

CHAPTER 3 RULES OF ORIGIN

Article 22 Definitions under Chapter 3

For the purposes of this Chapter:

- (a) the term "material" includes ingredients, parts, components, subassemblies and goods that were physically incorporated into another good or were subject to a process in the production of another good;
- (b) the term "non-originating material" means a material whose country of origin, as determined under this Chapter, is not the same country as the country in which that material is used in production; and
- (c) the term "production" means methods of obtaining goods including manufacturing, producing, assembling, processing, raising, growing, breeding, mining, extracting, harvesting, fishing, trapping, gathering, collecting, hunting and capturing.

Article 23 Originating Goods

1. For the purposes of this Agreement, goods wholly obtained or produced entirely in a Party shall be treated as originating goods of that Party. The following goods shall be considered as being wholly obtained or produced entirely in a Party:

- (a) live animals born and raised in the territory of that Party;
- (b) animals obtained by hunting, trapping, fishing, gathering or capturing in the territory of that Party;
- (c) goods obtained from live animals in the territory of that Party;
- (d) plants and plant products harvested, picked or gathered in the territory of that Party;

- (e) minerals and other naturally occurring substances, not included in sub-paragraphs (a) through (d) above, extracted or taken in the territory of that Party;
- (f) goods of sea-fishing and other goods taken from the sea, outside the territorial sea of that Party, by vessels that are entitled to fly the flag of that Party;
- (g) goods obtained or produced on board factory ships, outside the territorial sea of that Party, that are entitled to fly the flag of that Party, provided that these goods are manufactured from goods referred to in sub-paragraph (f) above;
- (h) goods taken from the sea bed or subsoil beneath the sea bed outside the territorial sea of that Party, in accordance with the provisions of the United Nations Convention on the Law of the Sea;
- (i) articles collected in the territory of that Party which can no longer perform their original purpose in its territory nor are capable of being restored or repaired and which are fit only for disposal or for the recovery of parts or raw materials;
- (j) scrap and waste derived from manufacturing or processing operations or from consumption in the territory of that Party and fit only for disposal or for the recovery of raw materials;
- (k) parts or raw materials recovered in the territory of that Party from articles which can no longer perform their original purpose nor are capable of being restored or repaired; and
- (l) goods obtained or produced in the territory of that Party solely from goods referred to in sub-paragraphs (a) through (k) above.

2. For the purposes of this Agreement, goods which have undergone sufficient transformation in a Party shall be treated as originating goods of that Party. Goods which satisfy the product-specific rules provided for in Annex II A shall be considered as goods to which sufficient transformation has been carried out in a Party.

3. Product-specific rules requiring that the materials used undergo a change in tariff classification or a specific manufacturing or processing operation shall apply only to non-originating materials.

4. (a) Product-specific rules using the value-added method require that:

(i) the qualifying value content of the good, determined in accordance with sub-paragraph (b) below and Article 24 below, is not less than the percentage specified by the rule for the good in Annex II A; and

(ii) the good has undergone its last production or operation which satisfies the requirement of sub-paragraph (i) above in the territory of either Party.

(b) For the purpose of calculating the qualifying value content of a good pursuant to sub-paragraph (a) above, the following formula shall be applied:

$$Q.V.C. = \frac{F.O.B. - N.Q.M.}{F.O.B.} \times 100$$

Where:

Q.V.C. is the qualifying value content of a good, expressed as a percentage;

F.O.B. is the free-on-board value of a good payable by the buyer to the seller, regardless of the mode of shipment, not including any internal excise taxes reduced, exempted, or repaid when the good is exported; and

N.Q.M. is the non-qualifying value of materials used by the producer in the production of the good, calculated in accordance with sub-paragraph (c) below.

(c) For the purpose of calculating the non-qualifying value of materials pursuant to sub-paragraph (b) above, the following formula shall be applied:

$$N.Q.M. = T.V.M. - Q.V.M.$$

Where:

T.V.M. is the total value of materials; and

Q.V.M. is the qualifying value of materials.

5. For the purpose of sub-paragraph (c) of paragraph 4 above:

- (a) the qualifying value of materials shall be:
 - (i) the total value of the material if the material satisfies the requirements of sub-paragraph (b) below; or
 - (ii) the value of the material that can be attributed to one or both of the Parties if the material does not satisfy the requirements of sub-paragraph (b) below; and
- (b) for the purpose of sub-paragraph (a) above, a material shall be considered to have satisfied the requirements of this sub-paragraph if:
 - (i) the content of the value of the material that can be attributed to one or both of the Parties is not less than 60 per cent of the total value of the material; and
 - (ii) the material has undergone its last production or operation in the territory of either Party.

6. The value of a material used in the production of a good in a Party shall be the CIF value and shall be determined in accordance with the Agreement on Customs Valuation, or, if this is not known and cannot be ascertained, the first ascertainable price paid for the material in the Party.

7. A material used in the production of a good, for which no product-specific rule is provided for in Annex II A:

- (a) shall not be deemed a non-originating material if the material satisfies the same product-specific rule, specified for the good in Annex II A, requiring a change in tariff classification or a specific manufacturing or processing operation; or

- (b) shall be deemed a qualifying material if the material satisfies the same product-specific rule, specified for the good in Annex II A, using the value-added method.

Article 24 Accumulation

1. For the purpose of determining whether a good is an originating good of the other Party, either Party shall consider the production in its territory as that in the territory of the other Party, where such good is produced in the territory or territories of one or both Parties.
2. The production of a Party includes the production at different stages undertaken by one or more producers located in its territory.

