

General notes (con.):

12. North American Free Trade Agreement.

- (a) Goods originating in the territory of a party to the North American Free Trade Agreement (NAFTA) are subject to duty as provided herein. For the purposes of this note--
  - (i) Goods that originate in the territory of a NAFTA party under the terms of subdivision (b) of this note and that qualify to be marked as goods of Canada under the terms of the marking rules set forth in regulations issued by the Secretary of the Treasury (without regard to whether the goods are marked), when such goods are imported into the customs territory of the United States and are entered under a subheading for which a rate of duty appears in the "Special" subcolumn followed by the symbol "CA" in parentheses, are eligible for such duty rate, in accordance with section 201 of the North American Free Trade Agreement Implementation Act.
  - (ii) Goods that originate in the territory of a NAFTA party under subdivision (b) of this note and that qualify to be marked as goods of Mexico under the terms of the marking rules set forth in regulations issued by the Secretary of the Treasury (whether or not the goods are marked), when such goods are imported into the customs territory of the United States and are entered under a subheading for which a rate of duty appears in the "Special" subcolumn followed by the symbol "MX" in parentheses, are eligible for such duty rate, in accordance with section 201 of the North American Free Trade Agreement Implementation Act.
- (b) For the purposes of this note, goods imported into the customs territory of the United States are eligible for the tariff treatment and quantitative limitations set forth in the tariff schedule as "goods originating in the territory of a NAFTA party" only if--
  - (i) they are goods wholly obtained or produced entirely in the territory of Canada, Mexico and/or the United States; or
  - (ii) they have been transformed in the territory of Canada, Mexico and/or the United States so that--
    - (A) except as provided in subdivision (f) of this note, each of the non-originating materials used in the production of such goods undergoes a change in tariff classification described in subdivisions (r), (s) and (t) of this note or the rules set forth therein, or
    - (B) the goods otherwise satisfy the applicable requirements of subdivisions (r), (s) and (t) where no change in tariff classification is required, and the goods satisfy all other requirements of this note; or
  - (iii) they are goods produced entirely in the territory of Canada, Mexico and/or the United States exclusively from originating materials; or
  - (iv) they are produced entirely in the territory of Canada, Mexico and/or the United States but one or more of the non-originating materials falling under provisions for "parts" and used in the production of such goods does not undergo a change in tariff classification because--
    - (A) the goods were imported into the territory of Canada, Mexico and/or the United States in unassembled or disassembled form but were classified as assembled goods pursuant to general rule of interpretation 2(a), or
    - (B) the tariff headings for such goods provide for and specifically describe both the goods themselves and their parts and is not further divided into subheadings, or the subheadings for such goods provide for and specifically describe both the goods themselves and their parts,

General note 12(b)(iv) (con.):

provided that such goods do not fall under chapters 61 through 63, inclusive, of the tariff schedule, and provided further that the regional value content of such goods, determined in accordance with subdivision (c) of this note, is not less than 60 percent where the transaction value method is used, or is not less than 50 percent where the net cost method is used, and such goods satisfy all other applicable provisions of this note. For purposes of this note, the term "material" means a good that is used in the production of another good, and includes a part or an ingredient.

(c) Regional value content. Except as provided in subdivision (c)(iv) of this note, the regional value content of a good shall be calculated, at the choice of the exporter or producer of such good, on the basis of either the transaction value method set out in subdivision (c)(i) or the net cost method set out in subdivision (c)(ii).

(i) Transaction value method. The regional value content of a good may be calculated on the basis of the following transaction value method:

$$RVC = \frac{TV - VNM}{TV} \times 100$$

where RVC is the regional value content, expressed as a percentage; TV is the transaction value of the good adjusted to a F.O.B. basis; and VNM is the value of non-originating materials used by the producer in the production of the good.

(ii) Net cost method. The regional value content of a good may be calculated on the basis of the following net cost method:

$$RVC = \frac{NC - VNM}{NC} \times 100$$

where RVC is the regional value content, expressed as a percentage; NC is the net cost of the good; and VNM is the value of non-originating materials used by the producer in the production of the good.

(iii) Except as provided in subdivisions (d)(i) and (d)(ii)(A)(2) of this note, the value of non-originating materials used by the producer in the production of a good shall not, for purposes of calculating the regional value content of the good under subdivision (c)(i) or (c)(ii) of this note, include the value of non-originating materials used to produce originating materials that are subsequently used in the production of such good.

(iv) The regional value content of a good shall be calculated solely on the basis of the net cost method set out in subdivision (c)(ii) of this note where--

(A) there is no transaction value for the good;

(B) the transaction value of the good is unacceptable under section 402(b) of the Tariff Act of 1930, as amended (19 U.S.C. 1401a(b));

(C) the good is sold by the producer to a related person and the volume, by units of quantity, of sales of identical or similar goods to related persons (as defined in article 415 of the NAFTA) during the six-month period immediately preceding the month in which the good is sold exceeds 85 percent of the producer's total sales of such goods during that period;

(D) the good is--

(1) a motor vehicle provided for in headings 8701 or 8702, subheadings 8703.21 through 8703.90, inclusive, or headings 8704, 8705 or 8706;

(2) identified in annex 403.1 or 403.2 to the NAFTA and is for use in a motor vehicle provided for in headings 8701 or 8702, subheadings 8703.21 through 8703.90, inclusive, or headings 8704, 8705 or 8706;

