

CHAPTER 3 RULES OF ORIGIN

Section 1 Rules of Origin

ARTICLE 3. 1: DEFINITIONS

For the purposes of this Chapter:

“Customs value” means the value as determined in accordance with the Agreement on Implementation of Article VII of the General Agreement on Tariffs and Trade 1994 (Customs Valuation Agreement);

“Ex-works price” means the price paid for the product ex-works to the producer located in a Party in whose undertaking the last working or processing is carried out, provided that the price includes the value of all the materials used, wage and any other cost, and profit minus any internal taxes returned or repaid when the product obtained is exported;

“Fungible materials” means materials which are interchangeable for commercial purposes, whose properties are essentially identical, and between which it is impractical to differentiate by a mere visual examination;

“Generally accepted accounting principles” means the recognized accounting standards 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. Those standards may encompass broad guidelines of general applications as well as detailed standards, practices and procedures;

“Good” means product or material;

“Product” means a product being produced, even if it is intended for later use in another production operation;

“Materials” means ingredients, parts, components, subassemblies and/or goods that were physically incorporated into another product or were subject to a process in the production of another product;

“Production” means any methods of obtaining goods including, but not limited to, growing, raising, mining, harvesting, fishing, aquaculture, farming, trapping, hunting, capturing, gathering, collecting, breeding, extracting, manufacturing, processing or assembling a good;

“Originating materials” means materials which qualify as originating in accordance with the provisions of this Chapter;

“**Harmonized System**” means the International Convention on the Harmonised Commodity Description and Coding System of 1983 and subsequent amendments thereto.

ARTICLE 3.2: ORIGINATING GOODS

Except as otherwise provided in this Chapter, the following goods shall be considered as originating in a Party:

- (a) goods wholly obtained or produced in a Party as defined in Article 3.3 (Goods Wholly Obtained or Produced);
- (b) goods produced in a Party exclusively from originating materials; or
- (c) goods produced from non-originating materials in a Party, provided that the goods conform to a regional value content of no less than 40%, except for the goods listed in the Annex II-A (PSR) which must comply with the requirements specified therein.

ARTICLE 3.3: GOODS WHOLLY OBTAINED OR PRODUCED

For the purpose of subparagraph (a) of Article 3.2 (Originating Goods), the following goods shall be considered as wholly obtained in a Party:

- (a) live animals born and raised in a Party;
- (b) goods obtained from live animals referred to in subparagraph (a);
- (c) plant products grown, and harvested, picked or gathered in a Party;
- (d) goods obtained from hunting, trapping, fishing, aquaculture, gathering or capturing conducted in a Party;
- (e) minerals and other naturally occurring substances not included in subparagraphs (a) through (d) above, extracted or taken from its soil, waters, seabed or subsoil beneath the seabed;
- (f) goods extracted from the waters, seabed or subsoil beneath the seabed outside the territorial waters of a Party, provided that the Party has rights to exploit such waters, seabed or subsoil beneath the seabed in accordance with relevant international agreements to which that Party is a party;
- (g) goods of sea fishing and other marine products taken from the sea outside the territorial waters of a Party by a vessel registered in a Party and flying

the flag of that Party;

- (h) goods processed or made on board factory ships registered in a Party and flying the flag of that Party, exclusively from goods referred to in subparagraph (g) above;
- (i) scrap and waste derived from processing operations in a Party, fit only for the recovery of raw materials;
- (j) used goods collected in a Party which fit only for the recovery of raw materials; or
- (k) goods produced entirely in a Party exclusively from goods referred to in subparagraphs (a) to (j) above.

ARTICLE 3.4: REGIONAL VALUE CONTENT (RVC)

1. The Regional Value Content (RVC) shall be calculated as follows:

$$\text{RVC} = \frac{\text{Ex-works Price} - \text{VNM}}{\text{Ex-works Price}} \times 100\%$$

Where:

RVC is the regional value content, expressed as a percentage; and
VNM is the value of the non-originating materials.

2. VNM shall be determined on the basis of the customs value at the time of importation of the non-originating materials, including materials of undetermined origin. If such value is unknown and cannot be ascertained, the first ascertainable price paid or payable for the materials in a Party shall be applied.

