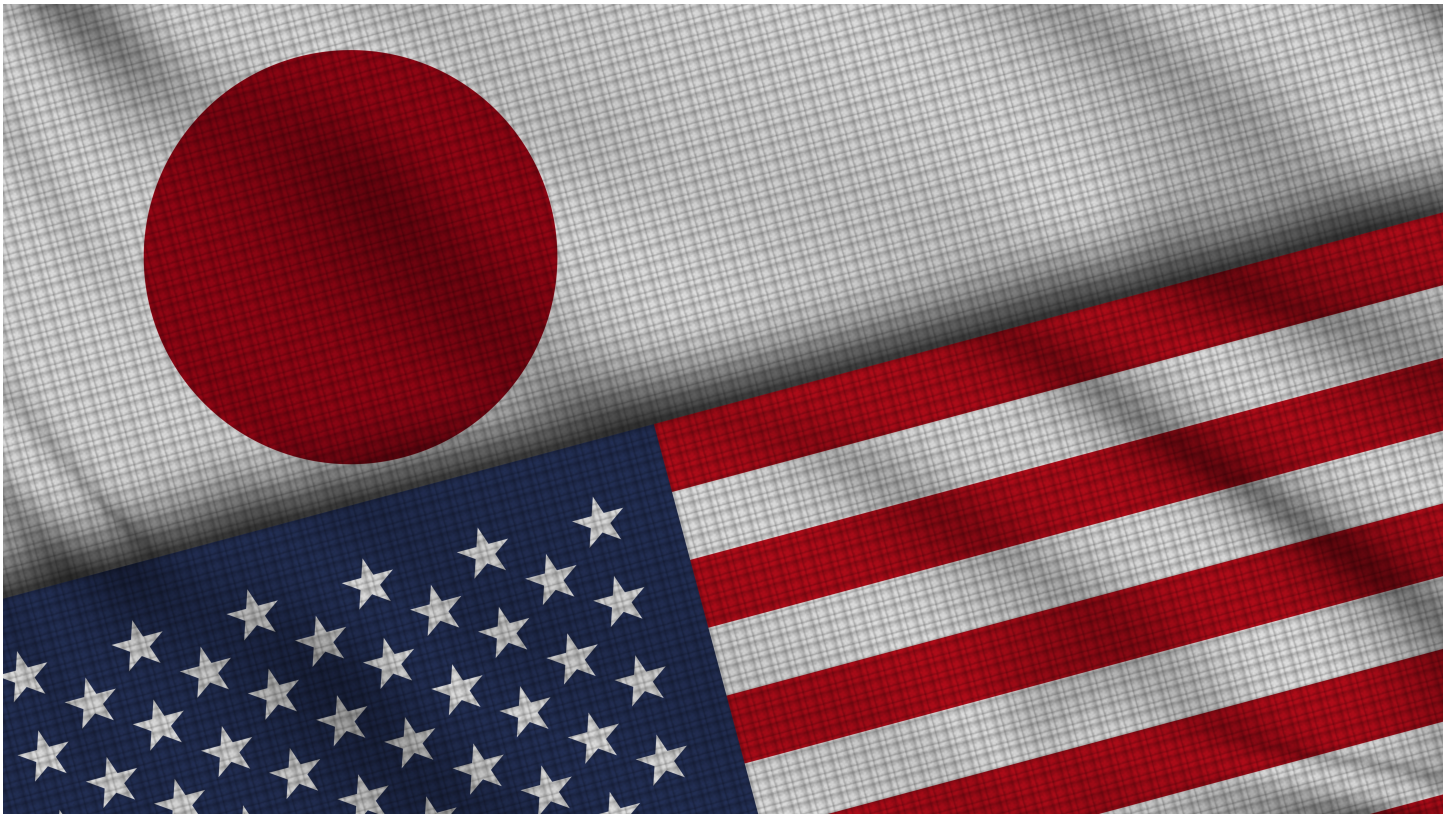

CORPORATE TRADE COMPLIANCE

A NAVIGATION TOOL TO ASSIST YOUR ORGANIZATION IN GAINING AND MAINTAINING COMPLIANCE

The Japan Trade Agreement

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WELCOME TO COMPLIANCE

Hello!