General note 12(c)(iv)(D) (con.):

- (3) provided for in subheadings 6401.10 through 6406.10, inclusive; or
  - (4) provided for in subheading 8469.10.40;
  - (E) the exporter or producer chooses to accumulate the regional value content of the good in accordance with subdivision (e) of this note; or
  - (F) the good is designated as an intermediate material under subdivision (c)(viii) of this note and is subject to a regional value-content requirement.
- (v) If the regional value content of a good is calculated on the basis of the transaction value method set out in subdivision (c)(i) of this note and a NAFTA party subsequently notifies the exporter or producer, during the course of a verification of the origin of the good, that the transaction value of the good, or the value of any material used in the production of the good, is required to be adjusted or is unacceptable under section 402 of the Tariff Act of 1930, as amended (19 U.S.C. 1401a), the exporter or producer may then also calculate the regional value content of the good on the basis of the net cost method set out in subdivision (c)(ii) of this note.
- (vi) For purposes of calculating the net cost of a good under subdivision (c)(ii) of this note, the producer of the good may--
- (A) calculate the total cost incurred with respect to all goods produced by that producer; subtract any sales promotion, marketing and after-sales service costs, royalties, shipping and packing costs and non-allowable interest costs that are included in the total cost of all such goods; and then reasonably allocate the resulting net cost of those goods to the good;
  - (B) calculate the total cost incurred with respect to all goods produced by that producer; reasonably allocate the total cost to the good; and then subtract any sales promotion, marketing and after-sales service costs, royalties, shipping and packing costs and non-allowable interest costs that are included in the portion of the total cost allocated to the good; or
  - (C) reasonably allocate each cost that forms part of the total cost incurred with respect to the good so that the aggregate of these costs does not include any sales promotion, marketing and after-sales service costs, royalties, shipping and packing costs and non-allowable interest costs;
- provided that the allocation of all such costs is consistent with the provisions regarding the reasonable allocation of costs set out in regulations issued by the Secretary of the Treasury. The term "total cost" means all product costs, period costs and other costs incurred in the territory of Canada, Mexico and/or the United States.
- (vii) Except as provided in subdivision (c)(ix) of this note, the value of a material used in the production of a good shall--
- (A) be the transaction value of the material determined in accordance with section 402(b) of the Tariff Act of 1930, as amended; or
  - (B) in the event that there is no transaction value or the transaction value of the material is unacceptable under section 402(b) of the Tariff Act of 1930, as amended, be determined in accordance with subsections (c) through (h), inclusive, of such section; and
  - (C) where not included under subdivision (A) or (B), include--
    - (1) freight, insurance, packing and all other costs incurred in transporting the material to the location of the producer;

General note 12(c)(vii)(C) (con.):

- (2) duties, taxes and customs brokerage fees on the material that were paid in the territory of Canada, Mexico, and/or the United States; and
  - (3) the cost of waste and spoilage resulting from the use of the material in the production of the good, less the value of renewable scrap or by-product.
- (viii) Except for goods described in subdivision (d)(i) of this note, the producer of a good may, for purposes of calculating the regional value content of the good, designate any self-produced material (other than a component, or material thereof, identified in Annex 403.2 to the NAFTA) used in the production of the good as an intermediate material; provided that if the intermediate material is subject to a regional value-content requirement, no other self-produced material that is subject to a regional value-content requirement and is used in the production of that intermediate material may be designated by the producer as an intermediate material.
- (ix) The value of an intermediate material shall be--
- (A) the total cost incurred with respect to all goods produced by the producer of the good that can be reasonably allocated to that intermediate material; or
  - (B) the aggregate of each cost that is part of the total cost incurred with respect to that intermediate material that can be reasonably allocated to that intermediate material.
- (x) The value of an indirect material shall be based on the Generally Accepted Accounting Principles applicable in the territory of Canada, Mexico, and/or the United States in which the good is produced.
- (xi) For purposes of this note, the term "reasonably allocate" means to apportion in a manner appropriate to the circumstances.
- (d) Automotive Goods.
- (i) For purposes of calculating the regional value content under the net cost method set out in subdivision (c)(ii) of this note for--
    - (A) a good that is a motor vehicle provided for in tariff items 8702.10.60 or 8702.90.60, or subheadings 8703.21 through 8703.90, inclusive, 8704.21 or 8704.31; or
    - (B) a good provided for in the tariff items listed in Annex 403.1 where the good is subject to a regional value-content requirement and is for use as original equipment in the production of a good provided for in tariff items 8702.10.60 or 8702.90.60, or subheadings 8703.21 through 8703.90, inclusive, 8704.21 or 8704.31,

the value of non-originating materials used by the producer in the production of the good shall be the sum of the values of non-originating materials, determined in accordance with subdivision (c)(vii) of this note at the time the non-originating materials are received by the first person in the territory of Canada, Mexico or the United States who takes title to them; that are imported from the outside the territories of Canada, Mexico and the United States under the tariff items listed in Annex 403.1 to the NAFTA and that are used in the production of the good or that are used in the production of any material used in the production of the good.
  - (ii) For purposes of calculating the regional value content under the net cost method for a good that is a motor vehicle provided for in heading 8701, tariff items 8702.10.30 or 8702.90.30, subheadings 8704.10, 8704.22, 8704.23, 8704.32 or 8704.90, or headings 8705 or 8706, or for a component identified in Annex 403.2 to the NAFTA for use as original equipment in the production of the motor vehicle, the value of non-originating materials used by the producer in the production of the good shall be the sum of--

