

# FREE TRADE AGREEMENTS

## The Basics

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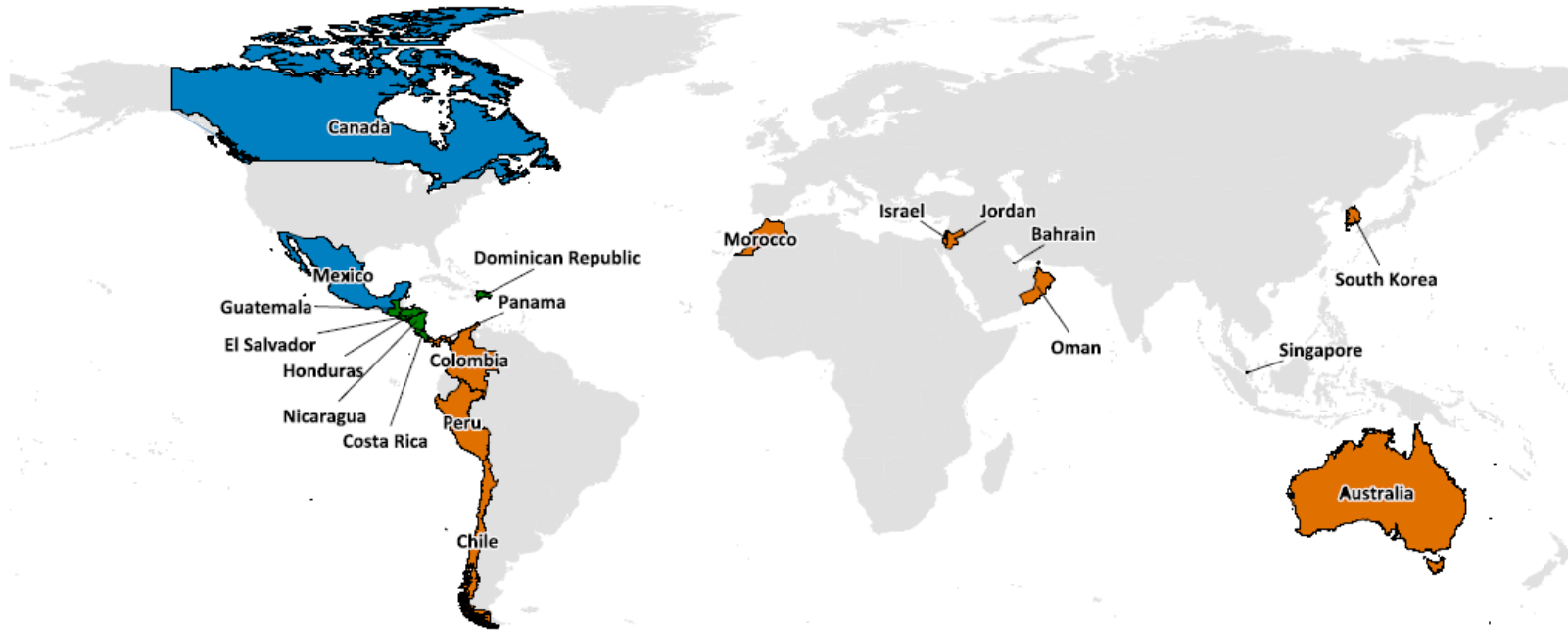
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# US Free Trade Agreements



## USMCA

- Canada
- Mexico

## CAFTA-DR

- Costa Rica
- Dominican Republic
- El Salvador
- Guatemala
- Honduras
- Nicaragua

## Other U.S. FTAs

- Australia
- Bahrain
- Chile
- Colombia
- Israel
- Jordan
- South Korea
- Morocco
- Oman
- Panama
- Peru
- Singapore

# How do you get the reduced tariff benefit of an FTA?

Make sure your product qualifies for the preference under the FTA rules.

Let your customer know you have done your homework and the product qualifies.



