with the alternative 50 percent test is what is meant by a tariff heading that provides for both the goods themselves and their parts.[17] This same issue can also arise in the change in tariff classification rules.[18] Customs has stated that to determine whether "the tariff provision for the goods provides for both the goods themselves and their parts,"[19] one should look to the Harmonized System, not the HTSUS.[20] Moreover, while the CFTA is silent on the meaning of the term "provides for," Customs has decided to apply the exception whenever both articles and their parts are classified in the same HS subheading.[21]

In some instances, the value test is also an added requirement to the change in the tariff classification test, in addition to the two instances where it is an alternative to the change in the tariff classification test.[22] Customs has ruled that the direct cost part of the value test is slightly different in these two applications. When the 50 percent test is an added condition, the language usually reads "the value of . . . the direct costs of processing" performed in the United States or Canada.[23] When the 50 percent test is an alternative test, it is measured by "the direct costs of assembling the goods" in Canada or the United States.[24] In both cases, the value also includes the value of materials originating in the United States or Canada.[25] The rules define the terms "value of materials originating in the territory,"[26] "value of the goods when exported,"[27] and "direct costs of processing or direct costs of assembling."[28] These definitions and Customs' interpretations of them are discussed below.

The "value of the goods when exported" to the territory of the United States is defined as "the aggregate of the price paid by the producer for all materials, whether or not the materials originate in Canada and/or the United States," and also includes, if not included in the price, other costs such as freight, insurance,

16. General Note, *supra* note 1, 3(c)(vii)(H).
17. *Id.* 3(c)(vii)(G)(2).
18. *See id.* 3(c)(vii)(R)(17)(bb).
19. *Id.* 3(c)(vii)(G)(2).
20. Customs Serv. Rul. 000116 (1991), 000155 (1992).
21. It is unclear that a heading or subheading will be considered within this provision where it applies to materials. For example, heading 7312.10, HTSUS, includes stranded wire and cable, and even though standard wire is used to make cable, this provision would probably not be considered to apply to the goods themselves and their parts.
22. *See, e.g.*, General Note, *supra* note 1, 3(c)(vii)(R)(17)(cc).
23. *Id.*
24. *Id.* 3(c)(vii)(H).
25. *See supra* note 20 and text accompanying note 22.
26. General Note, *supra* note 1, 3(c)(vii)(M). Materials are defined as goods other than those included as part of the direct cost of processing or assembling, used or consumed in the production of other goods. *Id.* 3(c)(vii)(P).
27. *Id.* 3(c)(vii)(N).
28. *Id.* 3(c)(vii)(O).

packing, duties, taxes, brokerage, waste, spoilage, and the value of goods and services determined in accordance with subparagraph 1(b) of article 8 of the Agreement on Implementation of Article VII of the GATT (basically the same as those costs in subdivision (M)(2)) plus the direct costs of processing or the direct costs of assembling the goods.[29]

Subdivision (M) defines the phrase "value of materials originating in the territory" of Canada or the United States as used in subdivisions (H) (which applies to subdivision (G) discussed above) and (R), the change in tariff classification rules. This provision is defined as the aggregate of:

> (1) the price paid by the producer of exported goods for materials originating in the territory of Canada and/or the United States or for materials imported from a third country used or consumed in the production of such originating materials, and
> (2) when not included in the price, the following costs related thereto—[such items as (I) freight, insurance, packing, (II) duties, taxes, brokerage fees, (III) waste or spoilage], and
> (IV) the value of goods and services relating to such materials determined in accordance with subparagraph 1(b) of article 8 of the Agreement on Implementation of Article VII of the General Agreement on Tariffs and Trade.[30]

Where a material is purchased, determining its value is straightforward. Its value is the price paid. The exporter either fully includes or does not fully include the material's value in the numerator in calculating the 50 percent test; it is always used in the denominator.

Where a producer internally makes a material, this intermediate material may be an originating material for purposes of qualifying the finished product as originating in Canada.[31] To decide this question, one must first decide if the intermediate article qualifies as an originating material under the CFTA by satisfying the change in tariff classification rules. Intermediate materials can be considered exported for purposes of the value content test when the finished product is exported.[32] Thus, a vertically integrated producer can treat its intermediate material as an originating material for purposes of determining whether the finished product qualifies under the CFTA, provided that the intermediate material meets the applicable origin test.