General note 12(d)(ii) (con.):

- (A) for each material used by the producer listed in Annex 403.2 to the NAFTA, whether or not produced by the producer, at the choice of the producer and determined in accordance with subdivision (c) of this note, either--
    - (1) the value of such material that is non-originating, or
    - (2) the value of non-originating materials used in the production of such material; and
  - (B) the value of any other non-originating material used by the producer that is not listed in Annex 403.2 to the NAFTA, determined in accordance with subdivision (c) of this note.
- (iii) For purposes of calculating the regional value content of a motor vehicle identified in subdivision (d)(i) or (ii) of this note, or for any or all goods provided for in a tariff item listed in Annex 403.1 to the NAFTA, or a component or material identified in Annex 403.2 to the NAFTA, the producer may average its calculation over its fiscal year in accordance with section 202(c)(3) and (4) of the North American Free Trade Agreement Implementation Act of 1993.
- (iv) Notwithstanding subdivisions (r), (s) and (t) of this note, and except as provided in subdivision (d)(v) of this note, the regional value-content requirement shall be--
- (A) for a producer's fiscal year beginning on the day closest to January 1, 1998 and thereafter, 56 percent under the net cost method, and for a producer's fiscal year beginning on the day closest to January 1, 2002 and thereafter, 62.5 percent under the net cost method, for--
    - (1) a good that is a motor vehicle provided for in tariff items 8702.10.60 or 8702.90.60; subheadings 8703.21 through 8703.90, inclusive; or subheadings 8704.21 or 8704.31, and
    - (2) a good provided for in headings 8407 or 8408 or subheading 8708.40, that is for use in a motor vehicle identified in subdivision (d)(iv)(A)(1); and
  - (B) for a producer's fiscal year beginning on the day closest to January 1, 1998 and thereafter, 55 percent under the net cost method, and for a producer's fiscal year beginning on the day closest to January 1, 2002 and thereafter, 60 percent under the net cost method, for--
    - (1) a good that is a motor vehicle provided for in heading 8701, tariff items 8702.10.30 or 8702.90.30, subheadings 8704.10, 8704.22, 8704.23, 8704.32 or 8704.90, or headings 8705 or 8706;
    - (2) a good provided for in headings 8407 or 8408 or subheading 8708.40 that is for use in a motor vehicle identified in subdivision (d)(iv)(B)(1); and
    - (3) except for a good identified in subdivision (d)(iv)(A)(2) or provided for in subheadings 8482.10 through 8482.80, inclusive, 8483.20 or 8483.30, a good identified in Annex 403.1 to the NAFTA that is subject to a regional value-content requirement and that is for use in a motor vehicle identified in subdivision (d)(iv)(A)(1) or (d)(iv)(B)(1).
- (v) The regional value-content requirement for a motor vehicle identified in subdivision (d)(i) or (ii) shall be--
- (A) 50 percent for five years after the date on which the first motor vehicle prototype is produced in a plant by a motor vehicle assembler, if--
    - (1) it is a motor vehicle of a class, or marque, or, except for a motor vehicle identified in subdivision (d)(ii), size category and underbody, not previously produced by the motor vehicle assembler in the territory of Canada, Mexico and/or the United States;

General note 12(d)(v)(A) (con.):

- (2) the plant consists of a new building in which the motor vehicle is assembled; and
  - (3) the plant contains substantially all new machinery that is used in the country of assembly of the motor vehicle; or
- (B) 50 percent for two years after the date on which the first motor vehicle prototype is produced at a plant following a refit, if it is a different motor vehicle of a class, or marque, or, except for a motor vehicle identified in subdivision (d)(ii), size category and underbody, than was assembled by the motor vehicle assembler in the plant before the refit.
- (e) Accumulation.
- (i) For purposes of determining whether a good is an originating good, the production of the good in the territory of Canada, Mexico and/or the United States by one or more producers shall, at the choice of the exporter or producer of the good for which preferential tariff treatment is claimed, be considered to have been performed in the territory of a NAFTA party by that exporter or producer, provided that--
    - (A) all non-originating materials used in the production of the good undergo an applicable tariff classification set out in subdivision (t) of this note,
    - (B) the good satisfies any applicable regional value-content requirement, entirely in the territory of one or more of the NAFTA parties; and
    - (C) the good satisfies all other applicable requirements of this note.
  - (ii) For purposes of subdivision (c)(viii) of this note, the production of a producer that chooses to accumulate its production with that of other producers under subdivision (e)(i) shall be considered to be the production of a single producer.
- (f) De minimis.
- (i) Except as provided in subdivisions (f)(iii) through (vi), inclusive, a good shall be considered to be an originating good if the value of all non-originating materials used in the production of the good that do not undergo an applicable change in tariff classification set out in subdivision (t) of this note is not more than 7 percent of the transaction value of the good, adjusted to a F.O.B. basis, or, if the transaction value is unacceptable under section 402(b) of the Tariff Act of 1930, as amended, the value of all such non-originating materials is not more than 7 percent of the total cost of the good, provided that--
    - (A) if the good is subject to a regional value-content requirement, the value of such non-originating materials shall be taken into account in calculating the regional value content of the good; and
    - (B) the good satisfies all other applicable requirements of this note.
  - (ii) A good that is otherwise subject to a regional value-content requirement shall not be required to satisfy such requirement if the value of all non-originating materials used in the production of the good is not more than 7 percent of the transaction value of the good, adjusted to a F.O.B. basis, or, if the transaction value of the good is unacceptable under section 402(b) of the Tariff Act of 1930, the value of all non-originating materials is not more than 7 percent of the total cost of the good, provided that the good satisfies all other applicable requirements of this note.
  - (iii) Subdivision (f)(i) of this note does not apply to--
    - (A) a non-originating material provided for in chapter 4 of this schedule or in tariff items 1901.90.32, 1901.90.33, 1901.90.34, 1901.90.36, 1901.90.38, 1901.90.42 or 1901.90.43 that is used in the production of a good provided for in chapter 4;

