



Determining Origin: Substantial Transformation

Understand how the legal principle of substantial transformation is used to determine the origin of a good.



Rules of Origin: Substantial Transformation

Country of origin is an important consideration when shipping products internationally. Determining the origin of the goods is even more important in determining if a product is eligible for preferential tariff rates, including free trade agreement rates. When a good does NOT come entirely from a single country, the internationally recognized legal principle of substantial transformation is used to determine the origin of the good.

NON-FTA Partner Countries

U.S. Non-preferential rules of origin schemes are used for several purposes:

- To obtain a Most-Favored-Nation treatment (MFN duty rate) or Normal-Trade-Relations treatment (NTR duty rate); these rates are the “General Rate” or “ERGA OMNES” rates found in tariff schedules.
- To comply with country regulations, e.g. in the U.S.-Country of Origin Marking – note there is exception for NAFTA, see Part 102, Customs Regulations (19 CFR § 102).
- To be able to take advantage of government procurement opportunities.
- To be in compliance with product specific shipping requirements: Textile and Textile Products (countries may have market access considerations for certain textile products).

For Non-FTA countries, substantial transformation employs the “[wholly obtained](#)” criterion for goods that are wholly the growth, product, or manufacture of a particular country or uses the “substantial transformation” criterion for goods that consist in whole or in part of materials from more than one country.

Note: Substantial transformation means that the good underwent a fundamental change in form, appearance, nature, or character. This fundamental change normally occurs as a result of processing or manufacturing in the country claiming origin. Additionally, this change adds to the good's value at an amount or percentage that is significant, compared to the value which the good (or its components or materials) had when exported from the country where it was first made or grown.

Substantial Transformation Examples:

- Sugar from Country A, flour from Country B, dairy products from Country C, and nuts from Country D are taken to Country E. In Country E, these products are further manufactured into cookies. (The separate ingredients were substantially transformed into a product of Country E, in that a new type of goods resulted from processing).
- Fresh vegetables grown in various countries are taken to another country to be mixed together and frozen. (The vegetables were NOT substantially transformed into products of the country where mixing and freezing occurred, and the mixture must be labeled with the origin of each ingredient).
- Repackaging, dilution with water, and similar minor processes usually do NOT cause a substantial transformation. Assembly or disassembly may result in a substantial transformation, depending on the nature of the products involved and the complexity of the operations.

FTA- Partner Countries

For countries the U.S. has free trade agreements with, the FTA will define origin. FTAs also use the “substantial transformation” concept to determine “country of origin.” However, this concept can be used in varying ways such as: a tariff classification change within the Harmonized System (HS), value added, specified processing operations, or a combination of these criteria.

Substantial Transformation Examples:

Example 1:

Tariff shift - A change in tariff classification under the Harmonized System: A product's classification changes to HS Headings 2203 through 2209, from any other heading except from another heading within that group.

A change to subheadings 3402.11 through 3402.19 from any other subheading within heading 3402, provided there is a regional value content of not less than: (soap products)

- (1) 35 percent when the build-up method is used, or
- (2) 45 percent when the build-down method is used.

Example 2:

The good is a new or different article of commerce that has been grown, produced or manufactured in the territory of an FTA country or of the United States, or both, and the sum of:

- (A) the value of each material produced in the territory of FTA country or of the United States, or both, and
- (B) the direct costs of processing operations performed in the FTA country or of the United States, or both, is not less than 35 percent of the appraised value of the good at the time the good is entered into the territory of the United States;

Note: The term “new or different article of commerce” means, except as provided in this subdivision, a good that:

(1) has been substantially transformed from a good or material that is not wholly the growth, product or manufacture of Oman, the United States, or both; and

(2) has a new name, character or use distinct from the good or material from which it was transformed, but a good shall not be considered a new or different article of commerce by virtue of having merely undergone

(I) simple combining or packaging operations, or

(II) mere dilution with water or another substance that does not materially alter the characteristics of the good.