

# NAFTA

The following guidance does not pretend to give full treatment to the subject. It is though a useful component to proper compliance with all of the provisions of NAFTA. Advance rulings are always available from CBP or its' sister agencies in Canada and Mexico.

## *De Minimis*

Although requiring a change in tariff classification is a very simple principle, it requires that **all** non-originating materials undergo the required change. A very low percentage of the materials may not undergo the tariff change, thus preventing the goods from originating. Therefore, the Agreement contains a *de minimis* provision that allows goods to qualify as originating provided such materials are not more than a certain percentage (seven percent in most cases) of the transaction value of the goods adjusted to an FOB basis or, in some cases, of the total cost of the goods.

In addition, where failure of materials to undergo a required change in tariff classification triggers a requirement for a minimum regional value content, the calculation of that content is waived if the value of **all** non-originating materials used in the production of the goods is not more than the specified *de minimis* amount.

However, if after application of the *de minimis* allowance the goods must still meet a regional value-content requirement in order to qualify as originating (that is, if the value of all non-originating materials exceeds the applicable *de minimis* allowance), the value of all non-originating materials must be taken into account in calculating the regional value content.

A manufacturer purchases inexpensive textile watch straps made in Taiwan (HTS 91.13), to be assembled with originating mechanical watch movements (HTS 91.08) and originating cases (HTS 91.12). The value of the straps is less than seven percent of the transaction value of the final watch (HTS 91.02) adjusted to an FOB basis.

The Annex 401 origin criterion for HTS 91.02 is:

A change to heading 91.01 through 91.07 from any other chapter; or

A change to heading 91.01 through 91.07 from 91.14, whether or not there is also a change from any other chapter, provided there is a regional value content of not less than:

- (a) 60 percent where the transaction value method is used, or
- (b) 50 percent where the net cost method is used.

Only non-originating materials need undergo the required tariff classification change: in this case, the textile straps. The straps do not satisfy either of the indicated tariff changes but since their value is less than seven percent of the transaction value of the finished watch adjusted to an FOB basis, the *de minimis* rule applies and the watches can be considered originating.