You hold a very important legal requirement: ensuring compliance within your organization. This task can feel daunting, convoluted, and messy. However, we feel as though a brief, simplified training can override any difficulties you may have previously encountered. While this training is not wholly determinative, we do our best to eliminate the guesswork. Following these steps can achieve multiple objectives for your organization. Firstly, it will help you avoid costly fees and legal traps. To illuminate the value of this alone, U.S. Customs is growing rapidly, and their revenue accumulation will total somewhere near $100 billion in the next decade. We do not want you to be part of that statistic. Secondly, properly complying via the Rules of Origin and HTS Codes can save you thousands of dollars each year. This process is no different than filing your taxes. No, it is not glamourous, but it is necessary. Plus, if you do it correctly, you may gain a nice return check in the mail. So, thank you so much for taking this step. At the end of the day, you are helping us, help you. And we surely want to help you in whatever way we can.

Warm Regards,

The Trade Compliance Team

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INTRODUCTION

The Why and How

Producer Responsibility

As was mentioned above, U.S. Customs accumulates additional revenue through fees and taxes, with total numbers nearing $100 billion. Therefore, noncompliance can have severe legal and monetary ramifications. In addition, the producer holds a heightened responsibility of ensuring compliance. The signed certificate that you supply to us may be submitted to U.S. Customs. In as such, any questions arising from your certification will be directed to your company under this potential scenario. Thus, as a producer, a heightened duty of care will fall upon you. It is for this reason that we are actively seeking to ensure that you do not incur any consequences brought about by noncompliance.

General Overview

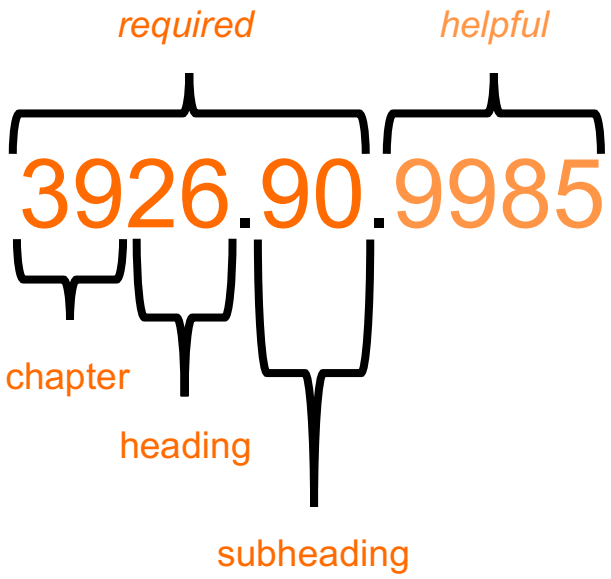
There are two major components to this trade agreement, and each will be explained further below. For now, however, it is important to understand that these pieces, while separate, must be taken together. Think of this as a dance between two partners. Both partners must be balanced and synchronized with one another. Furthermore, the performance is considered by taking both dancers into account, not just one individually. If one dancer moves forward, the other must follow. If this does not occur, and the partners do not move in unison, the dance fails.

In the same way, Rules of Origin and HTS Codes are interconnected. Each directly impacts the other. Again, we will further explain this interconnectivity below. However, for now just remember to not wholly separate the two pieces. Otherwise, the music will stop, and you will be left on the dance floor and stuck with the price of admission.

Classifying via HTS Codes

- HTS Classifications -

Classifying via HTS Code, like the rest of your governmental responsibilities, is an easy task. It only requires looking at your product and determining where it fits in the HTS. We have included the link here for your convenience. As you will notice, the HTS is broken up into chapters, headings, and subheadings. Each is an additional layer of detail.