General note 12(f)(iii) (con.):

- (B) a non-originating material provided for in chapter 4 of this schedule or in tariff items 1901.90.32, 1901.90.33, 1901.90.34, 1901.90.36, 1901.90.38, 1901.90.42 or 1901.90.43 that is used in the production of a good provided for in the following provisions: tariff items 1901.10.05, 1901.10.15, 1901.10.30, 1901.10.35, 1901.10.40, 1901.10.45, 1901.20.02, 1901.20.05, 1901.20.15, 1901.20.20, 1901.20.25, 1901.20.30, 1901.20.35, 1901.20.40, 1901.90.32, 1901.90.33, 1901.90.34, 1901.90.36, 1901.90.38, 1901.90.42 or 1901.90.43; heading 2105; or tariff items 2106.90.01, 2106.90.02, 2106.90.03, 2106.90.06, 2106.90.09, 2106.90.22, 2106.90.24, 2106.90.26, 2106.90.28, 2106.90.62, 2106.90.64, 2106.90.66, 2106.90.68, 2106.90.72, 2106.90.74, 2106.90.76, 2106.90.78, 2106.90.80, 2106.90.82, 2202.90.10, 2202.90.22, 2202.90.24, 2202.90.28, 2309.90.22, 2309.90.24 or 2309.90.28;
  - (C) a non-originating material provided for in heading 0805 or subheadings 2009.11 through 2009.30, inclusive, that is used in the production of a good provided for in subheadings 2009.11 through 2009.30, inclusive, or tariff items 2106.90.48, 2106.90.52, 2202.90.30, 2202.90.35 or 2202.90.36;
  - (D) a non-originating material provided for in chapter 9 of this schedule that is used in the production of a good provided for in tariff item 2101.10.21;
  - (E) a non-originating material provided for in chapter 15 of this schedule that is used in the production of a good provided for in headings 1501 through 1508, inclusive, 1512, 1514 or 1515;
  - (F) a non-originating material provided for in heading 1701 that is used in the production of a good provided for in headings 1701 through 1703, inclusive;
  - (G) a non-originating material provided for in chapter 17 or heading 1805 of this schedule that is used in the production of a good provided for in subheading 1806.10;
  - (H) a non-originating material provided for in headings 2203 through 2208, inclusive, that is used in the production of a good provided for in headings 2207 or 2208;
  - (I) a non-originating material used in the production of a good provided for in tariff item 7321.11.30, subheadings 8415.10, 8415.81 through 8415.83, inclusive, 8418.10 through 8418.21, inclusive, 8418.29 through 8418.40, inclusive, 8421.12, 8422.11, 8450.11 through 8450.20, inclusive, 8451.21 through 8451.29, inclusive, or tariff items 8479.89.55 or 8516.60.40; and
  - (J) a printed circuit assembly that is a non-originating material used in the production of a good where the applicable change in tariff classification for the good, provided for in subdivisions (r), (s) and (t) of this note, places restrictions on the use of such non-originating material.
- (iv) Subdivision (f)(i) of this note does not apply to a non-originating single juice ingredient provided for in heading 2009 that is used in the production of a good provided for in subheading 2009.90 or tariff items 2106.90.54 or 2202.90.37.
  - (v) Subdivision (f)(i) of this note does not apply to a non-originating material used in the production of a good provided for in chapters 1 through 27, inclusive, of this schedule unless the non-originating material is provided for in a different subheading than the good for which origin is being determined under this note.
  - (vi) A good provided for in chapters 50 through 63, inclusive, of this schedule that does not originate because certain fibers or yarns used in the production of the component of the good that determines the tariff classification of the good do not undergo an applicable change in tariff classification, provided for in subdivisions (r), (s) and (t) of this note, shall nonetheless be considered to originate if the total weight of all such fibers or yarns in that component is not more than 7 percent of the total weight of that component.
- (g) Fungible goods and materials. For purposes of determining whether a good is an originating good--

- (i) where originating and non-originating fungible materials are used in the production of a good, the determination of whether the materials are originating need not be made through the identification of any specific fungible material, but may be determined on the basis of any of



General note 12(g)(i) (con.):

the inventory management methods set out in regulations promulgated by the Secretary of the Treasury; and

- (ii) where originating and non-originating fungible goods are commingled and exported in the same form, the determination may be made on the basis of any of the inventory management methods set out in regulations promulgated by the Secretary of the Treasury.

