

Subpart L—United States-Australia Free Trade Agreement

SOURCE: CBP Dec. 15-03, 80 FR 7308, Feb. 10, 2015, unless otherwise noted.

[↑ Back to Top](#)

General Provisions

[↑ Back to Top](#)

§10.721 Scope.

This subpart implements the duty preference and related customs provisions applicable to imported goods under the United States-Australia Free Trade Agreement (the AFTA) signed on May 18, 2004, and under the United States-Australia Free Trade Agreement Implementation Act (“the Act”), Pub. L. 108-286, 118 Stat. 919 (19 U.S.C. 3805 note). Except as otherwise specified in this subpart, the procedures and other requirements set forth in this subpart are in addition to the customs procedures and requirements of general application contained elsewhere in this chapter. Additional provisions implementing certain aspects of the AFTA and the Act are contained in Parts 24, 162, and 163 of this chapter.

[↑ Back to Top](#)

§10.722 General definitions.

As used in this subpart, the following terms will have the meanings indicated unless either the context in which they are used requires a different meaning or a different definition is prescribed for a particular section of this subpart:

(a) *Claim for preferential tariff treatment.* “Claim for preferential tariff treatment” means a claim that a good is entitled to the duty rate applicable under the AFTA to an originating good, and to an exemption from the merchandise processing fee;

(b) *Claim of origin.* “Claim of origin” means a claim that a textile or apparel good is an originating good or a good of a Party or satisfies the non-preferential rules of origin of a Party;

(c) *Customs duty.* “Customs duty” includes any customs or import duty and a charge of any kind imposed in connection with the importation of a good, including any form of surtax or surcharge in connection with such importation, but does not include any:

(1) Charge equivalent to an internal tax imposed consistently with Article III:2 of GATT 1994 in respect of the like domestic good or in respect of goods from which the imported good has been manufactured or produced in whole or in part;

(2) Antidumping or countervailing duty that is applied pursuant to a Party's law; or

(3) Fee or other charge in connection with importation commensurate with the cost of services rendered;

(d) *Customs Valuation Agreement*. “Customs Valuation Agreement” means the *Agreement on Implementation of Article VII of the General Agreement on Tariffs and Trade 1994*, contained in Annex 1A to the WTO Agreement;

(e) *Days*. “Days” means calendar days;

(f) *Enterprise*. “Enterprise” means any entity constituted or organized under applicable law, whether or not for profit, and whether privately-owned or governmentally-owned or controlled, including any corporation, trust, partnership, sole proprietorship, joint venture, association, or similar organization;

(g) *Enterprise of a Party*. “Enterprise of a Party” means an enterprise constituted or organized under a Party's law;

(h) *GATT 1994*. “GATT 1994” means the *General Agreement on Tariffs and Trade 1994*, contained in Annex 1A to the *WTO Agreement*;

(i) *Goods of a Party*. “Goods of a Party” means domestic products as these are understood in the GATT 1994 or such goods as the Parties determine under the rules of origin as applied in the normal course of trade, and includes originating goods of a Party.

(j) *Harmonized System*. “Harmonized System” means the *Harmonized Commodity Description and Coding System*, including its General Rules of Interpretation, Section Notes, and Chapter Notes, as adopted and implemented by the Parties in their respective tariff laws;

(k) *Heading*. “Heading” means the first four digits in the tariff classification number under the Harmonized System;

(l) *HTSUS*. “HTSUS” means the *Harmonized Tariff Schedule of the United States* as promulgated by the U.S. International Trade Commission;

(m) *Identical goods*. “Identical goods” means goods that are the same in all respects relevant to the rule of origin that qualifies the goods as originating goods;

(n) *Originating*. “Originating” means qualifying for preferential tariff treatment under the rules of origin set out in AFTA Chapters Four (Textiles and Apparel) and Five (Rules of Origin) and General Note 28, HTSUS;

(o) *Party*. “Party” means the United States or Australia;

(p) *Person*. “Person” means a natural person or an enterprise;

(q) *Preferential tariff treatment*. “Preferential tariff treatment” means the duty rate applicable under the AFTA to an originating good, and an exemption from the merchandise processing fee;

(r) *Subheading*. “Subheading” means the first six digits in the tariff classification number under the Harmonized System;

(s) *Territory*. “Territory” means:

(1) With respect to Australia, the territory of the Commonwealth of Australia:

(i) Excluding all external territories other than the Territory of Norfolk Island, the Territory of Christmas Island, the Territory of Cocos (Keeling) Islands, the Territory of Ashmore and Cartier Islands, the Territory of Heard Island and McDonald Islands, and the Coral Sea Islands Territory; and

(ii) Including Australia's territorial sea, contiguous zone, exclusive economic zone, and continental shelf; and

(2) With respect to the United States:

(i) The customs territory of the United States, which includes the 50 states, the District of Columbia, and Puerto Rico;

(ii) The foreign trade zones located in the United States and Puerto Rico; and

(iii) Any areas beyond the territorial seas of the United States within which, in accordance with international law and its domestic law, the United States may exercise rights with respect to the seabed and subsoil and their natural resources;

(t) *Textile or apparel good*. “Textile or apparel good” means a good listed in the Annex to the Agreement on Textiles and Clothing (commonly referred to as “the ATC”), which is part of the WTO Agreement;

(u) *WTO*. “WTO” means the World Trade Organization; and

(v) *WTO Agreement*. “WTO Agreement” means the *Marrakesh Agreement Establishing the World Trade Organization* of April 15, 1994.

↑ [Back to Top](#)

Import Requirements

↑ [Back to Top](#)

§10.723 Filing of claim for preferential tariff treatment upon importation.

(a) *Claim.* An importer may make a claim for AFTA preferential tariff treatment, including an exemption from the merchandise processing fee, based on the importer's knowledge or information in the importer's possession that the good qualifies as an originating good. The claim is made by including on the entry summary, or equivalent documentation, the letters "AU" as a prefix to the subheading of the HTSUS under which each qualifying good is classified, or by the method specified for equivalent reporting via an authorized electronic data interchange system.

(b) *Corrected claim.* If, after making the claim required under paragraph (a) of this section, the importer becomes aware that the claim is invalid, the importer must promptly and voluntarily correct the claim and pay any duties that may be due. The importer must submit a statement either in writing or via an authorized electronic data interchange system to the CBP office where the original claim was filed specifying the correction (*see* §§10.746 and 10.747 of this subpart).

[↑ Back to Top](#)

§10.724 Supporting statement.

