



Memorandum D11-4-32

Ottawa, March 29, 2018

Application of the De Minimis Provision to Textile and Apparel Goods under the North American Free Trade Agreement (NAFTA)

In Brief

This memorandum provides clarification regarding the general application of the NAFTA de minimis provision for textile and apparel goods of Chapters 50 to 63 of the List of Tariff Provisions set out in the Schedule to the [Customs Tariff](#).

It also further clarifies the policy regarding the application of the de minimis provision to textile goods of Chapters 50 to 60 of the Customs Tariff.

Legislation

The NAFTA de minimis provision applicable to textile and apparel goods of Chapters 50 to 63 of the [Customs Tariff](#) is set out in subsections 5(6) and 5(7) of the [NAFTA Rules of Origin Regulations](#).

The NAFTA Specific Rules of Origin applicable to textile and apparel goods of Chapters 50 to 63 of the [Customs Tariff](#) are set out in Section XI of Schedule I to the [NAFTA Rules of Origin Regulations](#).

Guidelines and General Information

1. The NAFTA provides a de minimis provision that allows goods entirely produced in the territory of one or more of the NAFTA territories to retain their eligibility for a preferential tariff treatment, when they contain only a small amount of non-originating materials that do not undergo the applicable change in tariff classification, as required by the specific rule of origin. Under this provision, goods that would otherwise fail to meet a specific rule of origin could still be considered to originate in the territory of a NAFTA country.
2. As applied to goods of Chapters 50 to 63 of the [Customs Tariff](#), subsection 5(6) of the [NAFTA Rules of Origin Regulations](#) states that a good may be considered to originate where the total weight of non-originating fibres or yarns that do not undergo the applicable change in tariff classification and are used in the production of the component that determines the tariff classification of the good, does not exceed seven percent of the total weight of that component. All other applicable requirements of the NAFTA Rules of Origin Regulations must also be satisfied.
3. De minimis is only applicable to fibres or yarns. De minimis cannot be applied to non-originating fabrics or other materials used in the production of goods under Chapters 50 to 63 of the [Customs Tariff](#).

The Component of the Good that Determines the Tariff Classification

4. In order to apply the de minimis provision to a textile or apparel good, it is first necessary to identify the component that determines the tariff classification of the good. Paragraph 5(7)(a) of the [NAFTA Rules of Origin Regulations](#) states that the component of a good that determines the tariff classification of that good shall be determined on the basis of General Interpretative Rule (GIR) 3(b) of the Harmonized System. If the component

cannot be determined on the basis of GIR 3(b), then the determination will be based on GIR 3(c) and failing that, GIR 4. Note that in cases where the tariff classification of the good is determined based on GIRs other than GIR 3(b), GIR 3(c) or GIR 4, the good in its entirety must be taken into consideration when applying the de minimis provision, as the good itself is the component that determines the tariff classification of the good.

De Minimis as Applicable to Apparel Goods and Other Made up Textile Articles of Chapters 61 to 63 of the Customs Tariff

5. When determining the origin of an apparel good and other made up textile articles from Chapters 61 to 63 of the [Customs Tariff](#), Chapter Notes for Chapters 61 through 63 of the [NAFTA Rules of Origin Regulations](#) provide that the specific rule of origin only applies to the component that determines the tariff classification of the good. The qualifying Chapter Note reads as follows:

“For purposes of determining the origin of a good of this Chapter, the rule applicable to that good shall only apply to the component that determines the tariff classification of the good and such component must satisfy the tariff change requirements set out in the rule for that good.”

6. Consequently, materials outside of the component that determines the tariff classification of the good are disregarded when determining the origin of that good. As such, the de minimis provision as applicable to textile and apparel goods is consistent with the determination of origin for these goods; only the component that determines the tariff classification is taken into account in the de minimis calculation.

7. For example, a men’s shirt of Chapter 61 is made using two different fabrics; one for the body and another for the sleeves. The component that determines the tariff classification of the men’s shirt would be the fabric used for the body, as it constitutes the material that predominates by weight and makes up the largest surface area of the shirt’s exterior. If this fabric is produced using non-originating fibres and yarns that do not satisfy a tariff change rule, the de minimis provision would be calculated on the basis of the total weight of the non-originating fibres or yarns used in the production of the fabric that makes up the body of the shirt. The weight of these non-originating fibres or yarns must be seven percent or less of the total weight of that fabric.

8. Alternatively, if the shirt is made entirely of the same fabric, the component that determines the tariff classification of that shirt would be that fabric, as the shirt is made out of the same material throughout. Therefore, under this second example, the total weight of all non-originating fibres and yarns used in the production of the shirt that do not satisfy a tariff change rule, must be seven percent or less of the total weight of the shirt, for the shirt to qualify as originating through the application of the de minimis provision.

Policy Clarification Regarding the De Minimis Provision as Applicable to Textile Goods of Chapters 50 to 60 of the Customs Tariff

9. The specific rules of origin for goods of Chapters 50 to 60 of the [Customs Tariff](#) do not include Chapter Notes that qualify the application of the specific rule of origin. In the absence of a qualifying Chapter Note, the finished good in its entirety is to be taken into account when applying the specific rule of origin. As such, all non-originating materials used in the production of a textile good of Chapters 50 through 60 must meet the applicable rule of origin, regardless of how the tariff classification is determined.

10. It is important to note that the de minimis provision as set out in subsections 5(6) and 5(7) of the [NAFTA Rules of Origin Regulations](#) remains applicable in its current form. As such, only fibres and yarns used in the production of the component of the good that determines the tariff classification of the good (i.e. the finished good for Chapters 50 through 60) are eligible for the de minimis calculation; there is no provision that allows for the use of non-originating fabric that does not meet the change in tariff classification required by the specific rule of origin for the finished good in the application of the de minimis provision.

Additional Information

11. For more information, within Canada call the Border Information Service at **1-800-461-9999**. From outside Canada call 204-983-3500 or 506-636-5064. Long distance charges will apply. Agents are available Monday to Friday (08:00 – 16:00 local time / except holidays). TTY is also available within Canada: **1-866-335-3237**.

References	
Issuing Office	Trade and Anti-dumping Programs Directorate
Headquarters File	N/A
Legislative References	Customs Tariff NAFTA Rules of Origin Regulations
Other References	N/A
Superseded Memorandum D	N/A