

CHAPTER 3

RULES OF ORIGIN

Section 1

Rules of Origin

Article 1

Definitions

For the purposes of this Chapter:

- (a) **chapter, heading and subheading** mean respectively a chapter (two-digit codes), a heading (four-digit codes), and a subheading (six-digit codes) of the Harmonized System;
- (b) **customs value** means the value as determined in accordance with Customs Valuation Agreement;
- (c) **ex-works price** means the price paid for the good 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 good obtained is exported;
- (d) **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;
- (e) **generally accepted accounting principles** means

the recognised 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, and those standards may encompass broad guidelines of general applications as well as detailed standards, practices and procedures;

- (f) **good** means product or material;
- (g) **material** means an ingredient, part, component, subassembly or good that was physically incorporated into another product or was subject to a process in the production of another product;
- (h) **Originating material** means a material which qualifies as originating in accordance with the provisions of this Chapter;
- (i) **product** means a product being produced, even if it is intended for later use in another production operation; and
- (j) **production** means any methods of obtaining goods including growing, raising, mining, harvesting, fishing, aquaculture, farming, trapping, hunting, capturing, gathering, collecting, breeding, extracting, manufacturing, processing or assembling a good.

Article 2

Originating Goods

Unless 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 (Goods Wholly Obtained);

- (b) goods produced in a Party exclusively from originating materials; and
- (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 Annex 3-1 (Product Specific Rules of Origin) which must comply with the requirements specified therein.

Article 3

Goods Wholly Obtained

For the purpose of subparagraph (a) of Article 2 (Originating Goods), the following goods shall be considered as wholly obtained or produced 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, vegetables, fruits and other vegetable products grown, 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), 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 waters of Hong Kong, China, outside the territorial waters of Georgia, and outside the territorial waters of any non-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 waters of Hong Kong, China and outside the territorial waters of Georgia by a vessel registered in a Party and flying the flag of that Party or by a vessel licensed in a Party;
- (h) goods processed or made on board factory ships registered in a Party and flying the flag of that Party or by a vessel licensed in a Party, exclusively from goods referred to in subparagraph (g);
- (i) scrap and waste derived from processing operations in a Party, fit only for the recovery of raw materials;
- (j) used goods collected there which fit only for the recovery of raw materials; and
- (k) goods produced entirely in a Party exclusively from goods referred to in subparagraphs (a) to (j).

Article 4

Regional Value Content

1. The Regional Value Content (RVC) criterion 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;
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 good 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 production of another good, no account shall be taken of the non-originating components of that material in the determination of the originating status of the latter good.

Article 5

Accumulation

The originating material 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 6

Minimal Operations or Processes

1. Notwithstanding subparagraph (c) of Article 2 (Originating Goods), 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 good remains in good condition during transport and storage;
- (b) simple assembly of parts of articles to constitute a complete article, or disassembly of goods 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 goods 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 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 7

De Minimis

A good that does not meet the change in tariff classification required in Annex 3-1 (Product Specific Rules of Origin) is nonetheless originating, if the value of non-originating materials 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 materials shall be determined pursuant to paragraph 2 of Article 4 (Regional Value Content).

Article 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 recognised in the generally accepted accounting principles of the

exporting Party, and should be used for at least one fiscal year.

Article 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 element** 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 10

Packing Materials, Packaging Materials and Containers

1. Packing materials and containers used for the transport of a good shall not be taken into account in determining the origin of the good.
2. The origin of the packaging materials and containers in which a good is packaged for retail sale shall be disregarded in determining the origin of the good, provided that the packaging materials and containers are classified with the good.
3. Notwithstanding paragraph 2, where a good is subject to an RVC 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 RVC of the good.

Article 11

Accessories, Spare Parts and Tools

1. Accessories, spare parts, or tools presented and classified with a good shall be considered as part of the good, provided:
 - (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 3-1 (Product Specific Rules of Origin), 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 an RVC 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 RVC of the good.

Article 12

Sets

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

Article 13

Direct Consignment

1. Preferential tariff treatment under this Agreement shall only be granted to originating goods which are transported directly between the Parties.