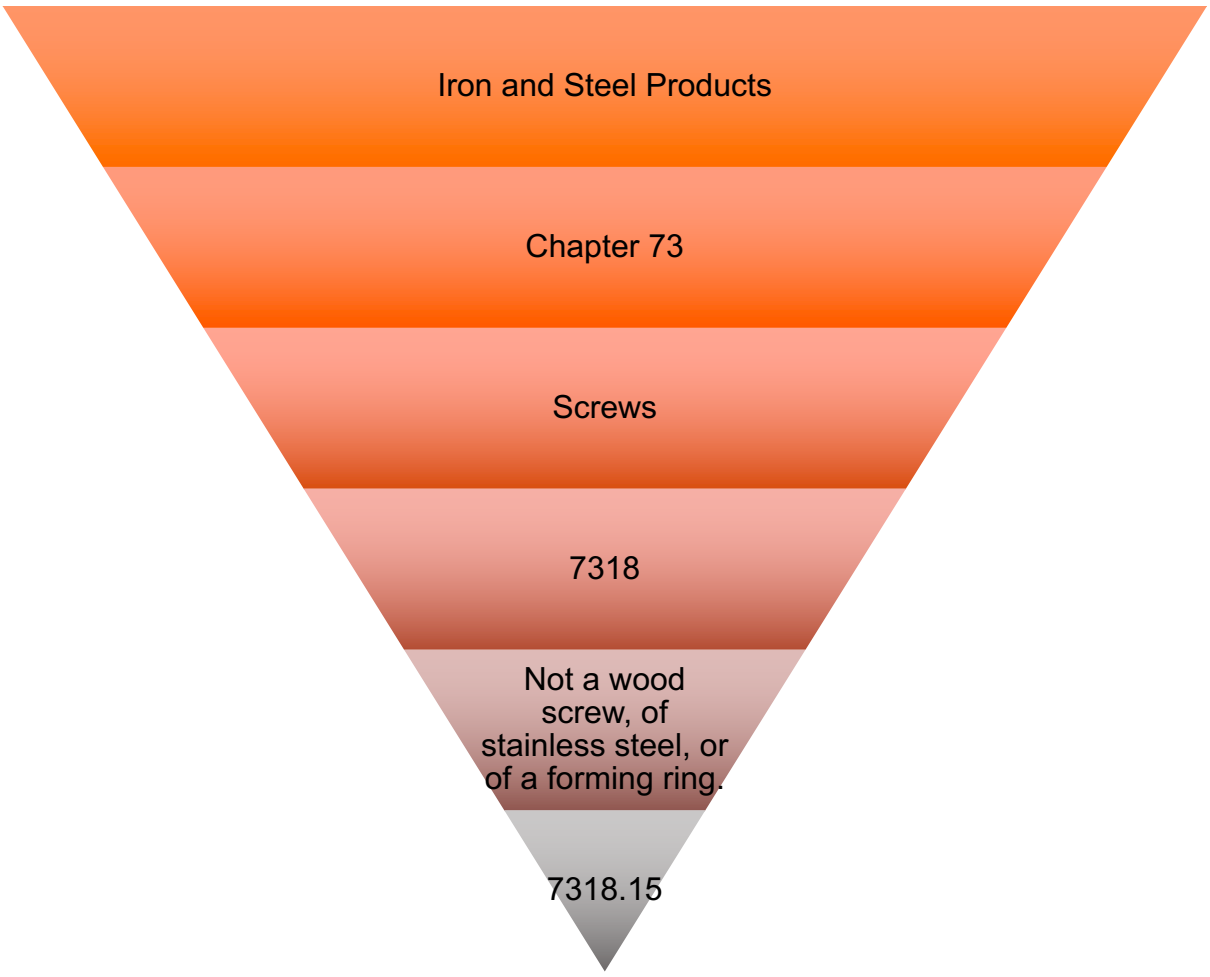


This is just reading left to right. In the above HTS Code, the chapter is chapter 39; the heading is 26; and the subheading is 90. Chapter 39 deals with plastics; heading 26, taken as the whole 3926, handles other articles of plastic; and subheading 90, taken as the whole 3296.90, relates to further "other articles of plastic." These layers are adding details, and these details are already found in your finished good. On that note, you will notice that the final point of detail in this scenario is "other" articles of plastic. You will see this often in the HTS Codes. Sometimes the level of most detail is an "other". This is because "other" is often used as a catchall phrase for the HTS. This does not mean that you should automatically fall into that category, but it is something worth noting.

Also, we remarked above that a portion of the HTS Code is required, and another is helpful. U.S. Customs will require that you write those first six digits, thus the "required" qualification. However, the additional details can be exceptionally helpful for two reasons. First, as we mentioned, each two digits adds another layer of detail. Therefore, when going to that level of depth in classifying, you ensure that you are correctly categorizing the finished good. Secondly, this added level of detail signals to U.S. Customs that you have taken a greater level of care in classifying your good. So, while we hope that U.S. Customs never calls you seeking clarification, it is extremely helpful to know your product to that length. In other words, it allows you to "show your work" to the U.S. Customs agent.

- HTS Classifications -