(a) *Contents.* An importer who makes a claim under §10.723(a) of this subpart must submit, at the request of the port director, a supporting statement setting forth the reasons that the good qualifies as an originating good, including pertinent cost and manufacturing data. A statement submitted to CBP under this paragraph:

(1) Need not be in a prescribed format but must be in writing or must be transmitted electronically pursuant to any electronic means authorized by CBP for that purpose;

(2) Must include the following information:

(i) The legal name, address, telephone, and email address of the importer of record of the good;

(ii) The legal name, address, telephone, and email address of the responsible official or authorized agent of the importer signing the supporting statement (if different from the information required by paragraph (a)(2)(i) of this section);

(iii) The legal name, address, telephone, and email address of the exporter of the good (if different from the producer);

(iv) The legal name, address, telephone, and email address of the producer of the good, if known;

(v) A description of the good for which preferential tariff treatment is claimed, which must be sufficiently detailed to relate it to the invoice and the HS nomenclature;

(vi) The HTSUS tariff classification, to six or more digits, as necessary for the specific change in tariff classification rule for the good set forth in General Note 28(n), HTSUS;

(vii) The applicable rule of origin set forth in General Note 28, HTSUS, under which the good qualifies as an originating good; and

(3) Must include a statement, in substantially the following form:

I certify that:

The information on this document is true and accurate and I assume the responsibility for proving such representations. I understand that I am liable for any false statements or material omissions made on or in connection with this document;

I agree to maintain and present upon request, documentation necessary to support these representations;

The goods originated or are considered to have originated in the territory of one or more of the Parties, and comply with the origin requirements specified for those goods in the United States-Australia Free Trade Agreement; there has been no further production or any other operation outside the territories of the parties, other than unloading, reloading, or any other operation necessary to preserve the goods in good condition or to transport the goods to the United States; and

This document consists of ___ pages, including all attachments.

(b) *Responsible official or agent.* The supporting statement required to be submitted under paragraph (a) of this section must be signed and dated by a responsible official of the importer or by the importer's authorized agent having knowledge of the relevant facts.

(c) *Language.* The supporting statement required to be submitted under paragraph (a) of this section must be completed in the English language.

(d) *Applicability of supporting statement.* The supporting statement required to be submitted under paragraph (a) of this section may be applicable to:

(1) A single importation of a good into the United States, including a single shipment that results in the filing of one or more entries and a series of shipments that results in the filing of one entry; or

(2) Multiple importations of identical goods into the United States that occur within a specified blanket period, not exceeding 12 months, set out in the statement. For purposes of this paragraph, "identical goods" means goods that are the same in all respects relevant to the particular rule of origin that qualifies the goods as originating.

[↑ Back to Top](#)

§10.725 Importer obligations.

(a) *General.* An importer who makes a claim under §10.723(a) of this subpart:

(1) Is responsible for the truthfulness of the claim and of all the information and data contained in the supporting statement provided for in §10.724 of this subpart; and

(2) Is responsible for submitting any supporting documents requested by CBP and for the truthfulness of the information contained in those documents. If CBP requests the submission of supporting documents, CBP will allow for the direct submission by the exporter or producer of business confidential or other sensitive information, including cost and sourcing information.

(b) *Information provided by exporter or producer.* The fact that the importer has made a claim or submitted a supporting statement based on information provided by an exporter or producer will not relieve the importer of the responsibility referred to in the first sentence of paragraph (a) of this section.

(c) *Exemption from penalties.* An importer will not be subject to civil or administrative penalties under 19 U.S.C. 1592 for making an invalid claim for preferential tariff treatment or submitting an incorrect supporting statement, provided that the importer promptly and voluntarily corrects the claim or supporting statement and pays any duty owing (*see* §§10.746 and 10.747 of this subpart).

[↑ Back to Top](#)

§10.726 Supporting statement not required.

(a) *General.* Except as otherwise provided in paragraph (b) of this section, an importer will not be required to submit a supporting statement under §10.724 for:

(1) A non-commercial importation of a good; or

(2) A commercial importation for which the value of the originating goods does not exceed U.S. \$2,500.

(b) *Exception.* If the port director determines that an importation described in paragraph (a) of this section may reasonably be considered to have been carried out or planned for the purpose of evading compliance with the rules and procedures governing claims for preference under the AFTA, the port director will notify the importer that for that importation the importer must submit to CBP a supporting statement. The importer must submit such a statement within 30 days from the date of the notice. Failure to timely submit the supporting statement will result in denial of the claim for preferential tariff treatment.

[↑ Back to Top](#)

§10.727 Maintenance of records.

(a) *General.* An importer claiming preferential tariff treatment for a good imported into the United States under §10.723(a) of this subpart must maintain, for five years after the date of importation of the good, records and documents necessary to demonstrate that the good qualifies as an originating good, including records and documents associated with:

- (1) The purchase of, cost of, value of, and payment for, the good;
- (2) Where appropriate, the purchase of, cost of, value of, and payment for, all materials, including recovered goods and indirect materials, used in the production of the good; and
- (3) Where appropriate, the production of the good in the form in which the good was exported.

(b) *Applicability of other recordkeeping requirements.* The records and documents referred to in paragraph (a) of this section are in addition to any other records that the importer is required to prepare, maintain, or make available to CBP under Part 163 of this chapter.

(c) *Method of maintenance.* The records and documents referred to in paragraph (a) of this section must be maintained by importers as provided in §163.5 of this chapter.

↑ [Back to Top](#)

§10.728 Effect of noncompliance; failure to provide documentation regarding third country transportation.

(a) *General.* If the importer fails to comply with any requirement under this subpart, including submission of a complete supporting statement prepared in accordance with §10.724 of this subpart, when requested, the port director may deny preferential treatment to the imported good.

(b) *Failure to provide documentation regarding third country transportation.* Where the requirements for preferential treatment set forth elsewhere in this subpart are met, the port director nevertheless may deny preferential treatment to an originating good if the good is shipped through or transshipped in a country other than a Party to the AFTA, and the importer of the good does not provide, at the request of the port director, evidence demonstrating to the satisfaction of the port director that the conditions set forth in §10.741 of this subpart were met.

↑ [Back to Top](#)

Rules of Origin

↑ [Back to Top](#)

§10.729 Definitions.