# What is qualifying?

Just because your product is shipped from, “made” or assembled in the U.S. does not automatically mean that it qualifies for FTA tariff reductions.

Rules vary in the FTAs but must prove “value added” content or work from within the FTA territory.



# Why must goods be “qualified”?

Ensure that the benefits of the FTA are enjoyed by U.S. and partner country companies.

Prevent third country producers from passing their goods through the U.S. or FTA partner countries to obtain duty-free benefits.



# Why does this matter?

Burden of proof is on the exporter of record and claimed by the importer

Understand what you are declaring

- **You can be audited!**



Can I still send my product if it  
doesn't qualify for the FTA?

Yes, but your customer  
cannot claim reduced FTA  
tariffs



# What is needed to establish proof of origin?

- **Rules of Origin** - based on the FTA or HS number of your exported good
- **Harmonized System Numbers** - for your finished products and for your imported materials
  - FTAs requiring tariff shift or RVC
- **Bill of Materials** - what do you buy to make your product? Where does it come from? What is the customs valuation of the product? Value of the materials? Information from your supply chain.
- **PATIENCE** - with yourself and your suppliers
- **TIME** - to gather and organize your data





# Assumptions

You have the correct HS classifications for your products



# HS Structure

## 8413.60.0030

- *Chapter* 84
- *Heading* 8413
- *Subheading* 8413.60
- *Tariff Item* 8413.60.00
- *Statistical Level* 8413.60.0030

# Origin vs. Originating

## Country of Origin

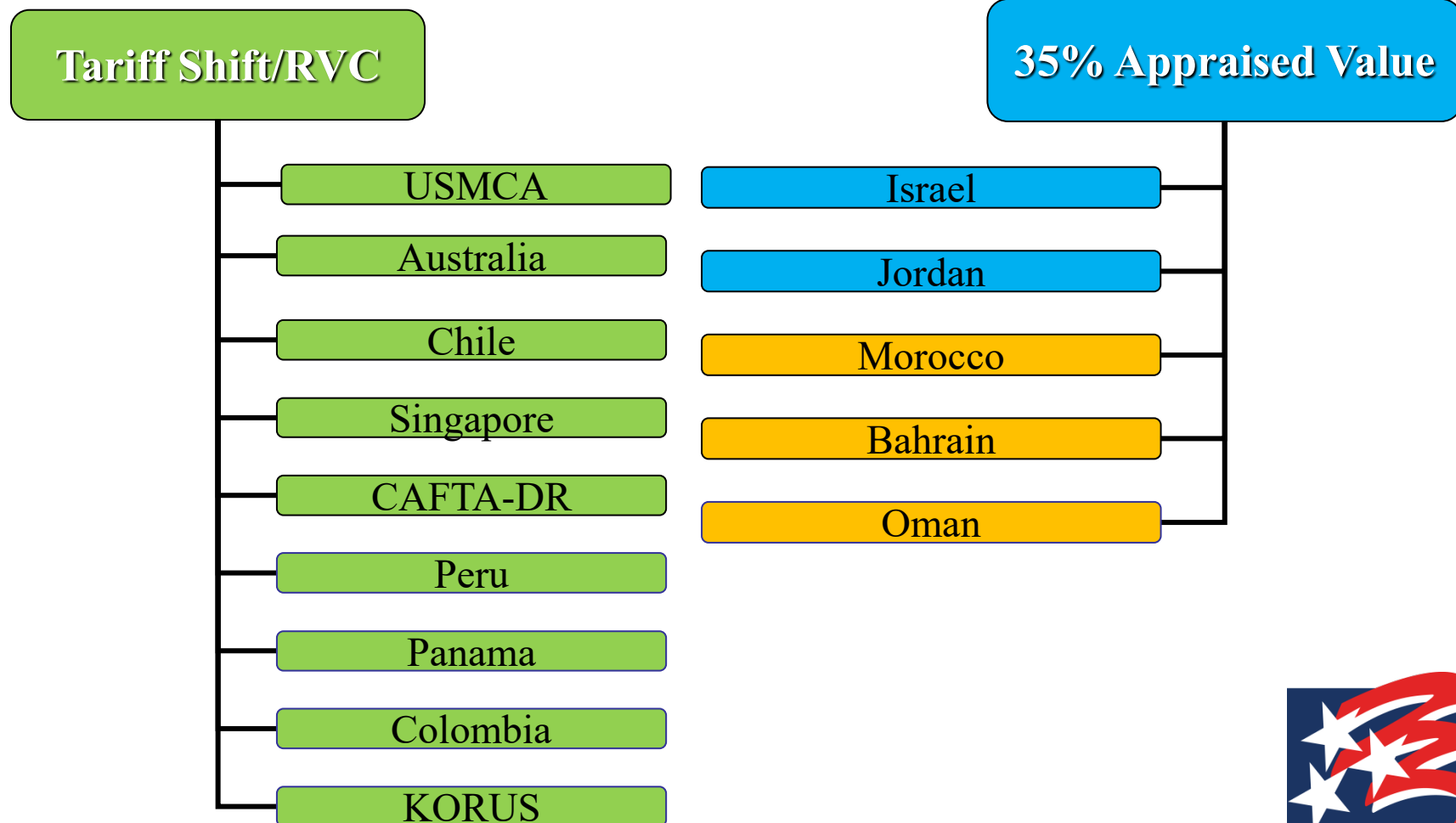
- Where the product was made, produced, manufactured, or assembled
- In general, the country where an article becomes what it is

