

## What is NAFTA?

- Created a “Preferential Trade Area” between the US, Canada, and Mexico in 1994
- Gradually phases out most duties
- Reduces taxes your customer will pay, a revenue reduction for the governments of US, Canada, and Mexico
  - But, to get the tax relief you MUST have >50% North American content and be able to prove it!

## Finding the right six digit number

By further defining a good's description,

- 2 digit chapters are broken out into
  - 4 digit headings and;
    - 6 digit subheadings
      - 8 digit: tariff item
- The final two digits in a 10 digit number: statistical suffix

## General Rules of Interpretation

### GRI 1:

- Titles are for ease of reference only
- Only classify your good according to headings, section notes, and chapter notes
- And in accordance w/GRIs 2, 3, and 4

## General Rules of Interpretation

### GRI 2(b):

- 2(b)1: References to a substance are interpreted to include mixtures of that substance with others
  - As long as the essential character is not compromised upon mixing
- 2(b)2: References to goods consisting of a given material are interpreted to include goods consisting partly of such material
  - Only as long as another heading does not refer to the goods in a mixed or composite state
- If you can classify a mixture or composite good under each of two separate headings go to GRI 3

## General Rules of Interpretation

### GRI 3: (How to choose between 2 headings)

- (a) When two or more headings apply, use the most specific description
  - Can't use if no heading covers entire good, go to 3(b)
- (b) Use the heading of the component which gives the good its essential character
  - Can't use if no essential character, go to 3(c)
- (c) When faced with two still equally valid headings, choose the one which occurs last in numeric order

## Classification Process

1. Review the Schedule B Index to help you locate your good using plain English, then...
2. Go to Schedule B itself and look up the subheading you found in Step 1
3. Read both the Chapter and Section Notes to be sure they don't redirect you
4. When you can't decide between two headings, start working through the GRIs

## NTR\* vs. NAFTA

- North American goods shipped to the US, Canada, or Mexico are given a preference over goods from other parts of the world.
- NAFTA goods pay lower duties
- Goods from other places pay higher duties
  - In the US, non-NAFTA goods pay the NTR duty rate
- In Canada NTR = MFN
- In Mexico NTR = NMF

\*Normal Trade Relations

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## Preference Criteria

- The "Origin Criteria" explain ways your good can comply with the NAFTA Rules of Origin..
  - ...and qualify for preferential tariff treatment!
- Generally, most goods that qualify for NAFTA satisfy the Rules of Origin via Preference Criteria B or C

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## Criterion B

**Each good made up of non-originating materials must comply with the NAFTA Rules of Origin**

Based on:

- A) A change in tariff classification;
- B) A regional value content requirement; or
- C) Both a change in tariff classification and a regional value content requirement

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## Criterion B

- The NAFTA Rules of Origin are commonly referred to as General Note 12(t).
  - They must be referred to if you are going to use Criterion B
- Review them online at:  
[http://www.customs.gov/nafta/docs/us/gn12t1-29.html#\(t\)](http://www.customs.gov/nafta/docs/us/gn12t1-29.html#(t))

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## Criterion B

- Before reading any Rule of Origin, add the following words to the beginning of the rule:
  - "All non-originating materials used to produce the good must undergo..."
- Remember, if no certificate, the good or material doesn't originate.
  - Even if you think it probably does!

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## Criterion B

- In other words, the idea behind RVC is to determine what percentage of a good's content comes from NAFTA countries.
  - Not from Asia or Europe
  - Not a foreign good distributed from a NAFTA country
  - You can't create a NAFTA certificate for a good made outside Canada, the United States, or Mexico


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## Criterion B

**Regional Value Content**

**Transaction Value:**

- Total price paid for the good, incorporates all territorial costs and profits
  - Includes packaging, not packing
  - Includes inland freight
  - Does not include freight to Canada or Mexico
- 60% RVC is required via TV


  
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## Criterion B

**Regional Value Content**

**Net Cost:**


- Net cost to produce the good:
  - Includes packaging, not packing
  - Includes inland freight
  - Doesn't include sales promotion, royalties, or freight to Canada or Mexico
- Since profits can't be included, RVC required via NC is lower, just 50%

  
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## Criterion B

**Regional Value Content**  
Two methods:


1. **Transaction Value Method**  
Transaction Value = TV  
Value of Non-originating Material = VNM  
$$RVC = \left( \frac{TV - VNM}{TV} \right) \times 100$$
  
RVC via TV must be > 60%

  
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## Criterion B

**Regional Value Content**  
Two methods:

2. **Net Cost Method**  
Net Cost = NC  
Value of Non-originating Material = VNM  
$$RVC = \left( \frac{NC - VNM}{NC} \right) \times 100$$
  
RVC via NC must be > 50%

  
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## Criterion C

**Finished goods made up of parts or materials all of which qualify as originating**

- Supplier affidavits or NAFTA certificates substantiate that all materials originate
- Supplier does the work for you


  
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## The Audit Trail

- Evidence is required to support your NAFTA Certificate of Origin

Without it, you could get fined or..

Lose access to NAFTA's benefits!

  
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## The Audit Trail

- Any exporter or producer who completes and signs the Certificate of Origin **must retain all relevant records relative to the origin of the goods for ten (10) years** after the date of which the Certificate of Origin was signed.

(6 years for Canadian customs,  
10 for Mexican customs)

## Origin Verification Audits

### Methods used by Customs:

#### Principal Methods:

- Origin verification questionnaire
  - Can be time-consuming
- Origin verification audit
  - On-site, invasive

#### Other Methods:

- Phone or fax the certificate's signer
  - Interview them, verify diligence

## Origin Verification Audits

### Content:

- The customs agency in charge of the verification may request information on a specific shipment.
- The information asked can vary:
  - Presenting the basis for a RVC calculation
  - Completion of questionnaires regarding certification and preference criteria declarations

## Origin Verification Audits

### Duration:

- The type and depth of the audit will dictate the time from start to finish
- Some cases require additional information regarding supplier declarations and methods
- Multiple mistakes or questionable declarations found by the audit team will produce a longer and more painful audit
- Poor record keeping = long audit
  - A penalty in and of itself

## Origin Verification Audits

When customs calls and asks about a NAFTA Certificate of Origin...

- Tell them that you'll be pleased to respond to a written request...
- Don't tell them anything over the phone.
  - Do your research and get back to them
    - You have 5 days to respond, do it in writing!

## Origin Verification Audits

You might be thinking:

"Hey, I'm just a little company – way too small for Canadian or Mexican Customs to concern themselves with!"

- Unfortunately, small companies are the easiest prey!
  - Too often, they don't take the process seriously and don't defend themselves properly
    - As serious as an IRS audit or an OSHA visit