

ANNEX 1

INTRODUCTORY NOTES TO LIST RULES

Note 1 - General Principles

1. This Annex sets out the general rules for the applicable requirements of Annex 2 (List Rules) as provided for in Article 2(1)(c) of this Protocol. (List Rules are otherwise known as product-specific rules of origin.)
2. For the purposes of this Annex and Annex 2 (List Rules), the requirements for a product to be originating in accordance with Article 2(1)(c) of this Protocol are a change in tariff classification, a production process, a maximum value or weight of non-originating materials, or any other requirement specified in this Annex and Annex 2 (List Rules).
3. Reference to weight in a list rule means the net weight, which is the weight of a material or a product, not including the weight of any packaging.
4. This Annex and Annex 2 (List Rules) are based on the Harmonized System, as amended on 1 January 2017.

Note 2 - The Structure of the List Rules

1. Notes on sections or chapters, where applicable, are read in conjunction with the list rules for the relevant section, chapter, heading or subheading.
2. Each list rule set out in Column 2 of Annex 2 (List Rules) applies to the corresponding product indicated in Column 1 of that Annex.
3. If a product is subject to alternative list rules, the product shall be originating in a Party if it satisfies one of the alternatives.
4. If a product is subject to a list rule that includes multiple requirements, the product shall be originating in a Party only if it satisfies all of the requirements.
5. For the purposes of this Annex and Annex 2 (List Rules), the following definitions apply:
 - (a) “section” means a section of the Harmonized System;
 - (b) “chapter” means the first two-digits in the tariff classification number under the Harmonized System;
 - (c) “heading” means the first four-digits in the tariff classification number under the Harmonized System; and
 - (d) “subheading” means the first six-digits in the tariff classification number under the Harmonized System.

6. For the purposes of the list rules, the following abbreviations apply:

“CC” means production from non-originating materials of any Chapter, except that of the product; this means that any non-originating material used in the production of the product must be classified in a Chapter (2-digit level of the Harmonized System) other than that of the product (i.e. a change in Chapter);

“CTH” means production from non-originating materials of any heading, except that of the product; this means that any non-originating material used in the production of the product must be classified in a heading (4-digit level of the Harmonized System) other than that of the product (i.e. a change in heading);

“CTSH” means production from non-originating materials of any subheading, except that of the product; this means that any non-originating material used in the production of the product must be classified in a subheading (6-digit level of the Harmonized System) other than that of the product (i.e. a change in sub-heading).

Note 3 - Application of the List Rules

1. Article 2(2) of this Protocol, concerning products having acquired originating status which are used in the production of other products, applies whether or not this status has been acquired inside the same factory in a Party where these products are used.

2. If a list rule specifically excludes certain non-originating material or provides that the value or weight of a specified non-originating material shall not exceed a specific threshold, these conditions do not apply to non-originating materials classified elsewhere in the Harmonized System.

3. Example 1: when the rule for bulldozers (HS sub-heading 8429.11) requires: “CTH except from non-originating materials of heading 84.31 parts suitable solely for machinery of heading 84.25 to 84.30”, the use of non-originating materials classified elsewhere than 84.29 and 84.31, such as screws (HS heading 73.18), insulated wires and electric conductors (HS heading 85.44) and various electronics (HS Chapter 85), is not limited.

Example 2: When the rule for heading 35.05 (dextrins and other modified starches; glues based on starches etc) requires ‘CTH except from non-originating heading 11.08’ then the use of non-originating materials classified elsewhere than 11.08 (starches, inulin), such as materials of Chapter 10 (cereals), is not limited.

4. If a list rule provides that a product shall be produced from a particular material, this does not prevent the use of other materials which are unable to satisfy that rule because of their inherent nature.

Note 4 - Calculation of a maximum value of non-originating materials

For the purposes of the list rules, the following definitions apply:

- (a) "customs value" means the value as determined in accordance with the Agreement on Implementation of Article VII of GATT 1994;
- (b) "EXW" or "ex-works price" means:
 - (i) the price of the product paid or payable to the producer in whose undertaking the last working or processing is carried out, provided that the price includes the value of all the materials used and all other costs incurred in the production of the product, minus any internal taxes which are, or may be, repaid when the product obtained is exported; or
 - (ii) if there is no price paid or payable or if the actual price paid does not reflect all costs related to the production of the product which are actually incurred in the production of the product, the value of all the materials used and all other costs incurred in the production of the product in the exporting Party:
 - (aa) including selling, general and administrative expenses, as well as profit, that can reasonably be allocated to the product; and
 - (bb) excluding the cost of freight, insurance, all other costs incurred in transporting the product and any internal taxes of the exporting Party which are, or may be, repaid when the product obtained is exported.
 - (iii) For the purposes of point (i), where the last production has been contracted to a producer, the term 'producer' in point (i) refers to the person who has employed the subcontractor.
- (c) "MaxNOM" means the maximum value of non-originating materials expressed as a percentage and shall be calculated according to the following formula:

$$\text{MaxNOM (\%)} = \frac{\text{VNM}}{\text{EXW}} \times 100$$

- (d) "VNM" means the value of the non-originating materials used in the production of the product, which is its customs value at the time of importation, including freight, insurance if appropriate, packing and all other costs incurred in transporting the materials to the importation port

in the Party where the producer of the product is located; where the value of the non-originating materials is not known and cannot be ascertained, the first ascertainable price paid for the non-originating materials in either Party is used; the value of the non-originating materials used in the production of the product may be calculated on the basis of the weighted average value formula or other inventory valuation method under accounting principles which are generally accepted in the Party.