For purposes of §§10.729 through 10.741 of this subpart:

(a) *Adjusted value*. “Adjusted value” means the value determined in accordance with Articles 1 through 8, Article 15, and the corresponding interpretative notes of the Customs Valuation Agreement, adjusted, if necessary, to exclude:

(1) Any costs, charges, or expenses incurred for transportation, insurance and related services incidental to the international shipment of the good from the country of exportation to the place of importation; and

(2) The value of packing materials and containers for shipment as defined in paragraph (n) of this section;

(b) *Class of motor vehicles*. “Class of motor vehicles” means any one of the following categories of motor vehicles:

(1) Motor vehicles classified under subheading 8701.20, motor vehicles for the transport of 16 or more persons classified under subheading 8702.10 or 8702.90, and motor vehicles classified under subheading 8704.10, 8704.22, 8704.23, 8704.32, or 8704.90, or heading 8705 or 8706, HTSUS;

(2) Motor vehicles classified under subheading 8701.10 or under any of subheadings 8701.30 through 8701.90, HTSUS;

(3) Motor vehicles provided for the transport of 15 or fewer persons classified under subheading 8702.10 or 8702.90, HTSUS, or motor vehicles classified under subheading 8704.21 or 8704.31; or

(4) Motor vehicles classified under subheadings 8703.21 through 8703.90, HTSUS;

(c) *Exporter*. “Exporter” means a person who exports goods from the territory of a Party;

(d) *Fungible goods or materials*. “Fungible goods or materials” means goods or materials, as the case may be, that are interchangeable for commercial purposes and the properties of which are essentially identical;

(e) *Generally Accepted Accounting Principles*. “Generally Accepted Accounting Principles” means the recognized consensus or substantial authoritative support in the territory of a Party, with respect to the recording of revenues, expenses, costs, assets, and liabilities, the disclosure of information, and the preparation of financial statements. These standards may encompass broad guidelines of general application as well as detailed standards, practices, and procedures;

(f) *Good*. “Good” means any merchandise, product, article, or material;

(g) *Goods wholly obtained or produced entirely in the territory of one or both of the Parties.* “Goods wholly obtained or produced entirely in the territory of one or both of the Parties” means:

- (1) Mineral goods extracted in the territory of one or both of the Parties;
 - (2) Vegetable goods, as such goods are defined in the Harmonized System, harvested in the territory of one or both of the Parties;
 - (3) Live animals born and raised in the territory of one or both of the Parties;
 - (4) Goods obtained from hunting, trapping, fishing, or aquaculture conducted in the territory of one or both of the Parties;
 - (5) Goods (fish, shellfish, and other marine life) taken from the sea by vessels registered or recorded with a Party and flying its flag;
 - (6) Goods produced exclusively from products referred to in paragraph (g)(5) of this section on board factory ships registered or recorded with a Party and flying its flag;
 - (7) Goods taken by a Party or a person of a Party from the seabed or beneath the seabed outside territorial waters, provided that a Party has rights to exploit such seabed;
 - (8) Goods taken from outer space, provided they are obtained by a Party or a person of a Party and not processed in the territory of a non-Party;
 - (9) Waste and scrap derived from:
 - (i) Production in the territory of one or both of the Parties; or
 - (ii) Used goods collected in the territory of one or both of the Parties, provided such goods are fit only for the recovery of raw materials;
 - (10) Recovered goods derived in the territory of one or both of the Parties from goods that have passed their life expectancy, or are no longer useable due to defects, and utilized in the territory of one or both of the Parties in the production of remanufactured goods; or
 - (11) Goods produced in one or both of the Parties exclusively from goods referred to in paragraphs (g)(1) through (9) of this section, or from the derivatives of such goods, at any stage of production;
- (h) *Indirect Material.* “Indirect material” means a good used in the production, testing, or inspection of another good in the territory of one or both of the Parties but not physically incorporated into that other good, or a good used in the maintenance of buildings or the operation of equipment associated with the production of another good, including:

- (1) Fuel and energy;
 - (2) Tools, dies, and molds;
 - (3) Spare parts and materials used in the maintenance of equipment or buildings;
 - (4) Lubricants, greases, compounding materials, and other materials used in production or used to operate equipment or buildings;
 - (5) Gloves, glasses, footwear, clothing, safety equipment, and supplies;
 - (6) Equipment, devices, and supplies used for testing or inspecting the good;
 - (7) Catalysts and solvents; and
 - (8) Any other good that is not incorporated into the other good but the use of which in the production of the other good can reasonably be demonstrated to be a part of that production.
- (i) *Material*. “Material” means a good that is used in the production of another good;
 - (j) *Model line*. “Model line” means a group of motor vehicles having the same platform or model name;
 - (k) *Net cost*. “Net cost” means total cost minus sales promotion, marketing, and after-sales service costs, royalties, shipping and packing costs, and non-allowable interest costs that are included in the total cost;
 - (l) *Non-allowable interest costs*. “Non-allowable interest costs” means interest costs incurred by a producer that exceed 700 basis points above the applicable official interest rates for comparable maturities of the United States or Australia;
 - (m) *Non-originating good or non-originating material*. “Non-originating good” or “non-originating material” means a good or material, as the case may be, that does not qualify as originating under General Note 28, HTSUS, or this subpart;
 - (n) *Packing materials and containers for shipment*. “Packing materials and containers for shipment” means the goods used to protect a good during its transportation to the United States, and does not include the packaging materials and containers in which a good is packaged for retail sale;
 - (o) *Producer*. “Producer” means a person who grows, raises, mines, harvests, fishes, traps, hunts, manufactures, processes, assembles or disassembles a good;
 - (p) *Production*. “Production” means growing, raising, mining, harvesting, fishing, trapping, hunting, manufacturing, processing, assembling, or disassembling a good;

(q) *Reasonably allocate*. “Reasonably allocate” means to apportion in a manner that would be appropriate under generally accepted accounting principles;

(r) *Recovered goods*. “Recovered goods” means materials in the form of individual parts that result from:

(1) The complete disassembly of goods which have passed their life expectancy, or are no longer useable due to defects, into individual parts; and

(2) The cleaning, inspecting, or testing, or other processing that is necessary for improvement to sound working condition of such individual parts;

(s) *Remanufactured good*. “Remanufactured good” means an industrial good assembled in the territory of a Party that is classified in Chapter 84, 85, or 87, or heading 9026, 9031, or 9032, HTSUS, other than a good classified in heading 8418 or 8516 or any of headings 8701 through 8706, HTSUS, and that:

(1) Is entirely or partially comprised of recovered goods;

(2) Has a similar life expectancy to, and meets the same performance standards as, a like good that is new; and

(3) Enjoys a factory warranty similar to a like good that is new;

(t) *Royalties*. “Royalties” means payments of any kind, including payments under technical assistance agreements or similar agreements, made as consideration for the use of, or right to use, any copyright, literary, artistic, or scientific work, patent, trademark, design, model, plan, secret formula or process, excluding those payments under technical assistance agreements or similar agreements that can be related to specific services such as:

(1) Personnel training, without regard to where performed; and

(2) If performed in the territory of one or both of the Parties, engineering, tooling, die-setting, software design and similar computer services;

(u) *Sales promotion, marketing, and after-sales service costs*. “Sales promotion, marketing, and after-sales service costs” means the following costs related to sales promotion, marketing, and after-sales service:

(1) Sales and marketing promotion; media advertising; advertising and market research; promotional and demonstration materials; exhibits; sales conferences, trade shows and conventions; banners; marketing displays; free samples; sales, marketing and after-sales service literature (product brochures, catalogs, technical literature, price lists, service manuals, sales aid information); establishment and protection of logos and trademarks; sponsorships; wholesale and retail restocking charges; entertainment;

(2) Sales and marketing incentives; consumer, retailer or wholesaler rebates; merchandise incentives;

(3) Salaries and wages, sales commissions, bonuses, benefits (for example, medical, insurance, pension), traveling and living expenses, membership and professional fees, for sales promotion, marketing and after-sales service personnel;

(4) Recruiting and training of sales promotion, marketing and after-sales service personnel, and after-sales training of customers' employees, where such costs are identified separately for sales promotion, marketing and after-sales service of goods on the financial statements or cost accounts of the producer;

(5) Product liability insurance;

(6) Office supplies for sales promotion, marketing and after-sales service of goods, where such costs are identified separately for sales promotion, marketing and after-sales service of goods on the financial statements or cost accounts of the producer;

(7) Telephone, mail and other communications, where such costs are identified separately for sales promotion, marketing and after-sales service of goods on the financial statements or cost accounts of the producer;

(8) Rent and depreciation of sales promotion, marketing and after-sales service offices and distribution centers;

(9) Property insurance premiums, taxes, cost of utilities, and repair and maintenance of sales promotion, marketing and after-sales service offices and distribution centers, where such costs are identified separately for sales promotion, marketing and after-sales service of goods on the financial statements or cost accounts of the producer; and

(10) Payments by the producer to other persons for warranty repairs;

(v) *Self-produced material*. "Self-produced material" means an originating material that is produced by a producer of a good and used in the production of that good;

(w) *Shipping and packing costs*. "Shipping and packing costs" means the costs incurred in packing a good for shipment and shipping the good from the point of direct shipment to the buyer, excluding the costs of preparing and packaging the good for retail sale;

(x) *Total cost*. "Total cost" means all product costs, period costs, and other costs for a good incurred in the territory of one or both of the Parties. Product costs are costs that are associated with the production of a good and include the value of materials, direct labor costs, and direct overhead. Period costs are costs, other than product costs, that are expensed in the period in which they are incurred, such as selling expenses and general and administrative expenses. Other costs are all costs recorded on the books of the producer that are not product costs or period costs, such as interest. Total cost does not include profits that are earned by the producer,

regardless of whether they are retained by the producer or paid out to other persons as dividends, or taxes paid on those profits, including capital gains taxes;

(y) *Used*. “Used” means used or consumed in the production of goods; and

(z) *Value*. “Value” means the value of a good or material for purposes of calculating customs duties or for purposes of applying this subpart.

[↑ Back to Top](#)

§10.730 Originating goods.

Except as otherwise provided in this subpart and General Note 28, HTSUS, a good imported into the customs territory of the United States will be considered an originating good under the AFTA only if:

(a) The good is wholly obtained or produced entirely in the territory of one or both of the Parties;

(b) The good is produced entirely in the territory of one or both of the Parties and:

(1) Each non-originating material used in the production of the good undergoes an applicable change in tariff classification specified in General Note 28(n), HTSUS;

(2) The good otherwise satisfies any applicable regional value content or other requirements specified in General Note 28(n), HTSUS; or

(3) The good meets any other requirements specified in General Note 28(n), HTSUS;

(c) The good is produced entirely in the territory of one or both of the Parties exclusively from originating materials; or

(d) The good otherwise qualifies as an originating good under General Note 28(n), HTSUS.

[↑ Back to Top](#)

§10.731 Textile and apparel goods classifiable as goods put up in sets.

Notwithstanding the specific rules set forth in General Note 28(n), HTSUS, textile or apparel goods classifiable as goods put up in sets for retail sale as provided for in General Rule of Interpretation 3, HTSUS, will not be considered to be originating goods unless each of the goods in the set is an originating good or the total value of the non-originating goods in the set does not exceed 10 percent of the value of the set.

[↑ Back to Top](#)

§10.732 De minimis.

(a) Except as provided in paragraphs (b) and (c) of this section, a good that does not undergo a change in tariff classification pursuant to General Note 28(n), HTSUS, is an originating good if:

(1) The value of all non-originating materials used in the production of the good that do not undergo the applicable change in tariff classification does not exceed 10 percent of the adjusted value of the good;

(2) The value of the non-originating materials described in paragraph (a)(1) of this section is included in the value of non-originating materials for any applicable regional value content requirement for the good under General Note 28(n), HTSUS; and

(3) The good meets all other applicable requirements of General Note 28, HTSUS.

(b) Paragraph (a) does not apply to:

(1) A non-originating material provided for in Chapter 4, HTSUS, or in subheading 1901.90, HTSUS, that is used in the production of a good provided for in Chapter 4, HTSUS;

(2) A non-originating material provided for in Chapter 4, HTSUS, or in subheading 1901.90, HTSUS, that is used in the production of a good provided for in one of the following HTSUS provisions: subheading 1901.10, 1901.20 or 1901.90; heading 2105; or subheading 2106.90, 2202.90 or 2309.90;

(3) A non-originating material provided for in heading 0805, HTSUS, or subheadings 2009.11 through 2009.39, HTSUS, that is used in the production of a good provided for in subheadings 2009.11 through 2009.39, HTSUS, or in subheading 2106.90 or 2202.90, HTSUS;

(4) A non-originating material provided for in Chapter 15, HTSUS, that is used in the production of a good provided for in headings 1501 through 1508, 1512, 1514 or 1515, HTSUS;

(5) A non-originating material provided for in heading 1701, HTSUS, that is used in the production of a good provided for in headings 1701 through 1703, HTSUS;

(6) A non-originating material provided for in Chapter 17, HTSUS, or heading 1805, HTSUS, that is used in the production of a good provided for in subheading 1806.10, HTSUS;

(7) A non-originating material provided for in headings 2203 through 2208, HTSUS, that is used in the production of a good provided for in heading 2207 or 2208, HTSUS; or

(8) A non-originating material used in the production of a good provided for in Chapters 1 through 21, HTSUS, unless the non-originating material is provided for in a different subheading than the good for which origin is being determined.