Now, let's show you another example. Again, this is just a process of scrolling down the code lists until you find your product. The following example truly illustrates the simplicity of this task. Let's say you have a steel screw with certain other characteristics. First, you look at the chapter in the HTS that covers iron and steel products. You will find that the only Chapter dealing with this subject matter is Chapter 73. Second, you will find the heading that talks about screws; this is 7318. Third, you continue scrolling down and see that your screw is not a wood screw, nor is it made of stainless steel or forming a ring. This brings you to 7318.15, which covers screws not mentioned elsewhere in the section.



This concludes your work on HTS Classifications, thus meaning you can put your HTS number directly into the sheet! Congratulations on finishing this first step!

Rules of Origin

- Rules of Origin -

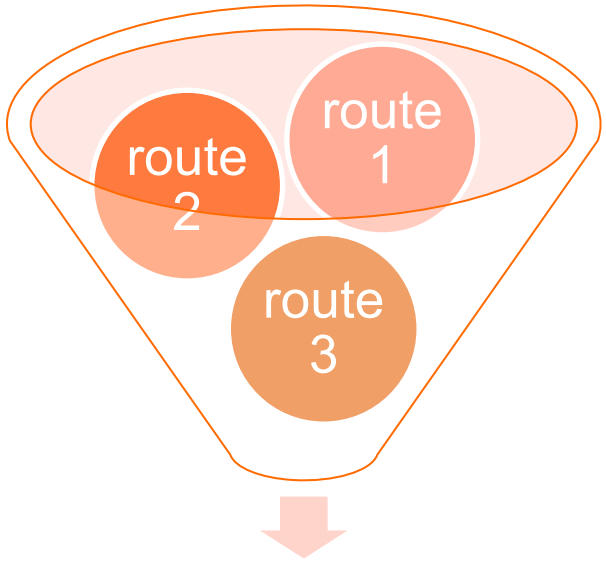
The second component of the Japan Trade Agreement is centered upon the Rules of Origin. In its simplest form, this asks “where are the goods are produced?” At the base, the final goods can be produced from either Japan or the United States. As a preliminary matter, there are only three specific paths you can take within origination. Each path is exclusive, meaning you cannot combine methods. We will go into a bit more detail below, but for now we want to give you the quick basics.

- **Route 1:** The final good was wholly obtained or produced entirely in either Japan or the United States.

- **Route 2:** The final good was produced entirely in either Japan or the United States by using only originating materials, meaning goods produced in those nations.

- **Route 3:** The final good was produced entirely in either Japan or the United States, using non-originating materials, so long as those materials satisfy the applicable change in tariff requirement.