2. Notwithstanding paragraph 1, a good whose transport involves transit through one or more non-Parties with or without trans-shipment or temporary storage of up to 6 months in such non-Parties, shall still be considered as directly transported between the Parties, provided that:

- (a) the transit entry of the good is justified for geographical reason or by consideration related exclusively to transport requirements;
- (b) the good does not undergo any other operation there other than unloading and reloading, or any operation required to keep it in good condition; and

- (c) the good remains 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 14

Certificate of Origin

1. A Certificate of Origin as set out in Annex 3-2 (Certificate of Origin) shall be issued by an authorised body of a Party (for Georgia, the Customs administration; for Hong Kong, China, the Trade and Industry Department of Hong Kong, China or the Government Approved Certification Organisations of Hong Kong, China) on application by an exporter or producer, provided that the goods can be considered as originating in that Party subject to the provisions 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 the 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 authorities of the other Party of the name of each authorised body in paragraph 1, as well as relevant contact details, and shall provide details of any security features for relevant forms and documents used by each authorised body, prior to the issuance of any certificates by that body. Any changes in the said information provided shall be promptly notified to the customs authorities 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 authorities of the importing Party, where a Certificate of Origin was issued but not accepted at importation.

6. The exporter or producer may, make a written request to the authorised body 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.

7. When both Parties are satisfied with the full application of the Electronic Origin Data Exchange System set out in Article 21 (Electronic Origin Data Exchange System), the Parties shall agree a date from which the data sent via the Electronic Origin Data Exchange System will replace the paper copy of Certificate of Origin referred to in paragraph 1.

Article 15

Retention of Origin Documents

1. Each Party shall inform its producers, exporters and importers that they should retain documents that prove the originating status of the goods as well as the fulfilment of the other requirements of this Chapter for at least three years or any longer time in accordance with each Party's internal law.

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

Article 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

good, upon request of the customs authorities of the importing Party.

Article 17

Refund of Import Customs Duties or Deposit

1. Where a Certificate of Origin is not submitted to the customs authorities of the importing Party at the time of importation pursuant to Article 16 (Obligations Regarding Importations), 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 authorities 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 in Article 16 (Obligations Regarding Importations) and within one year of the date on which the good was exported.

Article 18

Waiver of Certificate of Origin

1. Notwithstanding Article 16 (Obligations Regarding Importations), 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 a Certificate of Origin.

Article 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 a Certificate of Origin, the originating status of a good concerned, or the fulfilment of the other requirements of this Chapter. The customs authorities of the importing Party may conduct verification of origin by means of:

- (a) request of additional information from the importer;
- (b) request of administrative assistance from the customs authorities of the exporting Party to conduct verification; or
- (c) conduct verification visit to the premises of the exporter or producer of the exporting Party in company with the customs authorities of the exporting Party, subject to the prior written consent of the exporter or producer and in a manner to be jointly determined by the customs authorities of the Parties.

2. The customs authorities of the importing Party requesting verification pursuant to subparagraphs 1(b) and 1(c) shall issue a written communication to the customs authorities of the exporting Party, specify the reasons, and provide any documents and information supporting the verification request.

3. The importer, exporter, producer or the customs authorities of the exporting Party referred to in paragraph 1 receiving a request for verification shall respond to the request

promptly but not later than six months from the date of receipt of the request.

4. If no reply is received within six months from the date of receipt of the request, 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 to the good.

Article 20

Denial of Preferential Tariff Treatment

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

- (a) the good does 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 19 (Verification of Origin).

2. In the event preferential tariff treatment is denied, the customs authorities of the importing Party shall provide in writing to the importer the reasons for that decision.

Article 21

Electronic Origin Data Exchange System

Both Parties shall establish an Electronic Origin Data

Exchange System to ensure real-time exchange of origin related information between the Parties, including:

- (a) information concerning the unique certificate number;
- (b) data of Certificates of Origin referred to in paragraph 2 of Article 14 (Certificate of Origin), except subparagraph 2(d) of Article 14 (Certificate of Origin), endorsed by the authorised bodies of the exporting Party;
- (c) information of the implementation of preferential tariff treatment administered by the importing Party.

Article 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 designated under this Chapter.

LIST OF ANNEXES TO CHAPTER 3 (RULES OF ORIGIN)

ANNEX 3-1

PRODUCT SPECIFIC RULES OF ORIGIN

ANNEX 3-2

CERTIFICATE OF ORIGIN