# Origin vs. Originating

## Originating

- You must prove value-added production as per the FTA
- Just because your product is made or assembled in the U.S. does NOT automatically mean that it qualifies for FTA tariff reductions

# Rules of Origin



# Where to find rules of origin

Three options for finding ROOs:

1. [U.S. International Trade Commission](#) website is part of the Harmonized Tariff Schedule of the United States. Open the most recent year's document "By Chapter." ROOs are in "General Notes; General Rules of Interpretation; General Statistical Notes." The ROOs for all FTAs are in one large document. The FTA is indicated at the top of the page under the page number. The ITC lists most up-to date rules (taking into account revisions to HS codes).
2. [United States Trade Representative](#) (USTR) website - has the original ROOs in an annex or in the chapter titled "Rules of Origin" of an FTA. You may need to consult the most recent rules (in the General Notes included in the U.S. Harmonized Tariff Schedule) as opposed to the original ones since HS codes are sometimes revised every few years, necessitating the need to adjust the rules.

# Where to find rules of origin

- Third Option: The [Rules of Origin Facilitator](#) provides user-friendly access to the International Trade Centre (ITC's) database of rules of origin and origin provisions in trade agreements. The ITC's Market Access Map currently contains data for more than 270 trade agreements applied by more than 190 countries as well as non-preferential regimes of the U.S., EU, and Switzerland.



# Rules of Origin

- Wholly of
- Goods Purchased from Originating Materials
- 35% Appraised Value with substantial transformation
- Tariff Shift
- Tariff Shift and Regional Value Content





# Example of a rule



Sapphire Ring: HS# 7116.20

From the KORUS FTA:

71.16

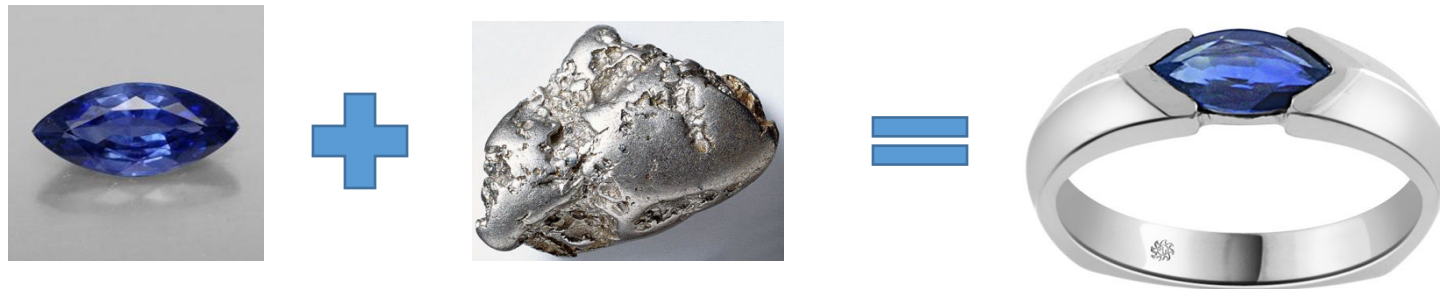
*A change to heading 71.13 through 71.18 from any heading outside that group.*