The term "fungible" means that the particular materials or goods are interchangeable for commercial purposes and have essentially identical properties.

- (h) Accessories, spare parts and tools. Accessories, spare parts or tools delivered with the good that form part of the good's standard accessories, spare parts or tools, shall be considered as originating if the good originates and shall be disregarded in determining whether all the non-originating materials used in the production of the good undergo the applicable change in tariff classification set out in subdivision (t) of this note, provided that--
  - (i) the accessories, spare parts or tools are not invoiced separately from the good;
  - (ii) the quantities and value of the accessories, spare parts or tools are customary for the good; and
  - (iii) if the good is subject to a regional value-content requirement, the value of the accessories, spare parts or tools shall be taken into account as originating or non-originating materials, as the case may be, in calculating the regional value content of the good.
- (i) Indirect materials. An indirect material shall be considered to be an originating material without regard to where it is produced. The term "indirect material" means a good used in the production, testing or inspection of a good but not physically incorporated into the good, or a good used in the maintenance of buildings or the operation of equipment associated with the production of a good, including the following: fuel and energy; tools, dies and molds; spare parts and materials used in the maintenance of equipment and buildings; lubricants, greases, compounding materials and other materials used in production or used to operate other equipment and buildings; gloves, glasses, footwear, clothing, safety equipment and supplies; equipment, devices and supplies used for testing or inspecting the goods; catalysts and solvents; and any other goods that are not incorporated into the good but whose use in the production of the good can reasonably be demonstrated to be a part of that production.
- (j) Packaging materials and containers for retail sale. Packaging materials and containers in which a good is packaged for retail sale shall, if classified with the good, be disregarded in determining whether all the non-originating materials used in the production of the good undergo the applicable change in tariff classification set out in subdivision (t) of this note, and, if the good is subject to a regional value-content requirement, the value of such packaging materials and containers shall be taken into account as originating or non-originating materials, as the case may be, in calculating the regional value content of the good.
- (k) Packing materials and containers for shipment. Packing materials and containers in which the good is packed for shipment shall be disregarded in determining whether--
  - (i) the non-originating materials used in the production of the good undergo an applicable change in tariff classification set out in subdivision (t) of this note; and
  - (ii) the good satisfies a regional value-content requirement.
- (l) Transshipment. A good shall not be considered to be an originating good by reason of having undergone production that satisfies the requirements of this note if, subsequent to that production, the good undergoes further production or any other operation outside the territories of the NAFTA parties, other than unloading, reloading or any other operation necessary to preserve it in good condition or to transport the good to the territory of Canada, Mexico and/or the United States.
- (m) Non-qualifying operations. A good shall not be considered to be an originating good merely by reason of--

- (i) mere dilution with water or another substance that does not materially alter the characteristics of the good; or
- (ii) any production or pricing practice with respect to which it may be demonstrated, on the basis of a preponderance of evidence, that the object was to circumvent this note.

General note 12 (con.):

- (n) As used in subdivision (b)(i) of this note, the phrase "goods wholly obtained or produced entirely in the territory of Canada, Mexico and/or the United States" means--
  - (i) mineral goods extracted in the territory of one or more of the NAFTA parties;
  - (ii) vegetable goods, as such goods are defined in this schedule, harvested in the territory of one or more of the NAFTA parties;
  - (iii) live animals born and raised in the territory of one or more of the NAFTA parties;
  - (iv) goods obtained from hunting, trapping or fishing in the territory of one or more of the NAFTA parties;
  - (v) goods (fish, shellfish and other marine life) taken from the sea by vessels registered or recorded with a NAFTA party and flying its flag;
  - (vi) goods produced on board factory ships from the goods referred to in subdivision (n)(v) provided such factory ships are registered or recorded with that NAFTA party and fly its flag;
  - (vii) goods taken by a NAFTA party or a person of a NAFTA party from the seabed or beneath the seabed outside territorial waters, provided that a NAFTA party has rights to exploit such seabed;
  - (viii) goods taken from outer space, provided such goods are obtained by a NAFTA party or a person of a NAFTA party and not processed outside the NAFTA parties;
  - (ix) waste and scrap derived from--
    - (A) production in the territory of one or more of the NAFTA parties, or
    - (B) used goods collected in the territory of one or more of the NAFTA parties, provided such goods are fit only for the recovery of raw materials; and
  - (x) goods produced in the territory of one or more of the NAFTA parties exclusively from goods referred to in subdivisions (n)(i) through (ix), inclusive, or from their derivatives, at any stage of production.
- (o) As used in this note, the term "non-originating good" or "non-originating material" means a good or material that does not qualify as originating under this note.
- (p) As used in this note, the term "producer" means a person who grows, mines, harvests, fishes, traps, hunts, manufactures, processes or assembles a good; and the term "production" means growing, mining, harvesting, fishing, trapping, hunting, manufacturing, processing or assembling a good.
- (q) For purposes of this note, the term "territory" means--
  - (i) with respect to Canada, the territory to which its customs laws apply, including any areas beyond the territorial seas of Canada within which, in accordance with international law and its domestic law, Canada may exercise rights with respect to the seabed and subsoil and their natural resources;
  - (ii) with respect to Mexico,
    - (A) the states of the Federation and the Federal District,
    - (B) the islands, including the reefs and keys, in adjacent seas,
    - (C) the islands of Guadalupe and Revillagigedo situated in the Pacific Ocean,
    - (D) the continental shelf and the submarine shelf of such islands, keys and reefs,