(c) A textile or apparel good provided for in Chapters 42, 50 through 63, 70, or 94, HTSUS, that is not an originating good 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 General Note 28(n), HTSUS, will nevertheless be considered to be an originating good if the total weight of all such fibers or yarns in that component is not more than 7 percent of the total weight of that component. Notwithstanding the preceding sentence, a textile or apparel good containing elastomeric yarns in the component of the good that determines the tariff classification of the good will be considered an originating good only if such yarns are wholly formed in the territory of a Party. For purposes of this paragraph, in the case of a textile or apparel good that is a yarn, fabric, or group of fibers, the term “component of the good that determines the tariff classification of the good” means all of the fibers in the yarn, fabric, or group of fibers.

[↑ Back to Top](#)

§10.733 Accumulation.

(a) Originating materials from the territory of a Party that are used in the production of a good in the territory of another Party will be considered to originate in the territory of that other Party.

(b) A good that is produced in the territory of one or both of the Parties by one or more producers is an originating good if the good satisfies the requirements of §10.730 of this subpart and all other applicable requirements of General Note 28, HTSUS.

[↑ Back to Top](#)

§10.734 Regional value content.

(a) *General.* Except for goods to which paragraph (d) of this section applies, where General Note 28(n), HTSUS, sets forth a rule that specifies a regional value content test for a good, the regional value content of such good must be calculated by the importer, exporter, or producer of the good on the basis of the build-down method described in paragraph (b) of this section or the build-up method described in paragraph (c) of this section.

(b) *Build-down method.* Under the build-down method, the regional value content must be calculated on the basis of the formula $RVC = ((AV - VNM)/AV) \times 100$, where RVC is the regional value content, expressed as a percentage; AV is the adjusted value of the good; and VNM is the value of non-originating materials that are acquired and used by the producer in the production of the good, but does not include the value of a material that is self-produced.

(c) *Build-up method.* Under the build-up method, the regional value content must be calculated on the basis of the formula $RVC = (VOM/AV) \times 100$, where RVC is the regional value content, expressed as a percentage; AV is the adjusted value of the good; and VOM is the value of originating materials that are acquired or self-produced and used by the producer in the production of the good.

(d) *Special rule for certain automotive goods*—(1) *General*. Where General Note 28(n), HTSUS, sets forth a rule that specifies a regional value content test for an automotive good provided for in subheadings 8407.31 through 8407.34 (engines), subheading 8408.20 (diesel engine for vehicles), heading 8409 (parts of engines), or any of headings 8701 through 8705 (motor vehicles), and headings 8706 (chassis), 8707 (bodies), and 8708 (motor vehicle parts), HTSUS, the regional value content of such good must be calculated by the importer, exporter, or producer of the good on the basis of the net cost methods described in paragraphs (d)(2) through (4) of this section.

(2) *Net cost method*. Under the net cost method, the regional value content must be calculated on the basis of the formula $RVC = ((NC - VNM)/NC) \times 100$, where RVC is the regional value content, expressed as a percentage; NC is the net cost of the good; and VNM is the value of non-originating materials that are acquired and used by the producer in the production of the good, but does not include the value of a material that is self-produced. Consistent with the provisions regarding allocation of costs set out in generally accepted accounting principles, the net cost of the good must be determined by:

(i) Calculating the total cost incurred with respect to all goods produced by the producer of the automotive good, subtracting any sales promotion, marketing and after-sales service costs, royalties, shipping and packing costs, and non-allowable interest costs that are included in the total cost of all such goods, and then reasonably allocating the resulting net cost of those goods to the automotive good;

(ii) Calculating the total cost incurred with respect to all goods produced by the producer of the automotive good, reasonably allocating the total cost to the automotive good, and then subtracting any sales promotion, marketing and after-sales service costs, royalties, shipping and packing costs, and non-allowable interest costs that are included in the portion of the total cost allocated to the automotive good; or

(iii) Reasonably allocating each cost that forms part of the total costs incurred with respect to the automotive good so that the aggregate of these costs does not include any sales promotion, marketing and after-sales service costs, royalties, shipping and packing costs, or non-allowable interest costs.

(3) *Motor vehicles*—(i) *General*. For purposes of calculating the regional value content under the net cost method for an automotive good that is a motor vehicle provided for in headings 8701 through 8705, an importer, exporter, or producer may average the amounts calculated under the formula set forth in paragraph (d)(2) of this section over the producer's fiscal year using any one of the categories described in paragraph (d)(3)(ii) of this section either on the basis of all motor vehicles in the category or only those motor vehicles in the category that are exported to the territory of a Party.

(ii) *Categories*. The categories referred to in paragraph (d)(3)(i) of this section are as follows:

(A) The same model line of motor vehicles, in the same class of vehicles, produced in the same plant in the territory of a Party, as the motor vehicle for which the regional value content is being calculated;

(B) The same class of motor vehicles, produced in the same plant in the territory of a Party, as the motor vehicle for which the regional value content is being calculated; and

(C) The same model line of motor vehicles produced in the territory of a Party as the motor vehicle for which the regional value content is being calculated.

(4) *Other automotive goods*—(i) *General*. For purposes of calculating the regional value content under the net cost method for automotive goods provided for in subheadings 8407.31 through 8407.34, subheading 8408.20, heading 8409, 8706, 8707, or 8708, HTSUS, that are produced in the same plant, an importer, exporter, or producer may:

(A) Average the amounts calculated under the formula set forth in paragraph (d)(2) of this section over any of the following: The fiscal year, or any quarter or month, of the motor vehicle producer to whom the automotive good is sold, or the fiscal year, or any quarter or month, of the producer of the automotive good, provided the goods were produced during the fiscal year, quarter, or month that is the basis for the calculation;

(B) Determine the average referred to in paragraph (d)(4)(i)(A) of this section separately for such goods sold to one or more motor vehicle producers; or

(C) Make a separate determination under paragraph (d)(4)(i)(A) or (B) for automotive goods that are exported to the territory of a Party.

(ii) *Duration of use*. A person selecting an averaging period of one month or quarter under paragraph (d)(4)(i)(A) of this section must continue to use that method for that category of automotive goods throughout the fiscal year.

