

NAFTA RULES OF ORIGIN

GENERAL

WHAT IS THE PURPOSE OF RULES OF ORIGIN?

A key feature of most free trade agreements provides that the member countries grant preferential tariff treatment to each other's products. This reflects the intent of the partners to benefit producers operating within the free trade area, thereby generating employment and income.

The North American Free Trade Agreement (NAFTA) will eliminate, over 15 years, all tariffs on goods traded between Canada, the United States or Mexico which "originate" in any of the three countries. Goods that do not originate within a NAFTA country will not be eligible for tariff preference. Rules of origin are therefore needed to determine when a good "originates" in one of the NAFTA countries.

HOW GOODS MAY QUALIFY AS ORIGINATING

To be considered an *originating good*, the good must meet the requirements set out in the NAFTA rules of origin.

There are a number of ways to qualify as originating under the rules of origin.

1. Goods that are "wholly obtained or produced" in one of the NAFTA countries. This refers only to certain types of goods, such as those that are entirely *grown, fished, or mined* in one of the member countries. (It does not include goods that are merely purchased in a NAFTA country, having been imported from a non-NAFTA country.)
2. Goods that are made up entirely of *components and materials* that would qualify in their own right as goods originating in one of the NAFTA countries.

3. Goods that meet the conditions set out in a specific rule of origin for that product as listed in NAFTA Annex 401.

4. Goods that qualify under Article 401(d), which applies only in a few cases where there can be no change in tariff classification from non-originating components and materials to the finished good. (This is a technical provision of limited application.)

Of these, the most frequently used is #3, which applies to any good that incorporates any **non-originating content in its production**. In the modern economy, where components and materials are frequently sourced abroad, this is an increasingly common situation, particularly in the manufacturing sector.

HOW THE SPECIFIC RULES OF ORIGIN WORK

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The NAFTA provides a specific rule of origin for every type of good that incorporates non-originating materials. (In many cases, two different rules may be applicable to a good and the good may qualify under either.)

In general terms, a good may qualify as originating in one of the NAFTA countries if its last place of manufacture is within the NAFTA territory and that manufacturing process has resulted in significant change in all of the components or materials not of Canadian, U.S. or Mexican origin according to the rules of origin. The basic test for whether such significant change has occurred is a change of tariff classification test.

When a product is transformed from its constituent materials and components into the finished good, there is a resulting change from