3. If a product which has acquired originating status in accordance with paragraph 1 in a Party is further processed in that Party and used as material in the manufacture of another product, no account shall be taken of the non-originating components of that material in the determination of the originating status of the product.

ARTICLE 3.5: ACCUMULATION

Originating materials of a Party, used in the production of a good in the other Party, shall be considered to be originating in the latter Party.

ARTICLE 3.6: MINIMAL OPERATIONS OR PROCESSES

1. Notwithstanding Article 3.2 (c), a good shall not be considered as originating, if it has only undergone one or more of the following operations or processes:

- (a) preservation operations to ensure the goods remain in good condition during transport and storage;
- (b) simple assembly of parts of articles to constitute a complete article, or disassembly of products into parts;
- (c) packing, unpacking or repacking operations for purposes of sale or presentation;
- (d) slaughtering of animals.
- (e) washing, cleaning, removal of dust, oxide, oil, paint or other coverings;
- (f) ironing or pressing of textiles;
- (g) simple painting and polishing operations;
- (h) husking, partial or total bleaching, polishing, and glazing of cereals and rice;
- (i) operations to colour sugar or form sugar lumps;
- (j) peeling, stoning and shelling, of fruits, nuts and vegetables;
- (k) sharpening, simple grinding or simple cutting;
- (l) sifting, screening, sorting, classifying, grading, matching; (including the making-up of sets of articles), cutting, slitting, bending, coiling, or uncoiling;
- (m) simple placing in bottles, cans, flasks, bags, cases, boxes, fixing on cards or boards and other similar packaging operations;
- (n) affixing or printing marks, labels, logos or other like distinguishing signs on products or their packaging;
- (o) simple mixing of goods, whether or not of different kinds;
- (p) mere dilution with water or another substance that does not materially alter the characteristics of the goods; or
- (q) operations whose sole purpose is to ease port handling.

2. All operations in the production of a given good carried out in a Party shall be taken into account when determining whether the working or process undergone by that good is considered as minimal operations or processes referred to in paragraph 1.

ARTICLE 3.7: DE MINIMIS

A good that doesn't meet the change in tariff classification required in Annex II-A (PSR) is nonetheless originating, if the value of non-originating material that have been used in the production of the good and do not undergo the applicable change in tariff classification does not exceed 10% of the ex-works price of the given good. The value of the said non-originating material shall be determined pursuant to paragraph 2 of Article 3.4 (Regional Value Content).

ARTICLE 3.8: FUNGIBLE MATERIALS

Where originating and non-originating fungible materials are used in the production of a good, the following methods shall be adopted in determining whether the materials used are originating:

- (a) physical separation of the materials; or
- (b) an inventory management method recognized in the generally accepted accounting principles of the exporting Party, and should be used for at least one fiscal year.

ARTICLE 3.9: NEUTRAL ELEMENTS

1. In determining whether a good is an originating good, any neutral elements as defined in paragraph 2 shall be disregarded.

2. Neutral elements means a good used in the production, testing or inspection of another good but not physically incorporated into that good by themselves, including:

- (a) fuel, energy, catalysts and solvents;
- (b) equipment, devices and supplies used for testing or inspecting the goods;
- (c) gloves, glasses, footwear, clothing, safety equipment and supplies;
- (d) tools, dies and moulds;
- (e) spare parts and materials used in the maintenance of equipment and buildings;
- (f) lubricants, greases, compounding materials and other materials used in production or used to operate equipment and buildings; and
- (g) any other goods that are not incorporated into the good but whose use in the production of the good can reasonably be demonstrated to be a part of that production.

ARTICLE 3.10: PACKING, PACKAGES AND CONTAINERS

1. Containers and packing materials used for the transport of goods shall not be taken into account in determining the origin of the goods.
2. The origin of the packaging materials and containers in which goods are packaged for retail sale shall be disregarded in determining the origin of the goods, provided that the packaging materials and containers are classified with the goods.
3. Notwithstanding paragraph 2, where goods are subject to a regional value content requirement, the value of the packaging materials and containers used for retail sale shall be taken into account as originating materials or non-originating materials, as the case may be, in calculating the regional value content of the goods.