[↑ Back to Top](#)

10.735 Value of materials.

(a) *Calculating the value of materials*. For purposes of calculating the regional value content of a good under General Note 28(n), HTSUS, and for purposes of applying the *de minimis* (see §10.732 of this subpart) provisions of General Note 28(n), HTSUS, the value of a material is:

(1) In the case of a material imported by the producer of the good, the adjusted value of the material;

(2) In the case of a material acquired by the producer in the territory where the good is produced, the value, determined in accordance with Articles 1 through 8, Article 15, and the corresponding interpretative notes of the Customs Valuation Agreement, of the material with reasonable modifications to the provisions of the Customs Valuation Agreement as may be required due to

the absence of an importation by the producer (including, but not limited to, treating a domestic purchase by the producer as if it were a sale for exportation to the country of importation); or

(3) In the case of a self-produced material, the sum of:

(i) All expenses incurred in the production of the material, including general expenses; and

(ii) An amount for profit equivalent to the profit added in the normal course of trade.

(b) *Examples.* The following examples illustrate application of the principles set forth in paragraph (a)(2) of this section:

Example 1. The producer in Australia purchases material x from an unrelated seller in Australia for \$100. Under the provisions of Article 1 of the Customs Valuation Agreement, transaction value is the price actually paid or payable for the goods when sold for exportation to the country of importation adjusted in accordance with the provisions of Article 8. In order to apply Article 1 to this domestic purchase by the producer, such purchase is treated as if it were a sale for export to the country of importation. Therefore, for purposes of determining the adjusted value of material x, the Article 1 transaction value is the price actually paid or payable for the goods when sold to the producer in Australia (\$100), adjusted in accordance with the provisions of Article 8. In this example, it is irrelevant whether material x was initially imported into Australia by the seller (or by anyone else). So long as the producer acquired material x in Australia, it is intended that the value of material x will be determined on the basis of the price actually paid or payable by the producer adjusted in accordance with the provisions of Article 8.

Example 2. Same facts as in Example 1, except that the sale between the seller and the producer is subject to certain restrictions that preclude the application of Article 1. Under Article 2 of the Customs Valuation Agreement, the value is the transaction value of identical goods sold for exportation to the same country of importation and exported at or about the same time as the goods being valued. In order to permit the application of Article 2 to the domestic acquisition by the producer, the price paid by the producer should be modified so that the value is the transaction value of identical goods sold within Australia at or about the same time the goods were sold to the producer in Australia. Thus, if the seller of material x also sold an identical material to another buyer in Australia without restrictions, that other sale would be used to determine the adjusted value of material x.

(c) *Permissible additions to, and deductions from, the value of materials—(1) Additions to originating materials.* For originating materials, the following expenses, if not included under paragraph (a) of this section, may be added to the value of the originating material:

(i) The costs of freight, insurance, packing, and all other costs incurred in transporting the material within or between the territory of one or both of the Parties to the location of the producer;

(ii) Duties, taxes, and customs brokerage fees on the material paid in the territory of one or both of the Parties, other than duties and taxes that are waived, refunded, refundable or otherwise recoverable, including credit against duty or tax paid or payable; and

(iii) The cost of waste and spoilage resulting from the use of the material in the production of the good, less the value of renewable scrap or byproducts.

(2) *Deductions from non-originating materials.* For non-originating materials, if included under paragraph (a) of this section, the following expenses may be deducted from the value of the non-originating material:

(i) The costs of freight, insurance, packing, and all other costs incurred in transporting the material within or between the territory of one or both of the Parties to the location of the producer;

(ii) Duties, taxes, and customs brokerage fees on the material paid in the territory of one or both of the Parties, other than duties and taxes that are waived, refunded, refundable or otherwise recoverable, including credit against duty or tax paid or payable;

(iii) The cost of waste and spoilage resulting from the use of the material in the production of the good, less the value of renewable scrap or by-products;

(iv) The cost of processing incurred in the territory of one or both of the Parties in the production of the non-originating material; and

(v) The cost of originating materials used in the production of the non-originating material in the territory of one or both of the Parties.

(d) *Accounting method.* Any cost or value referenced in General Note 28, HTSUS, and this subpart, must be recorded and maintained in accordance with the generally accepted accounting principles applicable in the territory of the Party in which the good is produced.

[↑ Back to Top](#)

§10.736 Accessories, spare parts, or tools.

(a) *General.* Accessories, spare parts, or tools that are delivered with a good and that form part of the good's standard accessories, spare parts, or tools will be treated as originating goods if the good is an originating good, and will be disregarded in determining whether all the non-originating materials used in the production of the good undergo an applicable change in tariff classification specified in General Note 28(n), HTSUS, provided that:

(1) The accessories, spare parts, or tools are not invoiced separately from the good; and

(2) The quantities and value of the accessories, spare parts, or tools are customary for the good.

(b) *Regional value content.* If the good is subject to a regional value content requirement, the value of the accessories, spare parts, or tools is taken into account as originating or non-originating materials, as the case may be, in calculating the regional value content of the good under §10.734 of this subpart.

[↑ Back to Top](#)

§10.737 Fungible goods and materials.

(a) *General.* A person claiming that a fungible good or material is an originating good may base the claim either on the physical segregation of the fungible good or material or by using an inventory management method with respect to the fungible good or material. For purposes of this section, the term “inventory management method” means:

(1) Averaging;

(2) “Last-in, first-out;”

(3) “First-in, first-out;” or

(4) Any other method that is recognized in the Generally Accepted Accounting Principles of the Party in which the production is performed or otherwise accepted by that country.

(b) *Duration of use.* A person selecting an inventory management method under paragraph (a) of this section for a particular fungible good or material must continue to use that method for that fungible good or material throughout the fiscal year of that person.

[↑ Back to Top](#)

§10.738 Retail packaging materials and containers.

(a) *Effect on tariff shift rule.* Packaging materials and containers in which a good is packaged for retail sale, if classified with the good for which preferential tariff treatment under the AFTA is claimed, will be disregarded in determining whether all non-originating materials used in the production of the good undergo the applicable change in tariff classification set out in General Note 28(n), HTSUS.

(b) *Effect on regional value content calculation.* If the good is subject to a regional value content requirement, the value of such packaging materials and containers will be taken into account as originating or non-originating materials, as the case may be, in calculating the regional value content of the good.

Example 1. Australian Producer A of good C imports 100 non-originating blister packages to be used as retail packaging for good C. As provided in §10.735(a)(1) of this subpart, the value of the blister packages is their adjusted value, which in this case is \$10. Good C has a regional value content requirement. The United States importer of good C decides to use the build-down method, $RVC = ((AV - VNM)/AV) \times 100$ (see §10.734(b) of this subpart), in determining whether good C satisfies the regional value content requirement. In applying this method, the non-originating blister packages are taken into account as non-originating. As such, their \$10 adjusted value is included in the VNM, value of non-originating materials, of good C.