At this juncture, do not be concerned about knowing the exact language in each route. Again, we will elaborate upon those concepts later. For now, your takeaway should be that each route is distinct and separate. ***To reiterate, you may only use one route at a time for each individual product.*** However, we will ignore Route 1 in this training, as it will never pertain to parts you create for us.

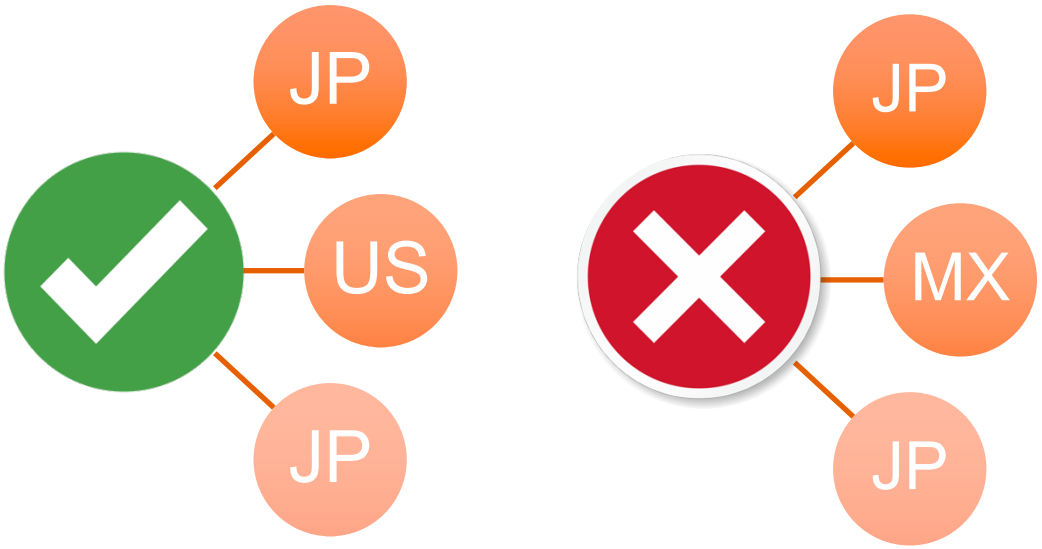


only use one at a time

Route 2

The final good was produced entirely in either Japan or the United States by using only originating materials, meaning goods produced in those nations.

Route 2 insists upon the final good being comprised of originating materials. In other words, the product must be made only from materials originating from Japan or the United States. For example, take a plastic clip with a rubber sealer. The final good is the plastic clip. However, it is comprised of resins and rubber particles that turn the clip into its final good. If those resins and rubbers are made from Japanese or American products, then the good classifies. Of course, certain products can comprise numerous components. Nevertheless, the same rule applies.



In the leftward graphic, all of the materials comprising the final good originate from either Japan or the United States. This is the type of finished good that qualifies under this agreement. On the other hand, the rightward graphic is not permitted. Therein, one country not a party to this agreement, such as Mexico, excludes you from using this Route. In this type of scenario, you should pivot to Route 3 and test qualification under that method. However, as for this Route, you must stick within the designated parameters.

- Rules of Origin -

De Minimis

There is a slight, singular exception to Route 2, and that is regarding something we call “de minimis.” Throwing the Latin aside, this phrase indicates that a final good may still qualify under Route 2 even if it contains some non-originating materials. Specifically, if less than 10 percent of the final good is comprised of non-originating materials, then you can still find eligibility under this Route.

In order to calculate this, you must look at the cost of each individual component that encompasses your final good. This includes resins, plastics, rubber seals, and any other portion or particle on your bill of materials. However, what will not be included is your packaging and tool kits. In fact, we will expound on what should not be included in one of the sections below. Nevertheless, after calculating the proper components and materials, look to see how each contributes to the final value of the good. If all the non-originating material is less than 10 percent, then you may claim eligibility under Route 2.