General note 12(q)(ii) (con.):

- (E) the waters of the territorial seas, in accordance with international law, and its interior maritime waters,
  - (F) the space located above the national territory, in accordance with international law, and
  - (G) any areas beyond the territorial seas of Mexico within which, in accordance with international law, including the United Nations Convention on the Law of the Sea, and its domestic law, Mexico may exercise rights with respect to the seabed and subsoil and their natural resources; and
- (iii) with respect to the United States,
- (A) the customs territory of the United States, as set forth in general note 2 to this schedule,
  - (B) the foreign trade zones located in the United States and Puerto Rico, and
  - (C) any areas beyond the territorial seas of the United States within which, in accordance with international law and its domestic law, the United States may exercise rights with respect to the seabed and subsoil and their natural resources.
- (r) Interpretation of Rules of Origin. For purposes of interpreting the rules of origin set out in subdivisions (r), (s) and (t) of this note:
- (i) the specific rule, or specific set of rules, that applies to a particular heading, subheading or tariff item is set out immediately adjacent to the heading, subheading or tariff item;
  - (ii) a rule applicable to a tariff item shall take precedence over a rule applicable to the heading or subheading which is parent to that tariff item;
  - (iii) a requirement of a change in tariff classification applies only to non-originating materials;
  - (iv) a reference to weight in the rules for goods of chapters 1 through 24, inclusive, of the tariff schedule means dry weight unless otherwise specified in the tariff schedule;
  - (v) subdivision (f) (de minimis) does not apply to:
    - (A) certain non-originating materials used in the production of goods provided for in the following provisions of the tariff schedule, inclusive: chapter 4; headings 1501 through 1508, 1512, 1514, 1515, or 1701 through 1703; subheading 1806.10; tariff items 1901.10.05, 1901.10.15, 1901.10.30, 1901.10.35, 1901.10.40, 1901.10.45, 1901.20.05, 1901.20.15, 1901.20.20, 1901.20.25, 1901.20.30, 1901.20.35, 1901.20.40, 1901.90.32, 1901.90.33, 1901.90.34, 1901.90.36, 1901.90.38, 1901.90.42 or 1901.90.43; subheadings 2009.11 through 2009.30 or 2009.90; heading 2105; tariff items 2101.10.21, 2106.90.01, 2106.90.02, 2106.90.03, 2106.90.06, 2106.90.09, 2106.90.22, 2106.90.24, 2106.90.26, 2106.90.28, 2106.90.48, 2106.90.52, 2106.90.54, 2106.90.62, 2106.90.64, 2106.90.66, 2106.90.68, 2106.90.72, 2106.90.74, 2106.90.76, 2106.90.78, 2106.90.80, 2106.90.82, 2202.90.10, 2202.90.22, 2202.90.24, 2202.90.28, 2202.90.30, 2202.90.35, 2202.90.36 or 2202.90.37; headings 2207 through 2208; tariff items 2309.90.22, 2309.90.24, 2309.90.28 or 7321.11.30; subheadings 8415.10, 8415.81 through 8415.83, 8418.10 through 8418.21, 8418.29 through 8418.40, 8421.12, 8422.11, 8450.11 through 8450.20, or 8451.21 through 8451.29; or tariff items 8479.89.55 or 8516.60.40;
    - (B) a printed circuit assembly that is a non-originating material used in the production of a good where the applicable change in tariff classification for the good places restrictions on the use of such non-originating material, and
    - (C) a non-originating material used in the production of a good provided for in chapters 1 through 27, inclusive, unless the non-originating material is

provided for in a different subheading than the good for which origin is being determined;

- (vi) subdivision (f)(vi) of this note applies to a good provided for in chapters 50 through 63, inclusive, of the tariff schedule;
- (vii) for purposes of this note, the term subheading refers to tariff classifications designated by six digits or by six digits followed by two zeroes in this schedule; and the term tariff item refers to subordinate tariff classifications designated by eight digits in this schedule;

## General note 12(r) (con.):

- (viii) for purposes of applying the rules set forth in subdivision (t) to goods of section XI of the tariff schedule, the term "wholly" means that the good is made entirely or solely of the named material; and, for purposes of this note, the term "average yarn number" as applied to woven fabrics of cotton or man-made fibers shall have the meaning provided in section 10 of annex 300-B of the NAFTA; and
- (ix) for purposes of determining the origin of goods for use in a motor vehicle of chapter 87, the provisions of subdivision (d) of this note may apply.
- (s) Exceptions to Change in Tariff Classification Rules.
  - (i) Agricultural and horticultural goods grown in the territory of a NAFTA party shall be treated as originating in the territory of that party even if grown from seed, bulbs, rootstock, cuttings, slips or other live parts of plants imported from a non-party to the NAFTA, except that goods which are exported from the territory of Mexico and are provided for in--
    - (A) heading 1202, if the goods were not harvested in the territory of Mexico,
    - (B) subheading 2008.11, if any material provided for in heading 1202 used in the production of such goods was not harvested in the territory of Mexico, or
    - (C) tariff items 1806.10.43, 1806.10.45, 1806.10.55, 1806.10.65, 1806.10.75, 2106.90.42, 2106.90.44 or 2106.90.46, if any material provided for in subheading 1701.99 used in the production of such goods is not a qualifying good,