Customs has issued rulings concerning the value of intermediate materials. Because no price paid exists for the internally produced intermediate materials, Customs has ruled that, by definition, under the CFTA's rules, the value of these materials can only be the price the producer paid for the imported articles used or consumed in producing them.[33] The value of the intermediate materials does not include the price paid for any U.S. or Canadian components used to produce

29. *Id.* 3(c)(vii)(N).
30. *Id.* 3(c)(vii)(M).
31. *See* Customs Serv. Rul. 000131 (1991).
32. *Id.*
33. *Id.*

them. Customs justified its interpretation by noting that the value of the U.S. or Canadian components is not lost to the vertically integrated producer. The producer has two choices for satisfying the value content test: (1) simply claim the value of the U.S./Canadian components, without trying to qualify the intermediate materials as a basis for qualifying the final article; or (2) use the value of the U.S./Canadian components to qualify an intermediate material and then use the value of this intermediate material, as defined by Customs,[34] as a basis for qualifying the final article.

Moreover, if both U.S./Canada and third-country originating materials are used or consumed together in the production of goods, the value of the originating materials would include only those originating materials that the manufacturer can, in fact, identify for each and every shipment of produced goods.[35] As noted above, this can be done by actual identification or use of FIFO accounting methods.[36]

Additionally, determining the value of materials in order to apply the 50 percent test can be extremely complex. In one example foreign Company *F* sold foreign transmissions to U.S. Company *U* for $600. Company *U* sold the transmissions to Company *C*, a Canadian company, for $300. Company *C* assembled the transmissions into automobiles that were imported into the United States by Company *P*, the U.S. parent of Company *U*.[37] In a second fact pattern the transmissions were sold by Company *F* directly to Company *C* for $300 and by Company *F* to Company *U* for $600.

As noted above, the CFTA provides that the value of originating materials means the total price paid by the producer of an exported good for materials imported from a third country and, when not included in that price, additional costs related thereto including "the value of goods and services relating to such materials determined in accordance with subparagraph 1(b) of article 8 of the Agreement on Implementation of Article VIII of the [GATT]."[38] Subparagraph 1(b) of article VIII provides that an additional amount including the following shall be added to the price actually paid or payable for imported goods:

> the value, apportioned as appropriate, of the following goods and services where supplied directly or indirectly by the buyer free of charge or at a reduced cost for use in connection with the production and sale for export of the imported goods, to the extent that such value has not been included in the price actually paid or payable; (i) materials, components, parts and similar items incorporated in the imported goods. . . .[39]

Based on these provisions, Customs determined that in the first factual situation,

34. *Id.*
35. Customs Serv. Rul. 556,346 (1992).
36. *See supra* text accompanying note 8.
37. *See* Customs Serv. Rul. 544,834 (1991).
38. *See supra* note 30.
39. Agreement on Implementation of Article VII of the General Agreement on Tariffs and Trade, *done* Apr. 12, 1979, T.I.A.S. No. 10,402.

an additional $300 must be added to the price Company *C* paid Company *U* for the transmissions because the transmissions were sold at a reduced cost for use in connection with the production of the imported articles.[40] In the second factual situation, the $300 price paid by Company *C* was the price of the materials.[41] It was the price paid by the producer of the exported goods for materials imported from a third country that were used in the production of the originating good.

Subdivision (O) defines the phrase "direct costs of processing or direct cost of assembly" as used in subdivisions (H), (N) (value of the goods when exported to the territory of the United States, and (R). These terms are defined to mean the costs "directly incurred in, or that can be reasonably allocated to," the production of goods, including:

> (1) the cost of all labor, including benefits and on-the-job training, labor provided in connection with supervision, quality control, shipping, receiving, storage, packaging, management at the location of the process or assembly, and other like labor, whether provided by employees or independent contractors;
> (2) the cost of inspecting and testing the goods;
> (3) the cost of energy, fuel, dies, molds, tooling, and the depreciation and maintenance of machinery and equipment, without regard to whether they originate within the territory of Canada and/or the United States;
> (4) development, design, and engineering costs;
> (5) rent, mortgage, interest, depreciation on buildings, property insurance premiums, maintenance, taxes and the cost of utilities for real property used in the production of the goods;
> (6) royalty, licensing, or other like payment for the right to the goods, but not including . . . [costs for the general expense of doing business, brokerage charges, telephone, mail and other communication, packing costs, royalty payments relating to a licensing agreement to distribute or sell goods, rent, mortgage interest, depreciations on buildings, and the like, used by personnel charged with administrative functions or profit].[42]

Customs has defined the phrase "directly incurred in . . . the production of goods" to mean only those costs that are necessary to, or that stem immediately from, the physical development and processing of an article.[43] Customs determined that the phrase "can reasonably be allocated to the production of goods" did not expand the nature of direct costs of processing beyond the definition, but rather, addressed situations that require the allowable direct costs to be allocated to specific goods. Customs identified three such situations: (1) the direct costs may apply to multiple products produced in the same facility; (2) the costs consist of both included and excluded costs elements; and (3) the direct costs were incurred in an earlier production period that can be matched with the current production period.[44] The term "including" was meant to be an introductory term

40. *Id.*
41. *Id.*
42. General Note, *supra* note 1, 3(c)(vii)(O).
43. Customs Serv. Rul. 089427 (1991).
44. *Id.*

used to introduce a nonexhaustive list of costs considered to be direct costs.[45] The phrase "not including" in subdivision (O)(6) was similarly seen as nonexhaustive.