Custom’s Control

An additional requirement provided by this agreement relates to what is known as “Custom’s control.” In order to qualify for the Japan Trade Agreement, your product, once shipped, cannot leave the control of U.S. Customs and Border Patrol. Like the rest of this trade agreement and its stated standards, monitoring Custom’s control is a simple process. In essence, you must examine the shipping information for the product. If the good is docked and unloaded in a country not privy to this agreement (e.g. any country other than Japan or the United States) then Custom’s control is not maintained, thus losing eligibility. However, if the product is shipped to another nation, and U.S. Customs maintains control over the parcel, such as when it is still occupying a spot on the dock, then eligibility remains intact. This applies even when the part is passing through another nation. For example, if a package leaves Japan, and is then shipped first to Canada, and then to the United States, it will still hold eligibility as long as it never left the immediate control of Customs. A good way to think of this is by considering an Amazon package. Until the package reaches your doorstep, Amazon holds complete and utter control over the shipment and the contents therein. Thus, even if that package went to Honduras, Mexico, then to your doorstep, Amazon held control until that final stop at your home. U.S. Customs operates no differently. Also, please note that Custom’s control is another part of the process, and it is not determinative on its own. In other words, you must still comply with all applicable rules of origin and HTS requirements to preserve eligibility.

- Rules of Origin -

Route 3

The final good was produced entirely in either Japan or the United States, using non-originating materials, so long as those materials satisfy the applicable change in tariff requirement.

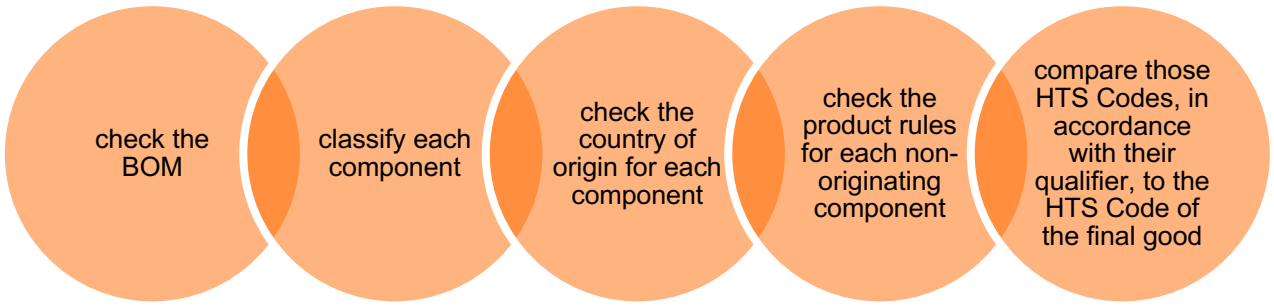
Unlike Route 2, this Route is providing a slight work-around for your non-originating materials. In other words, when you have some materials from nations outside of Japan or the United States, you may still claim eligibility under the agreement if certain conditions are satisfied.

Change in Tariff

Under this route, you may only qualify if there is a change in tariff. A change in tariff is a rather simple idea. It basically involves a matching game. Each product you hold has a bill of material (BOM). That BOM has components that each must be classified via the HTS Codes we mentioned above. Once you classify the components in your BOM, you then check the country of origin for those individual components. Again, if a material is made in Japan or the United States, then that component is fine. However, non-originating materials require this change in tariff. Therefore, you look at those materials from other nations and check their HTS Codes against the product specific rules contained in the Japan Trade Agreement. We have put these here for your convenience. These rules have different requirements. They are as follows:

- **CC:** the tariff shift occurs at the 2-digit level (Chapter Level).
- **CTH:** the tariff shift occurs at the 4-digit level (Heading Level).
- **CTSH:** the tariff shift occurs at the 6-digit level (Sub-Heading Level).

