

## In the case of hard candy

### Global Trade Practices

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## Hard Candy



- 1704 Sugar confectionery (including white chocolate), not containing cocoa
- 1704.10.000 Chewing gum, whether or not sugar-coated.....
- 1704.90 Other:
  - Confections of sweetmeats ready for consumption
- 1704.90.1000 Candied nut
- 1704: 90.2500 Cough Drops
- 1704.90.3500 Other

## First read chapter notes for 17

*Legal notes govern Classification*



### CHAPTER 17 Sugars and Sugar Confectionery

#### Notes:

1. This chapter does not cover:
  - a) Sugar confectionery containing cocoa (heading 18.06)
  - b) Chemically pure sugars (other than sucrose, lactose, maltose, glucose, and fructose or other products of heading 2940): or
  - c) Medicaments or other products of chapter 30

## MFN vs. NAFTA

Most Favored Nation vs. NAFTA exports for Hard Candy from the U.S. to:

	MFN	NAFTA
 To Canada	9.5%	0%
 To Mexico	20%	0%

CA: Other sugar Canada

MX: Sugar confectionery (including white chocolate), not containing cocoa  
 Los Demas (to Mexico there is an additional cost of US\$39586/KF) also a Certificate of Origin for the sugar is required. Mexico wants to the that the sugar was not used from the Sugar Export program and that should be stated on the additional sugar certificate if the statement is true.

## IF MFN= zero

### THEN NAFTA = zero

Remember, NAFTA is a preferential agreement, with preference over MFN.

Since MFN to Canada is 9.5% in this situation and NAFTA is 0%, then your importing customer can save 9.5% if the product qualifies and a NAFTA Certificate of Origin is supplied.

In the case of Mexico, the savings is 20%!!!


## Getting Duty Rates

- Option 1
  - Call 1-800-USA-Trade and follow the prompts for the US Department of Commerce Trade Information Desk. HS number is needed to identify the tariff rates
- Option 2
  - Go to <http://www.ita.doc.gov/td/tic>
  - Select Tariff and Tax Information



## Rates for Canada


- All Canada Customs at 1-506-636-5064 or visit the Canada Customs website: [www.ccora.adrc.gc.ca](http://www.ccora.adrc.gc.ca)
- Select your language
- Select business
  - Then other topics
  - Then importing/exporting
  - If shipping to Canada, select importing
    - Select accounting for shipment
    - Select tariff classifications
    - Select customs tariffs
    - Select most recent



## Rates for Mexico

- [www.economia.gob.mx](http://www.economia.gob.mx)
  - Select trade negotiations on the right column
  - Under negotiations, select tariff information
  - Select Main Partner's Tariff information
  - Then click on US
  - Put in 4 digit number
  - You can get the MFN rate and NAFTA duty rate for Canada and the US and MFN rate for the EU.

## IF NAFTA lower than MFN



Two methods to qualify product:

- Tariff Shift
- Regional Value Content (RVC)
  - Transaction value method
  - Net cost method of calculations

## EXAMPLE: Tariff Shift for Hard Candy



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The chapter is 17, the heading is 1704, subheading is 1704.90  
1704.90.3590 is specific to the US—1704.90.9050 is specific to Canada

## NAFTA RULE OF ORIGIN

General Note: 12/401 Annex page

### Chapter 17

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

**THIS IS OUR RULE- # 2!!!!!!**

## What is the REAL meaning?

The rule specifically wants to see that there is a tariff change or shift from on HS number to another HS number

In this case we are looking for a heading outside of 1704 for hard candy

If all ingredients cannot be classified under 1704, the candy would qualify under NAFTA

## Raw materials for 1704.90

INGREDIENT	HS Classification
Sugar beet refined	HS# 1701.99
Corn syrup	HS# 1702.30
Water	HS# 2201.90
Citric acid	HS# 2918.14
Malic acid	HS# 2918.19
Food coloring	Chapter 32
Food flavoring	Chapter 33

Remember that hard candy is classified as 1704.90. The raw ingredients must come from a heading other than 1704. All the ingredients come from another Heading, thereby qualifying according to the rules!