- Remember: Heading = HS # first 4 digits

# What does this rule mean?

## Tariff Shift

- The materials must undergo a significant shift in classification as compared to the classification of the finished good
- GOOD = Precious stone jewelry: HS# 7116.20
- MATERIALS=
  1. Sapphires (cut, unset) - from Australia HS# 7103.91
  2. Platinum (semi-manufactured) - from Canada, HS# 7110.1



Does it matter that we have FTAs with Australia and Canada?

# GOOD = Sapphire Ring: HS# 7116.20

*A change to heading 71.13 through 71.18 from  
any heading outside that group*



- MATERIALS
  - Sapphires (cut, unset) - from Australia HS# 7103.91
  - Platinum (semi manufactured) - from Canada, HS# 7110.11
- Good heading = 7116
- Material headings = 7103, 7110
- 7103 does NOT fall within (7113 through 7118)
- 7110 does NOT fall within (7113 through 7118)

*This ring qualifies under the KORUS rules of origin!*





# Example of a Rule

8509.10 – 8509.80

- (A) A change to subheading 8509.10 through 8509.80 from any other heading; or
- (B) A change to subheading 8509.10 through 8509.80 from any other subheading, whether or not there is also a change from any other heading, provided that there is a regional value content of not less than:
- (a) 35 percent under the build-up method, or
  - (b) 45 percent under the build-down method.

- This is the rule for an electric blender: HS# 8509.40  
(US-Peru FTA)

# What does this rule mean?



- (A) - tariff shift - like the ring example
  - You take widgets classified under one subheading
  - Final product is something new, classified under a different subheading
- (B) - regional value content
  - A required percentage of the good is originating
  - You will have to do some math!

# What is regional value content (RVC)?

- To benefit from an FTA, your product must have content (materials, labor, etc.), i.e. *added value*, from within the countries of the FTA)
- This value might derive from the cost of FTA region-sourced materials or, with skilled labor input in several forms.
- Encourages companies to source with other suppliers in the US or the FTA country.



# Regional Value Content Information needed:

- Bill of materials with unit costs
- Selling price of the product
- PATIENCE! It may not be easy to track down all these costs through your supply chain.



# Super Smoothie Blender



## Costed Bill of Materials

LXT 3500 household Blender HS#8509.40

Selling Price = US\$39

<u>Components</u>	<u>HS#</u>	<u>Origin</u>	<u>Cost</u>
1) Motor	8509.25	Albania	\$5.10
2) Plastic base	Ch 39	US	\$1.95
3) Glass jar	7010.9	US	\$3.12
4) Blade	820830	unknown	\$1.97
5) Rubber gasket	4016	Mexico	\$0.65
6) Power cord	8544	Vietnam	\$3.44
7) Switches	8536.5	US	\$4.04
8) nuts, bolts & screws	Ch 73	unknown	\$1.93

*Total* \$22.20

*Total Non-Originating* \$13.09



# Regional Value Content Formulas

## Build-up Method

$$RVC = \frac{VOM}{AV} \times 100$$

RVC = Regional Value Content

AV = Adjusted Value  
(selling/transaction value)

VOM = value of originating materials used in production of the good

## Build-down Method

$$RVC = \frac{AV - VNM}{AV} \times 100$$

RVC = Regional Value content

AV = Adjusted Value  
(selling/transaction value)