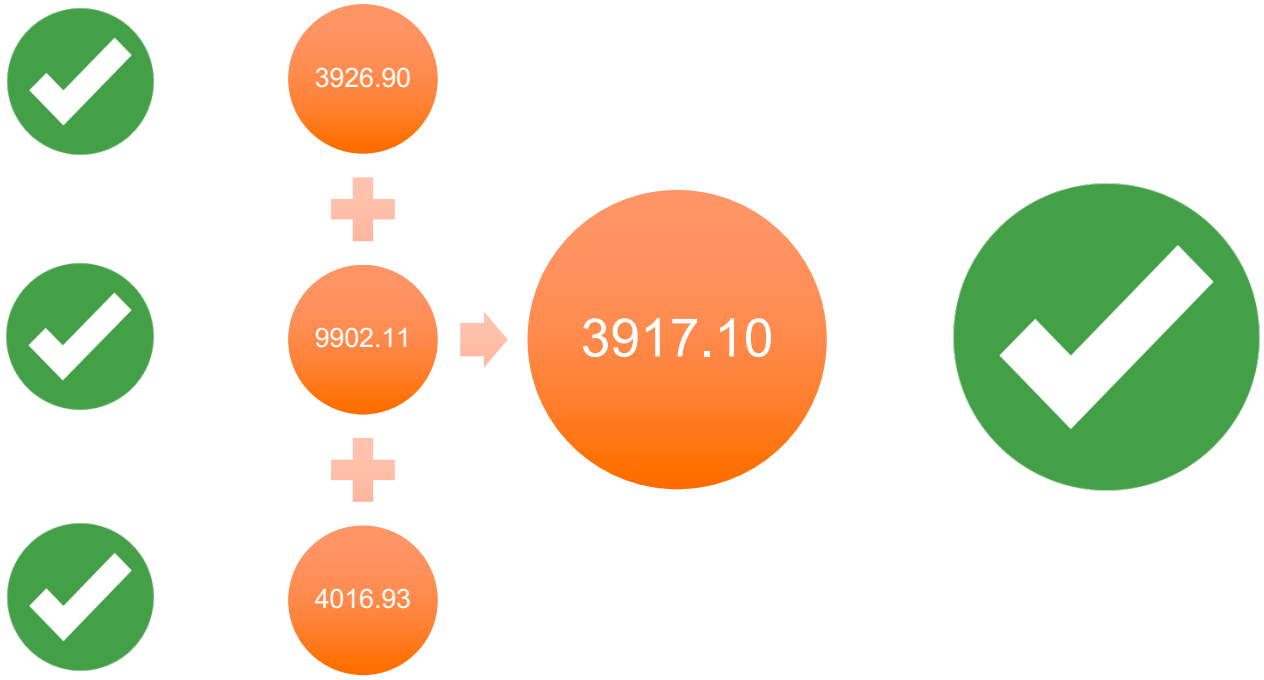
All this means is that your HTS Code for each component must satisfy the rule designated by one of those above qualifiers (CC, CTH, and CTSH). If your component's HTS Code has a CC next to its listing, then the final good must have a different chapter number relative to the component. Likewise, if the component's HTS Code has a CTH next to its name, then the final good must have a different heading number relative to the component. Once more, this is just a process of matching the numbers and checking for differences.