Customs has ruled that direct costs of processing as used in the rules of origin differ from the direct costs of assembly in subdivision (H). Subdivision (H) limits a producer to those direct costs that are direct costs of assembly.[46] Customs distinguished the assembly provision in subdivision (H) from the CFTA value content test that applies to a broader range of direct costs, which are direct costs of processing.

Customs noted that subdivision (H) refers to assembling, while subdivision (N) refers to processing or assembling, and subdivision (R) only to processing. Customs concluded that the omissions of the reference to processing in subdivision (H) and to assembling in subdivision (R) are significant and demonstrate the existence of a different intention for the value content tests. The enumerated costs in subdivision (O) apply equally to costs that are includable in a value content test either as the direct cost of processing or as the direct cost of assembly because subdivision (O) prescribes the standard by which costs are to be considered direct costs. Subdivision (O) does not define the words "processing" or "assembling," but rather, defines the direct costs that then must be segregated into those related to production operations encompassed by the words "processing" or "assembly." Each word of the statute must be given effect in its interpretation. The meaning of "assembling" is clear and is narrower than the meaning of "processing." In an assembly operation the components must be in a condition ready for assembly. Customs noted that the value content test in subdivision (H) covers a limited situation in which an assembly of goods fails to result in a change in tariff classification.

II. The Value of Consignment Shipments

Failure to provide to Customs the correct facts as to valuation at the time of entry can result in significant penalties.[47] The valuation of imported merchandise generally is based on the invoice price. Additions to this price may exist, such as assists, which must also be declared to Customs.

A situation frequently encountered is where no price is paid for the merchandise for exportation. If there is no sale of the merchandise for export to the United States, creating an invoice price and giving Customs the impression that there was a sale is not proper, even if the price is the same as that at which the merchandise is sold to others.

When the merchandise has not been sold for export, stating such fact on the invoice and correctly completing the Entry Summary form is extremely important.

45. *Id.*
46. *See* Customs Serv. Rul. 000155 (1992); Customs Serv. Rul. 000160 (1992).
47. *See* 19 U.S.C. § 1592(d) (1988).

In such a case, the imported merchandise will be valued using either the transaction value of identical or similar merchandise, which might be merchandise sold by the exporter to the United States at or about the same time as the merchandise being appraised, or by its computed or deductive value.[48]

III. Customs Value-Tax Basis Relationship

Another important issue seen with increasing frequency is the relationship between Customs value and the tax basis for merchandise imported in a transaction between related persons. Section 1059A of the Internal Revenue Code[49] concerns the valuation of property imported into the United States in a transaction, directly or indirectly, between related persons. In such a case, this provision basically provides that the basis or inventory cost of the imported property cannot be greater than its Customs value. This provision applies to imported property entered or withdrawn from a warehouse for consumption. Basically, it prohibits importers from claiming a transfer price for U.S. income tax purposes that is higher than the Customs value. However, certain adjustments may be made to arrive at a tax basis or inventory cost when Customs valuation rules differ from appropriate federal tax rules, such as the inclusion or exclusion of freight or the treatment of assists. Moreover, section 1059A sets an upper limit and not a lower limit on the basis or inventory cost for imported property.[50] Section 1059A does not limit the authority of the IRS to increase or decrease the claimed basis or inventory cost under section 482.[51] The inventory cost or cost basis can be less than the Customs value under section 482.

Section 1059A does not apply to merchandise that is not subject to any Customs duty or is subject to a free rate of duty.[52] Further, section 1059A has no application to imported property not subject to Customs duty based on value, including property subject only to a per item or a duty based on volume. In such a case, the IRS incorrectly asserts that the property has no Customs value.[53]

In cases where the price between the exporter and importer is determined for tax purposes by reference to events occurring after importation (that is, where no price is paid or payable for use in setting Customs value, such as a consignment shipment), and the Customs value is both above and below the actual transaction price and the entries have been liquidated upon importation, the section 1059A limitation on the article, which has a lower Customs price than the actual transaction price, may be increased to the amount of the actual transaction price by the amount of the duty "overpaid" on the "overvalued" article multiplied by a

48. *See id.* § 1401a(a).
49. 26 U.S.C. § 1059A (1988).
50. 26 C.F.R. § 1.1059A-1(c)(2)-(3) (1992), which provides limits on such adjustments.
51. *Id.* § 1.1059A-1(c)(7).
52. *Id.* § 1.1059A-1(c)(1).
53. *Id.* § 1.1059A-1(c)(1).