shall be treated as nonoriginating goods. The term "qualifying good" means an originating good that is an agricultural good, except that in determining whether such good is an originating good, operations performed in or materials obtained from Canada shall be considered as if they were performed in or obtained from a non-party to the NAFTA.
  - (ii) Fruit, nut and vegetable preparations of chapter 20 that have been prepared or preserved merely by freezing, by packing (including canning) in water, brine or natural juices, or by roasting, either dry or in oil (including processing incidental to freezing, packing, or roasting), shall be treated as an originating good only if the fresh good were wholly produced or obtained entirely in the territory of one or more of the NAFTA parties.
  - (iii) A material, imported into the territory of a NAFTA party for use in the production of a good classified in heading 3808, shall be treated as a material originating in the territory of a NAFTA party if:
    - (A) such material is eligible, in the territories of both that party and the party to whose territory the good is exported, for duty-free entry at the most-favored-nation rate of duty; or
    - (B) the good is exported to the territory of the United States and such material would, if imported into the territory of the United States, be free of duty under a trade agreement that is not subject to a competitive-need limitation.
- (t) Change in Tariff Classification Rules.
  - Chapter 1. A change to headings 0101 through 0106 from any other chapter.
  - Chapter 2. A change to headings 0201 through 0210 from any other chapter.
  - Chapter 3. A change to headings 0301 through 0307 from any other chapter.
  - Chapter 4. A change to headings 0401 through 0410 from any other chapter, except from tariff items 1901.90.32, 1901.90.33, 1901.90.34, 1901.90.36, 1901.90.38, 1901.90.42 or 1901.90.43.
  - Chapter 5. A change to headings 0501 through 0511 from any other chapter.

Chapter 6. A change to headings 0601 through 0604 from any other chapter.

Chapter 7. A change to headings 0701 through 0714 from any other chapter.

Chapter 8. A change to headings 0801 through 0814 from any other chapter.

## General note 12(t) (con.):

Chapter 9. A change to headings 0901 through 0910 from any other chapter.

Chapter 10. A change to headings 1001 through 1008 from any other chapter.

Chapter 11. A change to headings 1101 through 1109 from any other chapter.

Chapter 12. A change to headings 1201 through 1214 from any other chapter.

Chapter 13. A change to headings 1301 through 1302 from any other chapter.

Chapter 14. A change to headings 1401 through 1404 from any other chapter.

Chapter 15.

1. A change to headings 1501 through 1518 from any other chapter.
2. A change to subheadings 1519.11 through 1519.13 from any other heading, except from heading 1520.
3. A change to subheading 1519.19 from any other subheading.
4. A change to subheading 1519.20 from any other heading, except from heading 1520.
5. A change to subheading 1520.10 from any other heading, except from heading 1519.
6. A change to subheading 1520.90 from any other subheading.
7. A change to headings 1521 through 1522 from any other chapter.

Chapter 16. A change to headings 1601 through 1605 from any other chapter.

Chapter 17.

1. A change to headings 1701 through 1703 from any other chapter.
2. A change to heading 1704 from any other heading.

Chapter 18.

1. A change to headings 1801 through 1805 from any other chapter.
2. A change to tariff items 1806.10.43, 1806.10.45, 1806.10.55, 1806.10.65 or 1806.10.75 from any other heading.
3. A change to subheading 1806.10 from any other heading, provided that the non-originating sugar of chapter 17 constitutes no more than 35 percent by weight of the sugar and the non-originating cocoa powder of heading 1805 constitutes no more than 35 percent by weight of the cocoa powder.
4. A change to subheading 1806.20 from any other heading.
5. A change to subheading 1806.31 from any other subheading.
6. A change to subheading 1806.32 from any other heading.
7. A change to subheading 1806.90 from any other subheading.

Chapter 19.

1. A change to tariff items 1901.10.05, 1901.10.15, 1901.10.30, 1901.10.35, 1901.10.40 or 1901.10.45 from any other chapter, except from chapter 4.
2. A change to subheading 1901.10 from any other chapter.
3. A change to tariff items 1901.20.02, 1901.20.05, 1901.20.15, 1901.20.20, 1901.20.25, 1901.20.30, 1901.20.35 or 1901.20.40 from any other chapter, except from chapter 4.
4. A change to subheading 1901.20 from any other chapter.



General note 12(t)/19 (con.):

5. A change to tariff items 1901.90.32, 1901.90.33, 1901.90.34, 1901.90.36, 1901.90.38, 1901.90.42 or 1901.90.43 from any other chapter, except from chapter 4.
6. A change to subheading 1901.90 from any other chapter.
7. A change to headings 1902 through 1905 from any other chapter.

Chapter 20.

