



Overview

The application of *de minimis* involves the allowance of a small percentage of non-originating materials (fibers and yarns) that do not meet the tariff change rule (TCR) to be used in qualifying goods.

The new United States-Mexico-Canada Agreement (USMCA) increases *de minimis* from 7% under the former North American Free Trade Agreement (NAFTA) up to 10%. The NAFTA and the USMCA contain a list of products that are ineligible for *de minimis* exemptions.

References

- **USMCA**
  - *Final Text*: Chapter 4, Article 4.12; Chapter 6, Articles 6.1.2 and 6.1.3
  - *HR 5430 Citation*: Title II, Section 202(f)
  - General Note 11
- **NAFTA**
  - *Final Text*: Chapter 4, Article 405
  - General Note 12

Significant Changes in USMCA

Provision	USMCA	NAFTA
<b>De Minimis Percentage</b>	<ul style="list-style-type: none"> <li>• Not more than 10%.</li> </ul>	<ul style="list-style-type: none"> <li>• Not more than 7%.</li> </ul>
<b>De Minimis Exceptions (Elastomeric Yarn)</b>	<ul style="list-style-type: none"> <li>• Within the overall 10% <i>de minimis</i> limit for non-originating materials and fibers and yarns, the total weight of elastomeric content may not exceed 7%.</li> </ul>	<ul style="list-style-type: none"> <li>• No provision.</li> </ul>
<b>Fabric Forward</b>	<ul style="list-style-type: none"> <li>• <b>No change</b> – Importer claiming preferential tariff treatment and exporter/producer in its territory.</li> </ul>	
<b>Fibers and Yarns</b>	<ul style="list-style-type: none"> <li>• A textile or apparel good classified in Chapters 50 through 60 or heading 96.19 of the Harmonized System that contains non-originating materials that do not satisfy the applicable change in tariff classification requirement specified in Annex 4-B (Product-Specific Rules of Origin), shall nonetheless be considered to be an originating good if the total weight of all those materials is not more than 10 percent of the total weight of the good, of which the total weight of elastomeric content may not exceed 7 percent of the total weight of the good, and the good meets all other applicable requirements of</li> </ul>	<ul style="list-style-type: none"> <li>• A good provided for in Chapter 50 through 63 of the Harmonized System 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 set out in Annex 401, shall nonetheless be considered to originate if the total weight of all such fibers or yarns in that component is not more than seven percent of the total weight of that component.</li> </ul>

Provision	USMCA	NAFTA
	<p>this Chapter and Chapter 4 (Rules of Origin).</p> <ul style="list-style-type: none"> <li>A textile or apparel good classified in Chapters 61 through 63 of the Harmonized System that contains non-originating fibers or yarns in the component of the good that determines the tariff classification of the good that do not satisfy the applicable change in tariff classification set out in Annex 4-B (Product-Specific Rules of Origin), shall nonetheless be considered to be an originating good if the total weight of all of those fibers or yarns is not more than 10 percent of the total weight of that component, of which the total weight of elastomeric content may not exceed 7 percent of the total weight of the good, and the good meets all other applicable requirements of this Chapter and Chapter 4 (Rules of Origin).</li> </ul>	

#### Detailed USMCA/NAFTA Side-by-Side

Provision	USMCA	NAFTA
<i>De Minimis</i>	<ol style="list-style-type: none"> <li>Except as provided in Annex 4-A (Exceptions to Article 4.12 (<i>De Minimis</i>)), each Party shall provide that a good is 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 Annex 4-B (Product-Specific Rules of Origin) is not more than 10 percent: <ol style="list-style-type: none"> <li>of the transaction value of the good adjusted to exclude any costs incurred in the international shipment of the good; or</li> <li>of the total cost of the good, provided that the good satisfies all other applicable requirements of this Chapter.</li> </ol> </li> <li>If a good described in paragraph 1 is also subject to a regional value content requirement, the value of those non-originating materials shall be included in the value of non-originating materials for</li> </ol>	<ol style="list-style-type: none"> <li>Except as provided in paragraphs 3 through 6, 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 Annex 401 is not more than seven percent of the transaction value of the good, adjusted to a F.O.B. basis, or, if the transaction value is unacceptable under Article 1 of the Customs Valuation Code, the value of all such non-originating materials is not more than seven percent of the total cost of the good, provided that: <ol style="list-style-type: none"> <li>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</li> <li>the good satisfies all other applicable requirements of this Chapter.</li> </ol> </li> <li>A good that is otherwise subject to a regional value-content requirement shall not be required to satisfy such</li> </ol>

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	<p>the applicable regional value content requirement.</p> <p>3. A good that is otherwise subject to a regional value content requirement shall not be required to satisfy the requirement if the value of all non-originating materials used in the production of the good is not more than 10 percent of the transaction value of the good, adjusted to exclude any costs incurred in the international shipment of the good, or the total cost of the good, provided that the good satisfies all other applicable requirements of this Chapter.</p>	<p>requirement if the value of all non-originating materials used in the production of the good is not more than seven 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 Article 1 of the Customs Valuation Code, the value of all non-originating materials is not more than seven percent of the total cost of the good, provided that the good satisfies all other applicable requirements of this Chapter.</p>