## Meets Rule of Origin B

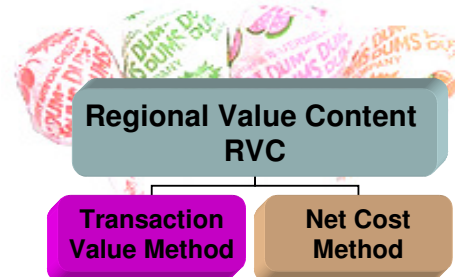
Example of a Tariff Shift:

*The criteria of a change from any other heading outside of 1704 is met, irrelevant of the actual heading number since the chapters of the color and flavor indicate a different heading from 1704. If the rule of origin is met, it is Preference Criteria B.*

## If one ingredient shares same heading?

- If one ingredient has 1704 heading, then a Certificate of Origin (if from US, Mexico, or Canada) can be acquired from the manufacturer and is qualified.
  - Utilize the De Minimis rule, where up to 7% of the selling price can be of non-originating material.
- If the 1704 ingredient doesn't qualify with a NAFTA Cert. of Origin or the De Minimis, then the hard candy doesn't qualify for NAFTA rates and the exported does not use the Certificate of Origin for shipping.*

## Regional Value Content (RVC)



## RVC What is it?

Idea is to prove that a percentage of the content is actually from within the NAFTA territory

- NOT from Asia
- NOT from Europe
- NOT just distributed from NAFTA country
- MADE IN A NAFTA country



## Qualifying each Product for RVC

- Find Harmonized number for trade
- MFN vs. NAFTA
- Look up appropriate rule of origin
- Interpret specific rule of origin for the product
- Perform necessary qualifying steps

## Transaction Value Method

- Up to 40% of the transaction value of the good can be non-originating
- The transaction value is defined as the price actually paid for the good.

**TVM formulas:**  $RVC = \frac{TV - VNM}{TV} \times 100$

*VNM is the value of non-originating materials*

## What is needed for TVC

- Costed bill of materials
- Selling price/transaction value
- Patience

*Be organized,  
keep records for 5 years*



## Net cost method (NC)

**Based on Production costs:**

- Up to 50 percent of the net cost of the good can be of foreign-originating components.
- Total cost of production includes overhead and labor
- DOES not include profit
- Need to subtract sales promotion, marketing, after sales service costs, shipping and royalties

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

*Certain industries can only use this method: footwear, autos, word processors*

## Preference Criterion

- Origin criteria for which products meet NAFTA Rules of Origin
- Only goods that meet the criteria can qualify for NAFTA tariff reductions
- Generally, most manufactured goods that qualify for NAFTA tariff breaks satisfy Preference Criteria B or C

## Preference Criterion A

- Wholly produced goods
- Can be traced fully to the ground, air, sea or airspace of a NAFTA fisherman or astronaut.
- Manufactured goods *rarely* meet this criterion
- Examples:
  - Apples from Canada
  - Corn from Iowa
  - Tortillas made in one of the NAFTA countries made from US corn, Canadian lard, and Mexican spices

## Preference Criterion B

- As we saw in former example:
  - Good produced in territory of NAFTA
  - Satisfies specific rule of origin
    - Tariff classification change
    - Regional value content
    - Or combination thereof



## Preference Criteria C

- NAFTA certificate held for each and every component from each and every supplier going into the product
- If manufacturing company makes some of the components going into the final product, must qualify the component just as a supplier.

## Preference Criteria D

### Two Possibilities

1. Good imported into the territory of a NAFTA country in an unassembled or disassembled form but is classified as an assembled good, pursuant to HS General Rules of Interpretation (2a)
2. The good incorporates one or more non-originating materials provided for under the HS, that could not undergo a change in tariff classification because the heading provided for both the good and its part and was not further subdivided into subheadings.

## Preference Criteria E

- Data Processing goods
  - Annex 308.1
  - Only products listing in the annex are exempt from producing NAFTA Certificate of Origin with shipments to Canada or Mexico from the US
  - If product is NOT listed
    - YOU MUST SUPPLY NAFTA Certificate of Origin and go through the standard Rules of Origin to meet qualification.

## Preference Criteria F

Special Access rules apply to specific poultry, dairy and egg goods

Review Annex 703.2 sections A and B



## Things to remember:

- Advance Rulings by US/MX/CA Customs
- Record keeping:
  - for at least 5 years in the US
  - 6 years in CA
  - 5 years in MX
  - Records must be maintained in country of origin
- Fines/penalties for falsification or errors
- Useful websites
  - [www.customs.ustreas.gov](http://www.customs.ustreas.gov)
  - [www.ita.gov/td/tic](http://www.ita.gov/td/tic)