Article 25 De Minimis

For the application of the product-specific rules provided for in Annex II A, non-originating materials which do not satisfy the rules shall be disregarded, provided that the totality of such materials does not exceed specific percentages in value, weight or volume of the good, as provided for in each chapter of Annex II A.

Article 26 Insufficient Operations

1. The following operations or processes shall not be considered as the sufficient transformation provided for in paragraph 2 of Article 23:
 - (a) operations to ensure the preservation of products in good condition during transport and storage (such as drying, freezing, keeping in brine) and other similar operations;
 - (b) changes of packaging and breaking up and assembly of packages;
 - (c) affixing marks, labels and other like distinguishing signs on products or their packaging;
 - (d) disassembly;
 - (e) placing in bottles, cases, boxes and other simple packaging operations;

- (f) simple cutting;
- (g) simple mixing;
- (h) simple assembly of parts to constitute a complete product;
- (i) simple making-up of sets of articles; and
- (j) a combination of two or more operations referred to in sub-paragraphs (a) through (i) above.

2. A Party shall not exclude the value added through any of the operations or processes provided for in paragraph 1 above in calculating the qualifying value content of a good.

3. An originating good shall not lose its originating condition merely because it undergoes, outside the territory of either of the Parties, any of the operations provided for in paragraph 1 of this Article.

Article 27 Consignment Criteria

The originating goods of the other Party shall be deemed to meet the consignment criteria when they are:

- (a) transported directly from the territory of the other Party; or
- (b) transported through the territory or territories of one or more non-Parties for the purpose of transit or temporary storing in warehouses in such territory or territories, provided that they do not undergo operations other than unloading, reloading or operations to preserve them in good condition.

Article 28 Unassembled or Disassembled Goods

A good that is imported into the territory of either Party in an unassembled or disassembled form but is classified as an assembled good pursuant to the provisions of sub-paragraph (a) of paragraph 2 of the General Rule for the Interpretation of the Harmonized System shall be considered as an originating good, if the good meets the requirements of the relevant provisions of Articles 23 through 26.

Article 29
Claim for Preferential Tariff Treatment

1. The importing Party may require a certificate of origin for an originating good of the other Party from importers who claim the preferential tariff treatment provided for in paragraph 1 of Article 14 for the good.
2. Notwithstanding paragraph 1 above, the importing Party shall not require a certificate of origin from importers for:
 - (a) an importation of a consignment of a good whose aggregate customs value does not exceed JPY200,000 or its equivalent amount; or
 - (b) an importation of a good into its territory, for which the importing Party has waived the requirement for a certification of origin.
3. Where originating goods are imported through the territory or territories of one or more non-Parties, the importing Party may request importers, who claim the preferential tariff treatment provided for in paragraph 1 of Article 14 for the goods, to submit a copy of through bill of lading, or a certificate or any other information given by the customs administration of such non-Parties or other relevant entities, which evidences that they do not undergo operation other than unloading, reloading or operations to preserve them in good condition in such territory or territories.

Article 30
Denial of Preferential Tariff Treatment

The importing Party may deny preferential tariff treatment to a good for which an importer in its territory claims preferential tariff treatment where the good does not meet the requirements of this Chapter or where the importer fails to comply with any of the relevant requirements of this Chapter.

Article 31
Certificate of Origin

1. The certificate of origin referred to in paragraph 1 of Article 29 shall be that issued by the certification bodies designated by the exporting Party.

2. Such certificate of origin shall include minimum data specified in Annex II B.

3. The issued certificate of origin shall be valid for 12 months from the date of issue.

Article 32 Advance Rulings

1. The importing Party shall, prior to the importation of a good into its territory, issue a written advance ruling in accordance with its laws and regulations as to whether the good qualifies as an originating good to importers of the good or their agents and exporters of the good or their agents, where a written application is made with all the necessary information and the Party has no reasonable grounds to deny the issuance. The importing Party shall endeavour to issue such advance ruling regarding the origin of the good within 30 days of receipt of all the necessary documents for the advance ruling.

2. The importing Party shall respect the issued ruling with regard to importation into its territory of the good for which the ruling was issued for a period of three years from the date of issuance of the advance ruling.

3. The importing Party may modify or revoke the issued ruling:

- (a) if the ruling was based on an error of fact;
- (b) if there is a change in the material facts or circumstances on which the ruling was based; or
- (c) to conform with an amendment to this Agreement.

Article 33 Assistance for Checking of Certificate of Origin

The importing Party may, within three years after the importation of the good, request the exporting Party to assist to check the authenticity or accuracy of the certificate of origin. Where such request has been made, the exporting Party shall endeavour to take necessary measures to provide the assistance requested.

Article 34
Joint Committee on Rules of Origin

For the purposes of effective implementation of this Chapter, a Joint Committee on Rules of Origin (hereinafter referred to in this Article as "the Committee") shall be established. The functions of the Committee shall be:

- (a) to consult regularly to ensure the effective implementation of the provisions in this Chapter;
- (b) to discuss necessary amendments of the provisions of this Chapter, including Annex II A, taking into account developments in production processes or other matters (including the recommended amendments to the Harmonized System);
- (c) to submit the recommendation on the amendments to the Supervisory Committee; and
- (d) to discuss any issues concerning rules of origin.

CHAPTER 4
CUSTOMS PROCEDURES

Article 35
Scope of Chapter 4

This Chapter shall apply to customs procedures required for the clearance of goods traded between the Parties.

Article 36
Customs Clearance

For prompt customs clearance of goods traded between the Parties, each Party shall:

- (a) make use of information and communications technology;
- (b) simplify its customs procedures; and
- (c) make its customs procedures conform, as far as possible, to relevant international standards and recommended practices such as those made under the auspices of the Customs Co-operation Council.