ARTICLE 3.11: ACCESSORIES, SPARE PARTS AND TOOLS

1. Accessories, spare parts, or tools presented and classified with the good shall be considered as part of the good, provided that:
 - (a) they are invoiced together with the good; and
 - (b) their quantities and values are commercially customary for the good.
2. Where a good is subject to change in tariff classification criterion set out in Annex II-A (PSR), accessories, spare parts, or tools described in paragraph 1 shall be disregarded when determining the origin of the good.
3. Where a good is subject to a regional value content requirement, the value of the accessories, spare parts or tools described in paragraph 1 shall be taken into account as originating materials or non-originating materials, as the case may be, in calculating the regional value content of the good.

ARTICLE 3.12: SETS

Sets, as defined in General Rule 3 of the Harmonised System, shall be regarded as originating when all component products are originating. Nevertheless, when a set is composed of originating and non-originating products, the set as a whole shall be regarded as originating, provided that the value of the non-originating products does not exceed 15 % of the ex-works price of the set.

ARTICLE 3.13: DIRECT CONSIGNMENT

1. Preferential tariff treatment under this Agreement shall only be granted to

originating products which are transported directly between the Parties.

2. Notwithstanding paragraph 1, goods whose transport involves transit through one or more Non-Parties with or without trans-shipment or temporary storage of up to 3 months in such Non-Parties, shall still be considered as directly transported between the Parties, provided that:

- (a) the transit entry of goods is justified for geographical reason or by consideration related exclusively to transport requirements;
- (b) the goods do not undergo any other operation there other than unloading and reloading, or any operation required to keep them in good condition; and
- (c) the goods remain under customs control during transit in those non-parties.

3. Compliance with the provisions set out in paragraph 2 shall be evidenced by presenting the customs authorities of the importing Party either with customs documents of the non-Parties, or with any other documents to the satisfaction of the customs authorities of the importing Party.

Section 2 Origin Implementation Procedures

ARTICLE 3.14: CERTIFICATE OF ORIGIN

1. A Certificate of Origin as set out in Annex II-B shall be issued by the authorized bodies of a Party (for China, China entry-exit inspection and quarantine organizations affiliated to the General Administration of Quality Supervision, Inspection and Quarantine and China Council for the Promotion of International Trade and its local sub-councils; for Georgia, Customs administration) on application by exporter or producer, provided that the goods can be considered as originating in that Party subject to the provision of this Chapter.

2. The Certificate of Origin shall:

- (a) contain a unique certificate number;
- (b) cover one or more goods under one consignment;
- (c) state the basis on which the goods are deemed to qualify as originating for purposes of this Chapter;
- (d) contain security features, such as specimen signatures or stamps as advised to the importing Party by the exporting Party; and

(e) be completed in English.

3. The Certificate of Origin shall be issued before or at the time of shipment. It shall be valid for one year from the date of issuance in the exporting Party.

4. Each Party shall inform the customs authority of the other Party of the name of each authorised body, as well as relevant contact details, and shall provide details of any security features for relevant forms and documents used by each authorized body, prior to the issuance of any certificates by that body. Any change in the information provided above shall be promptly notified to the customs authority of the other Party.

5. A Certificate of Origin may be issued retrospectively within one year from the date of shipment, bearing the words “ISSUED RETROSPECTIVELY” and remain valid for one year from the date of shipment, if:

- (a) it was not issued before or at the time of shipment due to force majeure, involuntary errors, omissions or other valid causes; or
- (b) it was requested by the customs authority of the importing Party, where a Certificate of Origin was issued but not accepted at importation.

6. For cases of theft, loss or accidental destruction of a Certificate of Origin, the exporter or producer may, make a written request to the authorized bodies of the exporting Party for issuing a certified copy, provided that the original copy previously issued has been verified not to be used. The certified copy shall bear the words “CERTIFIED TRUE COPY of the original Certificate of Origin number ___ dated ___”. The certified copy shall be valid during the term of validity of the original Certificate of Origin.

ARTICLE 3.15: RETENTION OF ORIGIN DOCUMENTS

1. Each Party shall require its producers, exporters and importers to retain documents that prove the originating status of the goods as well as the fulfillment of the other requirements of this Chapter for at least 3 years or any longer time in accordance with each Party’s domestic law .