fraction, the numerator of which is one and the denominator of which is the rate of duty on the undervalued article.[54] The following example illustrates this concept:

	Article A	**Article B**
Finally determined Customs value	$ 9.00	$9.00
Transaction price (actual price)	10.00	5.00
Duty rate	10%	5%
Customs duty paid	0.90	0.45
Duty overpaid or underpaid	(0.10)	0.20

The section 1059A limitation on Article *A* may be increased by the amount of the duty overpaid on *B* ($.20 times 1 divided by $.10 up to the amount of the transaction price). Therefore, the section 1059A limitation on Article *A* is $10 and on *B* is reduced (but never below the transaction price) by $2 to $7. This formula, as set forth above, is extremely complex and its application in actual practice appears limited.

A taxpayer is bound by the finally determined Customs value and by every final determination made by Customs including, but not limited to, dutiable value, the value attributable to the cost or value of products of the United States, and the classification of the product for purposes of imposing any duty.[55] The Customs value is considered finally determined when liquidation of the entry becomes final. Liquidation for IRS purposes is defined basically the same as for Customs purposes (that is, the ascertainment of the Customs duties occurring on the entry of the property), and liquidation is final after ninety days following notice of liquidation to the importer unless a protest is filed.[56] When the liquidation is protested, the Customs value is considered finally determined when a decision is made on the protest by Customs or the Court of International Trade and this becomes final.[57] Any adjustments to Customs value that result from a petition by interested parties or reliquidation upon a finding of fraud are not taken into account.[58] On the other hand, reliquidations by Customs within ninety days of the original liquidation to correct errors, or reliquidations to correct clerical error under 19 U.S.C. § 1520(c), are taken into account.[59]

54. *Id.* § 1.1059A-1(c)(9).
55. *Id.* § 1.1059A-1(d).
56. *Id.*
57. *Id.*
58. *Id.*
59. *Id.*

IV. The Finality of Liquidation

Another important point that business lawyers should remember when advising clients is that merely because the merchandise has been imported and Customs has not asked any questions does not mean that Customs has accepted the transaction as correct. Customs does not review the vast majority of entries. Instead, Customs auditors review most entries after the fact. Customs at the present time performs approximately 500 audits per year with approximately one-third to one-half of the audits being of importers. Customs plans to increase its auditing staff and would like to audit every large importer once each five years.

An entry, if not extended, will liquidate automatically in one year, and most entries liquidate after ninety days.[60] Once ninety days have elapsed from the date of liquidation of an entry, Customs cannot reopen that entry except in the case of fraud.[61] However, if Customs finds the basis for a civil penalty claim in connection with the entry, it is then allowed to collect any duties that are owed on the entry. Specifically, section 592(d) reads as follows:

> Deprivation of Law Duties—Notwithstanding section 1514 of this Title, if the United States has been deprived of lawful duties as a result of a violation of subsection (a) of this section, the appropriate Customs officer shall require that such lawful duties be restored, whether or not a monetary penalty is assessed.[62]

When considering the implications of this subsection, it is important to remember that a Customs civil penalty imposed need not be against the importer. Moreover, penalties can be imposed for mere negligence, which Customs can prove by showing that the act occurred, after which the burden is shifted to the importer. Thus, while the civil penalty imposed on the importer might be little or nothing, the amount of duties owed could be significant. Remembering the existence of these Customs liabilities whenever reviewing companies that import is extremely important.

V. Recordkeeping

Recordkeeping is becoming more important because of the increasing frequency of audits. The statute, as it applies to recordkeeping,[63] sets forth both general recordkeeping requirements and special requirements relating to the CFTA. Under the general recordkeeping requirements, any owner, importer, consignee, or agent thereof, who imports or who knowingly causes to be imported, any merchandise into the Customs territory of the United States shall make, keep, and render for examination and inspection such records (including statements, declarations and other documents) that:

60. 19 U.S.C. § 1504 (1988).
61. *See id* § 1521.
62. *Id.* § 1592(d).
63. *Id.* § 1508.

(1) pertain to any such importation or to the information contained in the documents required by this chapter in connection with the entry of merchandise; and
(2) are normally kept in the ordinary course of business.

These records are to be kept for a period of five years as set forth in the regulations.[64] A person who orders merchandise from an importer must satisfy the recordkeeping statute if the terms and conditions of the importation are controlled by the person placing the order or technical data, molds, equipment or other production assistance material, components, or parts are furnished by the person placing the order.

VI. Conclusion

Customs issues arise in everyone's practice. The increase in multicountry manufacturing, regional trade agreements, and the interrelationship between Customs and other laws require business lawyers, at a minimum, to be able to identify Customs issues. The failure to spot these issues can be extremely costly and problematic.

64. *Id.* § 1508(b); 19 C.F.R. § 162.1(c).