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## News

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### Canada Adopts NAFTA Disassembly Rule Relating to Remanufactured Goods

On March 20, 2008, Canada adopted a new rule relating to the NAFTA status of goods produced through disassembly. The text of the NAFTA Rules of Origin defines “production” under as including growing, mining, harvesting, fishing, trapping, hunting, manufacturing, processing, or assembling a good. Canada Border Services Agency Customs Notice 08-814 states that Canada will now consider the processes listed in the NAFTA definition of “production” to include disassembly, except in the case of components recovered from new goods (i.e. goods in the same condition as when manufactured). Canada goes on to define disassembly as when one or more articles are taken or separated from a good. This new rule will allow a good remanufactured in a NAFTA country to be considered to be an originating good when imported into Canada, so long as it satisfies the applicable rules of origin.

The United States has a similar rule which it adopted in 2005. Set forth in 19 C.F.R. §181.132, the U.S. rule states that disassembly is considered to be production for the purposes of NAFTA origin. Thus a component recovered from a good disassembled in the territory of a Party will be considered to be originating as the result of

disassembly, provided that the recovered component satisfies all applicable NAFTA rule of origin requirements. Like the Canadian rule, the U.S. also excepts goods remanufactured from components recovered from “new goods” from qualifying as “produced” in a NAFTA country based on disassembly. When it adopted the disassembly rule, the United States gave the promotion of recycling and remanufacturing in North America as one of its reasons.

Although Mexico has not yet adopted a similar disassembly rule, the adoption of the disassembly rule by both Canada and the U.S. recognizes the significant environmental and economic benefit to be conferred by encouraging remanufacturing. When the U.S. published its disassembly rule in 2005, it acknowledged that NAFTA parties adopting differing rules could be viewed as encouraging inconsistency, but implied that it valued the NAFTA environmental and economic objectives over those consistency concerns. The U.S. also stated that a trilateral approach remained under discussion in the NAFTA working group, so perhaps a consistent approach common to all three NAFTA parties will one day be achieved.

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