Example 2. Same facts as in Example 1, except that the blister packages are originating. In this case, the adjusted value of the originating blister packages would *not* be included as part of the VNM of good C under the build-down method. However, if the U.S. importer had used the build-up method, $RVC = (VOM/AV) \times 100$ (see §10.734(c) of this subpart), the adjusted value of the blister packaging would be included as part of the VOM, value of originating materials.

↑ [Back to Top](#)

§10.739 Packing materials and containers for shipment.

(a) *Effect on tariff shift rule.* Packing materials and containers for shipment, as defined in §10.729 (n) of this subpart, are to be disregarded in determining whether the non-originating materials used in the production of the good undergo an applicable change in tariff classification set out in General Note 28(n), HTSUS. Accordingly, such materials and containers are not required to undergo the applicable change in tariff classification even if they are non-originating.

(b) *Effect on regional value content calculation.* Packing materials and containers for shipment, as defined in §10.729(n) of this subpart, are to be disregarded in determining the regional value content of a good imported into the United States. Accordingly, in applying the build-down, build-up, or net cost method for determining the regional value content of a good imported into the United States, the value of such packing materials and containers for shipment (whether originating or non-originating) is disregarded and not included in AV, adjusted value, VNM, value of non-originating materials, VOM, value of originating materials, or NC, net cost of a good.

Example. Australian Producer A produces good C. Producer A ships good C to the U.S. in a shipping container which it purchased from Company B in Australia. The shipping container is originating. The value of the shipping container determined under section §10.735(a)(2) of this subpart is \$3. Good C is subject to a regional value content requirement. The transaction value of good C is \$100, which includes the \$3 shipping container. The United States importer decides to use the build-up method, $RVC = (VOM/AV) \times 100$ (see §10.734(c) of this subpart), in determining whether good C satisfies the regional value content requirement. In determining the AV, adjusted value, of good C imported into the U.S., paragraph (b) of this section and the definition of AV require a \$3 deduction for the value of the shipping container. Therefore, the AV is \$97 (\$100 – \$3). In addition, the value of the shipping container is disregarded and not included in the VOM, value of originating materials.

↑ [Back to Top](#)

§10.740 Indirect materials.

An indirect material, as defined in §10.729(h) of this subpart, will be considered to be an originating material without regard to where it is produced, and its value will be the cost registered in the accounting records of the producer of the good.

Example. Australian Producer C produces good C using non-originating material A. Producer C imports non-originating rubber gloves for use by workers in the production of good C. Good C is subject to a tariff shift requirement. As provided in §10.730(b)(1) of this subpart and General Note 28(n), each of the non-originating materials in good C must undergo the specified change in tariff classification in order for good C to be considered originating. Although non-originating material A must undergo the applicable tariff shift in order for good C to be considered originating, the rubber gloves do not because they are indirect materials and are considered originating without regard to where they are produced.

[↑ Back to Top](#)

§10.741 Third country transportation.

(a) *General.* A good that has undergone production necessary to qualify as an originating good under §10.730 of this subpart will not be considered an originating good if, subsequent to that production, the good undergoes further production or any other operation outside the territories of the Parties, other than unloading, reloading, or any other operation necessary to preserve the good in good condition or to transport the good to the territory of a Party.

(b) *Documentary evidence.* An importer making a claim that a good is originating may be required to demonstrate, to CBP's satisfaction, that no further production or subsequent operation, other than permitted under paragraph (a) of this section, occurred outside the territories of the Parties. An importer may demonstrate compliance with this section by submitting documentary evidence. Such evidence may include, but is not limited to, bills of lading, airway bills, packing lists, commercial invoices, receiving and inventory records, and customs entry and exit documents.

[↑ Back to Top](#)

Origin Verifications and Determinations

[↑ Back to Top](#)

§10.742 Verification and justification of claim for preferential treatment.

(a) *Verification.* A claim for preferential tariff treatment made under §10.723(a) of this subpart, including any statements or other information submitted to CBP in support of the claim, will be subject to such verification as the port director deems necessary. In the event that the port director is provided with insufficient information to verify or substantiate the claim, the port director may deny the claim for preferential treatment. A verification of a claim for preferential treatment may be conducted by means of one or more of the following:

(1) Requests for information from the importer;

- (2) Written requests for information to the exporter or producer;
 - (3) Requests for the importer to arrange for the exporter or producer to provide information directly to CBP;
 - (4) Visits to the premises of the exporter or producer in Australia, in accordance with procedures that the Parties adopt pertaining to the verification; and
 - (5) Such other procedures as the Parties may agree.
- (b) *Applicable accounting principles.* When conducting a verification of origin to which Generally Accepted Accounting Principles may be relevant, CBP will apply and accept the Generally Accepted Accounting Principles applicable in the country of production.

[↑ Back to Top](#)

§10.743 Special rule for verifications in Australia of U.S. imports of textile and apparel goods.

(a) *Procedures to determine whether a claim of origin is accurate.* For the purpose of determining that a claim of origin for a textile or apparel good is accurate, CBP may request that the government of Australia conduct a verification, regardless of whether a claim is made for preferential tariff treatment. While a verification under this paragraph is being conducted, CBP, if directed by the President, may take appropriate action which may include suspending the application of preferential tariff treatment to the textile or apparel good for which a claim of origin has been made. If an exporter, producer, or other person refuses to consent to a visit as provided for in this paragraph, or if CBP is unable to make the determination described in this paragraph within 12 months after a request for a verification, or CBP makes a negative determination, CBP, if directed by the President, may take appropriate action which may include denying the application of preferential tariff treatment to the textile or apparel good subject to the verification, and to similar goods exported or produced by the entity that exported or produced the good.

(b) *Procedures to determine compliance with applicable customs laws and regulations of the U.S.* For purposes of enabling CBP to determine that an exporter or producer is complying with applicable customs laws, regulations, and procedures in cases in which CBP has a reasonable suspicion that an Australian exporter or producer is engaging in unlawful activity relating to trade in textile and apparel goods, CBP may request that the government of Australia conduct a verification, regardless of whether a claim is made for preferential tariff treatment. A “reasonable suspicion” for the purpose of this paragraph will be based on relevant factual information, including information of the type set forth in Article 6.5 of the AFTA, which indicates circumvention of applicable laws, regulations or procedures regarding trade in textile and apparel goods. While a verification under this paragraph is being conducted, CBP, if directed by the President, may take appropriate action which may include suspending the application of preferential tariff treatment to the textile and apparel goods exported or produced by the

Australian entity where the reasonable suspicion of unlawful activity relates to those goods. If an exporter, producer, or other person refuses to consent to a visit as provided for in this paragraph, or if CBP is unable to make the determination described in this paragraph within 12 months after a request for a verification, or makes a negative determination, CBP, if directed by the President, may take appropriate action which may include denying the application of preferential tariff treatment to any textile or apparel goods exported or produced by the entity subject to the verification.