VNM = Value of non-originating materials used in the production of the good

*Same as  
USMCA  
Transaction  
Value  
Method*

# Value of non-originating materials

- VNM = Value of Non-Originating Materials
- All materials on BOM whose qualifications are:  
**UNKNOWN OR DO NOT QUALIFY**

# Claiming FTA preference

## You assume responsibility for data

- All of the goods originate in a FTA country or all of the goods meet the specified rule(s) of origin
- Signer agrees to maintain & present upon request supporting documentation for all claims
- Know transshipment provisions



# Burden of Proof

To claim preferential duty treatment under a FTA

- Importer must have proof that the good qualifies
- Exporter provides proof to Importer
- Customs of importing country has right to verify information on exporter documents
- Required to keep records for 5 years

# Documentation/Certificates of Origin

Most FTAs use some form that is not actually required by the FTA

Many FTA partners accept declarative statements that contain specific data elements that include how the product qualifies as originating under the FTA

These data elements are usually found in its rules of origin (ROO) chapter.

*Remember – these are self certifying documents. They are not signed by a Chamber of Commerce like a generic Certificate of Origin.*

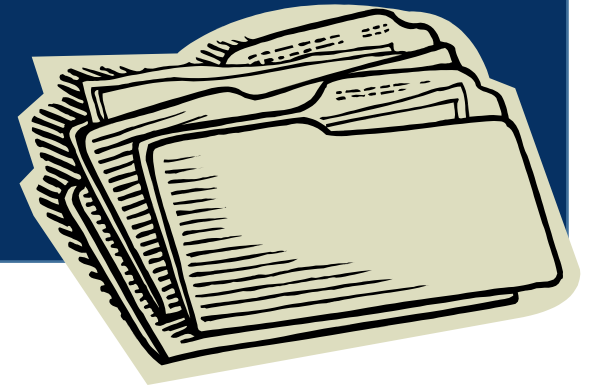
# Minimum Data Elements Certification

1. Importer, Exporter, or Producer Certification of Origin – which role is the provider of this information?
2. Who is the Certifier (specific person) providing this form?
3. Who is the Exporter?
4. Who is the Producer of the goods?
5. Who will be the Importer of the goods?
6. HS Tariff Classification
7. Origin Criteria – how does this good qualify for the FTA?
8. Blanket period? Can cover the same goods up to 12 months
9. Authorized Signature & Date

*This is from USMCA but most FTAs require very similar information. Check the Origin chapter.*



# Recordkeeping



- 5 years
- Includes all the documentation that establishes the classification, origin and values for your materials
  - What is your process for verification? How do you get information from your suppliers? Keep this correspondence.
  - BOM analysis sheets
  - Contact names and information - internal and suppliers
  - Log sheet on when this is reviewed

# FTA Help Online

## **FTA Tariff Tool**

The FTA Tariff Tool is an online resource to help you determine the tariff, or tax at the border, that certain foreign countries will collect when your product crosses into their country. In trade agreements, countries commit to lowering tariff rates over time to zero.

The FTA Tariff Data Tool is a database with all the rates the United States' Free Trade Agreement (FTA) partners have committed to implementing and maintaining.

<https://www.export.gov/FTA-Tariff-Tool>

## **Free Trade Agreements Help Center**

Practical guidance on preferential tariff treatment for 20 countries with whom we have Free Trade Agreements. These resources can help you research and discover if your product or service would benefit from an FTA. Take advantage of FTAs today to increase your competitiveness in markets representing almost 40% of US exports.

<https://www.trade.gov/free-trade-agreements-help-center>





# Non-FTA Certificates of Origin

- Did your customer ask for a Certificate of Origin?
  - May be out of habit?
  - Depends on the country and product
- Double check with your Freight Forwarder
- Go back to Origin vs. Originating slide
- Check with your local Chamber of Commerce
- Online:
  - <https://www.esscert.com>
  - <https://www.ecertify.com/>



# Thank you



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