1. A change to headings 2001 through 2007 from any other chapter.
2. A change to tariff items 2008.11.22, 2008.11.25 or 2008.11.35 from any other heading, except from heading 1202.
3. A change to subheading 2008.11 from any other chapter.
4. A change to subheadings 2008.19 through 2008.99 from any other chapter.
5. A change to subheadings 2009.11 through 2009.30 from any other chapter, except from heading 0805.
6. A change to subheadings 2009.40 through 2009.80 from any other chapter.
7. A change to subheading 2009.90 from any other chapter; or a change to subheading 2009.90 from any other subheading within chapter 20, whether or not there is also a change from any other chapter, provided that a single juice ingredient or juice ingredients from one non-party to the NAFTA constitute in single strength form no more than 60 percent by volume of the good.

Chapter 21.

1. A change to tariff item 2101.10.21 from any other chapter, provided that the non-originating coffee of chapter 9 constitutes no more than 60 percent by weight of the good.
2. A change to heading 2101 from any other chapter.
3. A change to heading 2102 from any other chapter.
4. A change to subheading 2103.10 from any other chapter.
5. A change to tariff item 2103.20.20 from any other chapter, except from subheading 2002.90.
6. A change to subheading 2103.20 from any other chapter.
7. A change to subheadings 2103.30 through 2103.90 from any other chapter.
8. A change to heading 2104 from any other chapter.
9. A change to heading 2105 from any other heading, except from chapter 4 or from tariff items 1901.90.32, 1901.90.33, 1901.90.34, 1901.90.36, 1901.90.38, 1901.90.42 or 1901.90.43.
10. A change to tariff items 2106.90.48 or 2106.90.52 from any other chapter, except from headings 0805 or 2009, or tariff items 2202.90.30, 2202.90.35 or 2202.90.36.
11. (A) A change to tariff item 2106.90.54 from any other chapter, except from heading 2009 or tariff item 2202.90.37; or  
(B) A change to tariff item 2106.90.54 from any other subheading within chapter 21, heading 2009 or tariff item 2202.90.37, whether or not there is also a change from any other chapter, provided that a single juice ingredient, or juice ingredients from one non-party to the NAFTA, constitute in single strength form no more than 60 percent by volume of the good.
12. A change to tariff items 2106.90.03, 2106.90.06, 2106.90.09, 2106.90.22, 2106.90.22, 2106.90.24, 2106.90.26, 2106.90.28, 2106.90.62, 2106.90.64, 2106.90.66, 2106.90.68,

2106.90.72, 2106.90.74, 2106.90.76, 2106.90.78, 2106.90.80 or 2106.90.82 from any other chapter, except from chapter 4 or tariff items 1901.90.32, 1901.90.33, 1901.90.34, 1901.90.36, 1901.90.38, 1901.90.42 or 1901.90.43.

13. A change to heading 2106 from any other chapter.

General note 12(t) (con.):

Chapter 22.

1. A change to heading 2201 from any other chapter.
2. A change to subheading 2202.10 from any other chapter.
3. A change to tariff items 2202.90.30, 2202.90.35 or 2202.90.36 from any other chapter, except from headings 0805 or 2009 or tariff items 2106.90.48 or 2106.90.52.
4. (A) A change to tariff item 2202.90.37 from any other chapter, except from heading 2009 or tariff item 2106.90.54; or  
(B) A change to tariff item 2202.90.37 from any other subheading within chapter 22, heading 2009 or tariff item 2106.90.54, whether or not there is also a change from any other chapter, provided that a single juice ingredient, or juice ingredients from one non-party to the NAFTA, constitute in single strength form no more than 60 percent by volume of the good.
5. A change to tariff items 2202.90.10, 2202.90.22, 2202.90.24 or 2202.90.28 from any other chapter, except from chapter 4 or tariff items 1901.90.32, 1901.90.33, 1901.90.34, 1901.90.36, 1901.90.38, 1901.90.42 or 1901.90.43.
6. A change to subheading 2202.90 from any other chapter.
7. A change to headings 2203 through 2209 from any heading outside that group.

Chapter 23.

1. A change to headings 2301 through 2308 from any other chapter.
2. A change to subheading 2309.10 from any other heading.
3. A change to tariff items 2309.90.22, 2309.90.24 or 2309.90.28 from any other heading, except from chapter 4 or tariff items 1901.90.32, 1901.90.33, 1901.90.34, 1901.90.36, 1901.90.38, 1901.90.42 or 1901.90.43.
4. A change to subheading 2309.90 from any other heading.

Chapter 24. A change to headings 2401 through 2403 from any other chapter or from tariff items 2401.10.21 or 2403.91.20; provided that for purposes of applying subdivision (f) of this note to goods of heading 2402, the limitation on the value of all non-originating materials used in the production of such goods that do not undergo an applicable change in tariff classification shall be nine percent of the total cost of such goods.

Chapter 25. A change to headings 2501 through 2530 from any other chapter.

Chapter 26. A change to headings 2601 through 2621 from any other chapter.

Chapter 27.

1. A change to headings 2701 through 2703 from any other chapter.
2. A change to heading 2704 from any other heading.
3. A change to headings 2705 through 2709 from any other chapter.
4. A change to headings 2710 through 2715 from any heading outside that group.
5. A change to heading 2716 from any other heading.

Chapter 28.

1. (A) A change to subheadings 2801.10 through 2824.90 from any other chapter, except from chapters 28 through 38; or  
(B) A change to subheadings 2801.10 through 2824.90 from any other subheading within chapters 28 through 38, including another subheading within that group,

whether or not there is also a change from any other chapter, provided there is a regional value content of not less than: