

Rules of Origin

The Free Trade Agreement between Canada and the United States, which came into effect on January 1, 1989, will eliminate tariffs on trade in goods between the two countries by January 1, 1998. Specific rules, called the FTA rules of origin, were included in the Free Trade Agreement to define which goods qualify for reduced or eliminated tariffs. These rules are included in Chapter Three and Annex 301.2 of the Free Trade Agreement.

• The Harmonized System (HS)

The rules of origin use the Harmonized System of Tariff Classification and Statistical Coding (HS) which designates an eight-digit number for each type of good. Bicycle seats, for example, are given the HS code 8714.9500 and toy trumpets are given 9503.5000. This system provides a common language to importers, exporters and customs services worldwide. The first six digits of classification are the same internationally, with some variation between countries for the remaining digits. It is these six digits which are used in applying the FTA rules of Origin and completing the Exporter's Certificate of Origin.

The correct HS classification of an export product is *indispensable* when determining whether that export qualifies under the FTA rules of origin.

Exporters who are unsure about the correct HS of their product should seek advice from their U.S. broker or contact the U.S. Customs Service at:

Portland, Maine:	(207) 780-3329
Champlain, New York:	(518) 298-8311
Buffalo, New York:	(716) 846-4351
Detroit, Michigan:	(313) 226-3149
Pembina, North Dakota:	(701) 825-6201
Blaine, Washington:	(206) 332-5771

Callers will be referred to the appropriate U.S. Customs Import Specialist.

• The Rules of Origin

Generally, goods wholly produced in Canada and/or the United States (such as wheat grown in Saskatchewan, iron ore mined in Ohio, or Canadian furniture made from Vermont lumber) automatically qualify under the FTA rules of origin. These products qualify under criteria 5A of the Exporter's Certificate of Origin.

Many other goods, however, which incorporate components and materials *not* produced in Canada and/or the United States may still qualify under the Rules of Origin, using criteria 5B1, 5B2, or 5C of the Exporter's Certificate of Origin. These goods — such as Canadian cakes made with Jamaican sugar or U.S. jewellery made from Russian gold — will qualify for FTA treatment if they satisfy the *specific* rule of origin which applies to the product.

Although the Rules of Origin are detailed and specific, two general principles apply:

1. Third-country components must undergo a transformation in Canada and/or the United States sufficient to change their HS classification *and* satisfy the appropriate rule of origin. There are 135 specific rules of origin which detail the degree of transformation for each third-country material or component that will allow the exported product to qualify for FTA treatment. For example, crude oil (HS 2709.0000) imported into Canada from a third country cannot receive FTA treatment if it is exported unchanged to the United States. However, if the crude oil is sufficiently processed in Canada to change its HS classification to that of lubricating oil (HS 2710.0030) it will then qualify. In 1992, for example, the U.S. tariff on lubricating oil which qualified under the FTA rules of origin was one-fifth of the tariff charged on lubricating oil which did not qualify.
2. In addition to a change in HS classification, some rules require that exports containing third country components incur at least fifty percent of their export value in Canada and/or the United States to qualify under the rules of origin.

There are, of course, exceptions to these general principles. Specific controls, tariffs or prohibitions are sometimes placed on the import or export of specific products by Canada and/or the United States.