- Rules of Origin -

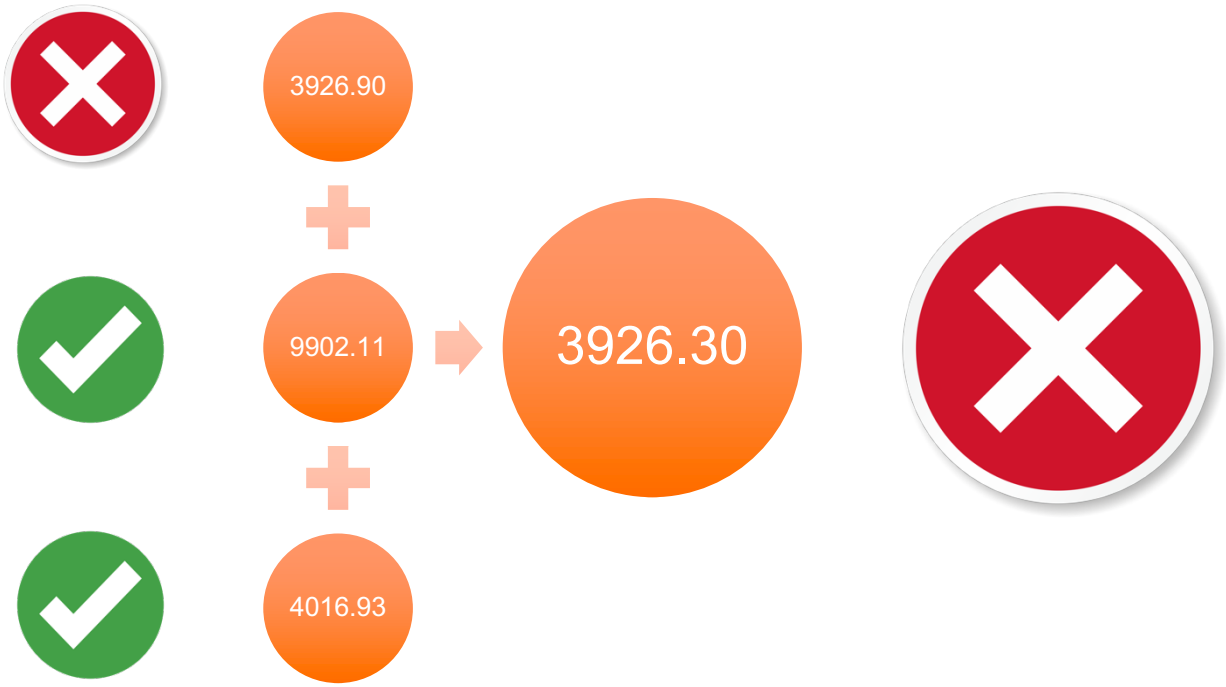
For the sake of clarity, we can relate this to our own products. Look at the figures below and the descriptions that follow.

No Designation (Same as CTSH Requirement): 6-Digit Change



In this figure, you have a plastic joint produced in Japan. Base plastic joints fall under HTS Code 3917.10. If you look at the trade agreement schedule, you will notice that this is not an HTS Code with a particular code distinction (i.e. CC, CTH, or CTSH). This means that you only have to classify to the 6-digit level. Furthermore, this clip is comprised of a resin from the United States, a plastic clip from Japan, and a rubber seal from Uruguay. Here, the tariff shift is met. This is because, as the figure below indicates, the three central components experience tariff shifts at the 6-digit level (the numbers past the decimal point).

CTH Designation: 4-Digit Change



Now, let's say that you have a plastic cover produced in the United Sates. That would fall under 3926.30. If you look at the schedule again, you will notice this time that this product has a CTH designation. Remember, this requires that the final good be different from each component to the 4-digit level. In this example, the plastic cover contains the same resin, plastic clip, and rubber seal. Unlike the example above, this would not be eligible under the trade agreement. This is because that the rule requires the first four numbers to change, and here the plastic cover and the plastic clip both have a designation of 3926.

- Rules of Origin -

The below material is applicable to each Route under the Rules of Origin.

What Not to Include

With any of these Routes, you do not want to include items such as tool kits or packaging materials in your de minimis or tariff shift calculation. If U.S. Customs does not look at those during their consideration of eligibility, you should not either. Below is the full list of items not to include in either Route 2 or Route 3 calculations and/or procedures.

- Packaging materials and containers in which a good is packaged for retail sale that are classified with the good;
- Packing materials and containers for shipment;
- Accessories, spare parts, tools, or instructional or other information materials that are customary for the good and that are classified and delivered with, but not invoiced separately from, the good; and
- An indirect material used in the production, testing, or inspection of a good but not physically incorporated into the good, or an indirect material used in the maintenance of buildings or the operation of equipment associated with the production of a good.