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**Audits and Legal Rulings Define High Stakes of NAFTA Compliance®**  
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Compliance Alert:

Audits and Legal Rulings Define high stakes of NAFTA Compliance U.S. companies that import under NAFTA preference claims and U.S. exporters that provide NAFTA certificates of origin (CO) to their Canadian and Mexican customers are facing a higher-than-ever compliance threshold. That's the clear conclusion to be drawn from a series of recent developments that place a premium on maintaining or instituting NAFTA compliance best practices:

- Step up in NAFTA audits. Customs & Border Protection (CBP) considers NAFTA claims a significant potential risk area in its Focused Assessment (FA) audits and Importer Self Assessment (ISA) application reviews. CBP is also conducting "single issue" or "targeted" audits of NAFTA compliance. At U.S. ports of entry, CBP is frequently issuing Form 28 Requests for Information requiring documentation of claims. Import-export pros should take special note of CBP's recent directive 3810-014A, July 2, 2005, detailing procedural updates and acceptable formats )
- The directive covers a wide range of issues, including CBP's NAFTA claim verification procedures, NAFTA preference claims denials, penalty assessment procedures, and required procedures for correcting NAFTA declarations found to be based on an invalid CO. There is also updated information on NAFTA record keeping requirements.
- Criminal prosecution. In November 2005, in one of the first-ever NAFTA violation criminal prosecutions, a California importer was assessed a criminal fine of \$2.1 million and restitution of \$3.5 million. Two company officers were sentenced to fines, restitution, and probation.
- Canada-Mexico customs: U.S. exporters have been experiencing continued origin verifications by Canada and Mexico customs officials to confirm the accuracy of NAFTA claims in COs issued to customers in those countries. These have included detailed questionnaires and even on-site visits to U.S. plants. Significant penalties can result if the COs cannot be backed up.
- Recent legal rulings: NAFTA veterans know that if a CO is not available at the time of importation, an importer can file a claim within up to one year of the date of import to receive a refund of duties paid. In *Corpro Co. v. United States*, Jan. 3, 200, the Federal Circuit Court reversed a decision of the Court of International Trade that had upheld Corpro's administrative protest of a CBP denial of a retroactive claim made more than a year after date of import—even though Corpro now had the valid NAFTA COs. This decision against an importer closely follows *Xerox Corp. v United States* (Sept. 19, 2005), in which the Federal Circuit Court also ruled against importer Xerox's retroactive NAFTA claim. These recent decisions further reinforce the need for timely filing of NAFTA claims.

## How Haworth Automated NAFTA Qualification

### Process In-house

The holy grail of import-export management is efficient and transparent global logistics and supply-chains. Given the proliferation of off shoring, outsourcing, free trade agreements (FTAs), rising fuel costs, and other factors, it is frequently this global trade discipline that winds up being decisive for a company's bottom line.

To determine key best practices in international logistics, global business research and services firm Aberdeen group Inc. (<http://www.aberdeen.com; 17-723-7890/>) surveyed over 400 international logistics and trade managers in 2005. Aberdeen then focused on firms that are transforming their global logistics processes, citing eight "best practice winners" in four areas: global inventory control, transportation spend management, import/export process management, and international logistics outsourcing. The study, Best Practices in International Logistics, is available at [http://www.aberdeen.com/summary/report/benchmark/ RA\\_BPIntlLogistics\\_Be\\_24\\_7.asp](http://www.aberdeen.com/summary/report/benchmark/ RA_BPIntlLogistics_Be_24_7.asp)).

### Haworth NAFTA Challenge

In the category of import/export process management, Aberdeen cites Haworth Inc. (<http://www.haworth.com/>), a \$1.2 billion manufacturer of adaptable workplaces, as a best practices winner.

The Aberdeen group study finds that global outsourcing by itself is no guarantee for success—despite all the hype. In fact, companies can experience higher, rather than lower, costs when sourcing from low-cost countries due to a number of factors. Haworth provides a case in point.

Haworth manufactures and ships many products within NAFTA, including about 85% of its exports. The data proving qualification for lower NAFTA duty rates must be obtained from over 1,000 global suppliers for some 43,000 parts.

Haworth had outsourced its NAFTA qualification process to a third-party provider. However, due to data and process complexity, analysis was performed on only half the company's approximately 1,000 NAFTA export products, while some 1,000 new parts requiring analysis were being added to the product line monthly. Haworth still had to supplement the outsourcing with a labor-intensive manual process internally. Outsourcing was clearly not only too difficult to manage, but also too expensive.

### Haworth NAFTA solution

An in-house solution was found, however, involving automation of the NAFTA qualification process with a Management Dynamics (formerly NextLinx) (<http://www.managementdynamics.com/>) solution. General Dynamics, chosen from among six potential vendors, now provides Haworth with a Web portal that automates both the solicitation and management of qualification data from suppliers, logistics partners, and brokers. This integrated software solution provides a single global trade database, export documentation and compliance, and NAFTA program management.

The analysis module automatically tracks when certificates need to be added or updated. The portal is configured to send automatic e-mails to suppliers twice a month for information on new or outstanding part purchases. Suppliers log on to the portal to enter or upload requested data. Brokers receive daily files automatically with NAFTA qualification data and shipment transaction data, streamlining clearance and entry. This strategy for in-house automation compliance has led to benefits such as:

- \$1.2 million in immediate reduced duties and taxes through NAFTA qualification;
- Annual savings of \$225,000 from elimination of outsourcing and other costs;
- More complete information from suppliers now allows 9 % of Haworth's exports to qualify for NAFTA preferential duty treatment;
- Haworth's trade compliance pros now manage more transactions with the same staff;
- The company has achieved more compliant, auditable NAFTA record keeping.