2. Each Party shall require that its authorized bodies retain copies of Certificates of Origin and other related supporting documents for at least 3 years or any longer time in accordance with each Party’s domestic law.

ARTICLE 3.16: OBLIGATIONS REGARDING IMPORTATIONS

Unless otherwise provided in this Chapter, the importer claiming for preferential

tariff treatment shall:

- (a) indicate in the customs declaration that the good qualifies as an originating good;
- (b) possess a valid Certificate of Origin, at the time the import customs declaration referred to in subparagraph (a) is made; and
- (c) submit the valid Certificate of Origin and other documentary evidence related to the importation of the goods, upon request of the Customs Administration of the importing Party.

ARTICLE 3.17: REFUND OF IMPORT CUSTOMS DUTIES OR DEPOSIT

1. Where a Certificate of Origin is not submitted to the importing customs at the time of importation pursuant to Article 3.16 (Obligation Regarding Importation), upon the request of the importer, the Customs authorities of the importing Party may impose the applied non-preferential customs duties, or require a guarantee equivalent to the full amount of the customs duties on that good, provided that the importer formally declares to the customs authority at the time of importation that the good in question qualifies as an originating good.

2. The importer may apply for a refund of any excess customs duties imposed or guarantee paid provided they can present all the necessary documentation required under Article 3.16 and within the period specified in the legislation of the importing Party.

ARTICLE 3.18: WAIVER OF CERTIFICATE OF ORIGIN

1. Notwithstanding Article 3.16 (Obligation Regarding Importation), a Party may waive the requirements for the presentation of a Certificate of Origin to any consignments of originating goods of a customs value not exceeding US\$ 600 or its equivalent amount in the Party's currency.

2. Waivers provided for in paragraph 1 shall not be applicable when it is established by the customs authorities of the importing Party that the importation forms part of a series of importations that may reasonably be considered to have been undertaken or arranged for the purpose of avoiding the submission of Certificate of Origin.

ARTICLE 3.19: VERIFICATION OF ORIGIN

1. Subsequent verifications of origin may be carried out at random or whenever the

customs authorities of the importing Party have reasonable doubts as to the authenticity of Certificate of Origin, the originating status of the goods concerned or the fulfilment of the other requirements of this Chapter. The customs authority of the importing Party may conduct a verification of origin by means of:

- (a) request of additional information from the importer;
- (b) request of Administrative Assistance from the customs administration of the exporting Party; or
- (c) conduct verification visit to the exporting Party, when necessary, in a manner to be jointly determined by the Parties.

2. The customs authority of the importing Party requesting verification to the exporting Party shall specify the reasons, and provide any documents and information justifying the verification.

3. The importer and the customs administration of the exporting Party referred to in paragraph 1 of this Article receiving a request for verification, shall respond to the request promptly and reply within six months from the date of raising verification request.

4. If no reply is received within the periods mentioned above, or if the reply does not contain sufficient information to determine the authenticity of the documents or the originating status of the goods in question, the requesting customs authorities may deny preferential tariff treatment.

ARTICLE 3.20: DENIAL OF PREFERENTIAL TARIFF TREATMENT

Except as otherwise provided in this Chapter, the importing Party may deny claim for preferential tariff treatment, if:

- (a) the goods do not meet the requirements of this Chapter;
- (b) the importer, exporter or producer fails to comply with the relevant requirements of this Chapter;
- (c) the certificate of origin does not meet the requirement of this Chapter; or
- (d) in a case stipulated in paragraph 4 of Article 3.19 (Verification of Origin).

ARTICLE 3.21: ELECTRONIC ORIGIN DATA EXCHANGE SYSTEM

Both Parties shall establish Electronic Origin Data Exchange System to ensure real-time exchange of origin related information between customs administrations, including:

- (a) information concerning the unique certificate number;
- (b) data of the exported goods entitled to preferential tariff treatment endorsed by the customs authorities of exporting Party;
- (c) information of the implementation of preferential tariff treatment administered by the importing Party.

ARTICLE 3.22: CONTACT POINTS

Each Party shall designate contact points to ensure the effective and efficient implementation of this chapter. All information shall only be exchanged via contact points.