(c) *Assistance by U.S. officials to Australian authorities.* U.S. officials may undertake or assist in a verification under this section by conducting visits in Australia, along with the competent authorities of Australia, to the premises of an exporter, producer or any other enterprise involved in the movement of textile or apparel goods from Australia to the United States.

(d) *Treatment of documents and information provided to CBP.* Any production, trade and transit documents and other information necessary to conduct a verification under this section, provided to CBP by the government of Australia consistent with the laws, regulations, and procedures of Australia, will be treated as confidential in accordance with Article 22.4 of the AFTA (Disclosure of Information).

(e) *Continuation of appropriate action.* CBP may continue to take appropriate action under paragraph (a) or (b) of this section until it receives information sufficient to enable it to make the determination described in paragraphs (a) and (b) of this section.

[↑ Back to Top](#)

§10.744 Issuance of negative origin determinations.

If, as a result of an origin verification initiated under this subpart, CBP determines that a claim for preferential tariff treatment made under §10.723(a) of this subpart should be denied, it will issue a determination in writing or via an authorized electronic data interchange system to the importer that sets forth the following:

(a) A description of the good that was the subject of the verification together with the identifying numbers and dates of the import documents pertaining to the good;

(b) A statement setting forth the findings of fact made in connection with the verification and upon which the determination is based; and

(c) With specific reference to the rules applicable to originating goods as set forth in General Note 28, HTSUS, and in §§10.729 through 10.741 of this subpart, the legal basis for the determination.

[↑ Back to Top](#)

Penalties

[↑ Back to Top](#)

§10.745 General.

Except as otherwise provided in this subpart, all criminal, civil or administrative penalties which may be imposed on U.S. importers for violations of the customs and related laws and regulations will also apply to U.S. importers for violations of the laws and regulations relating to the AFTA.

[↑ Back to Top](#)

§10.746 Corrected claim or supporting statement.

An importer who makes a corrected claim under §10.723(b) of this subpart will not be subject to civil or administrative penalties under 19 U.S.C. 1592 for having made an incorrect claim or having submitted an incorrect supporting statement, provided that the corrected claim or supporting statement is promptly and voluntarily made pursuant to the terms set forth in §10.747 of this subpart.

[↑ Back to Top](#)

§10.747 Framework for correcting claims or supporting statements.

(a) “*Promptly and voluntarily*” defined. Except as provided for in paragraph (b) of this section, for purposes of this subpart, the making of a corrected claim or supporting statement will be deemed to have been done promptly and voluntarily if:

(1)(i) Done within one year following the date on which the importer made the incorrect claim; or

(ii) Done later than one year following the date on which the importer made the incorrect claim, provided the corrected claim is made:

(A) Before the commencement of a formal investigation, within the meaning of §162.74(g) of this chapter; or

(B) Before any of the events specified in §162.74(i) of this chapter have occurred; or

(C) Within 30 days after the importer initially becomes aware that the incorrect claim is not valid; and

(2) Accompanied by a statement setting forth the information specified in paragraph (c) of this section; and

(3) Accompanied or followed by a tender of any actual loss of duties and merchandise processing fees, if applicable, in accordance with paragraph (d) of this section.

(b) *Exception in cases involving fraud or subsequent incorrect claims—(1) Fraud.*

Notwithstanding paragraph (a) of this section, an importer who acted fraudulently in making an incorrect claim may not make a voluntary correction of that claim. For purposes of this paragraph, the term “fraud” will have the meaning set forth in paragraph (C)(3) of Appendix B to Part 171 of this chapter.

(2) *Subsequent incorrect claims.* An importer who makes one or more incorrect claims after becoming aware that a claim involving the same merchandise and circumstances is invalid may not make a voluntary correction of the subsequent claims pursuant to paragraph (a) of this section.

(c) *Statement.* For purposes of this subpart, each corrected claim must be accompanied by a statement, submitted in writing or via an authorized electronic data interchange system, which:

(1) Identifies the class or kind of good to which the incorrect claim relates;

(2) Identifies each affected import transaction, including each port of importation and the approximate date of each importation;

(3) Specifies the nature of the incorrect statements or omissions regarding the claim; and

(4) Sets forth, to the best of the person's knowledge, the true and accurate information or data which should have been covered by or provided in the claim, and states that the person will provide any additional information or data which is unknown at the time of making the corrected claim within 30 days or within any extension of that 30-day period as CBP may permit in order for the person to obtain the information or data.

(d) *Tender of actual loss of duties.* A U.S. importer who makes a corrected claim must tender any actual loss of duties at the time of making the corrected claim, or within one (1) year thereafter, or within any extension of that 1-year period as CBP may allow in order for the importer to obtain the information or data necessary to calculate the duties owed.

[↑ Back to Top](#)

Goods Returned After Repair or Alteration

[↑ Back to Top](#)

§10.748 Goods re-entered after repair or alteration in Australia.

(a) *General.* This section sets forth the rules which apply for purposes of obtaining duty-free treatment on goods returned after repair or alteration in Australia as provided for in subheadings 9802.00.40 and 9802.00.50, HTSUS. Goods returned after having been repaired or altered in Australia, whether or not pursuant to a warranty, are eligible for duty-free treatment, provided that the requirements of this section are met. For purposes of this section, “repairs or alterations” means restoration, addition, renovation, re-dyeing, cleaning, re-sterilizing, or other treatment which does not destroy the essential characteristics of, or create a new or commercially different good from, the good exported from the United States. The term “repair or alteration” does not include an operation or process that transforms an unfinished good into a finished good.

(b) *Goods not eligible for duty-free treatment after repair or alteration.* The duty-free treatment referred to in paragraph (a) of this section will not apply to goods which, in their condition as exported from the United States to Australia, are incomplete for their intended use and for which the processing operation performed in Australia constitutes an operation that is performed as a matter of course in the preparation or manufacture of finished goods.

(c) *Documentation.* The provisions of §10.8(a) through (c) of this part, relating to the documentary requirements for goods entered under subheading 9802.00.40 or 9802.00.50, HTSUS, will apply in connection with the entry of goods which are returned from Australia after having been exported for repairs or alterations and which are claimed to be duty free.