Note 5 - Definitions of processes referred to in Sections V to VII in Annex 2
(List Rules)

For the purposes of list rules, the following definitions apply:

- (a) “biotechnological processing” means:
 - (i) biological or biotechnological culturing (including cell culture), hybridisation or genetic modification of micro- organisms (bacteria, viruses (including phages) etc.) or human, animal or plant cells; and
 - (ii) production, isolation or purification of cellular or intercellular structures (such as isolated genes, gene fragments and plasmids), or fermentation;
- (b) “change in particle size” means the deliberate and controlled modification in particle size if a product, other than by merely crushing or pressing, resulting in a product with a defined particle size, defined particle size distribution or defined surface area, which is relevant to the purposes of the resulting product and with physical or chemical characteristics different from those of the input materials;
- (c) “chemical reaction” means a process (including a biochemical processing) which results in a molecule with a new structure by breaking intramolecular bonds and by forming new intramolecular bonds, or by altering the spatial arrangement of atoms in a molecule, with the exception of the following, which are not considered to be chemical reactions for the purpose of this definition:
 - (i) dissolving in water or other solvents;
 - (ii) the elimination of solvents including solvent water; or
 - (iii) the addition or elimination of water of crystallisation;
- (d) “distillation” means:

- (i) atmospheric distillation: a separation process in which petroleum oils are converted, in a distillation tower, into fractions according to boiling point and the vapour then condensed into different liquefied fractions; products produced from petroleum distillation may include liquefied petroleum gas, naphtha, gasoline, kerosene, diesel or heating oil, light gas oils and lubricating oil; and
 - (ii) vacuum distillation: distillation at a pressure below atmospheric but not so low that it would be classed as molecular distillation; vacuum distillation is used for distilling high-boiling and heat-sensitive materials such as heavy distillates in petroleum oils to produce light to heavy vacuum gas oils and residuum;
- (e) “isomer separation” means the isolation or separation of isomers from a mixture of isomers;
- (f) “mixing and blending” means the deliberate and proportionally controlled mixing or blending (including dispersing) of materials, other than the addition of diluents, only to conform to predetermined specifications which results in the production of a product having physical or chemical characteristics that are relevant to the purposes or uses of the product and are different from the input materials;
- (g) “production of standard materials” (including standard solutions) means a production of a preparation suitable for analytical, calibrating or referencing uses with precise degrees of purity or proportions certified by the producer; and
- (h) “purification” means a process which results in the elimination of at least 80 % of the content of existing impurities or the reduction or elimination of impurities resulting in a good suitable for one or more of the following applications:
 - (i) pharmaceutical, medical, cosmetic, veterinary or food grade substances;
 - (ii) chemical products and reagents for analytical, diagnostic or laboratory uses;
 - (iii) elements and components for use in micro-electronics;
 - (iv) specialised optical uses;
 - (v) biotechnical use, for example, in cell culturing, in genetic technology or as a catalyst;
 - (vi) carriers used in a separation process; or

(vii) nuclear grade uses.

Note 6 - Definitions of terms used in Section XI of Annex 2 (List Rules)

For the purposes of the list rules, the following definitions apply:

- (a) “man-made staple fibres” means synthetic or artificial filament tow, staple fibres or waste, of headings 55.01 to 55.07;
- (b) “natural fibres” means fibres other than synthetic or artificial fibres, the use of which is restricted to the stages before spinning takes place, including waste, and, unless otherwise specified, includes fibres which have been carded, combed or otherwise processed, but not spun; ‘natural fibres’ includes horsehair of heading 05.11, silk of headings 50.02 and 50.03, wool-fibres and fine or coarse animal hair of headings 51.01 to 51.05, cotton fibres of headings 52.01 to 52.03, and other vegetable fibres of headings 53.01 to 53.05;
- (c) “printing” means a technique by which an objectively assessed function, such as colour, design, or technical performance, is given to a textile substrate with a permanent character, using screen, roller, digital or transfer techniques; and
- (d) “printing (as standalone operation)” means a technique by which an objectively assessed function, such as colour, design, or technical performance, is given to a textile substrate with a permanent character, using screen, roller, digital or transfer techniques combined with at least two preparatory or finishing operations (such as scouring, bleaching, mercerizing, heat setting, raising, calendaring, shrink resistance processing, permanent finishing, decatizing, impregnating, mending and burling, shearing, singeing, process of air-tumbler, process of stenter, milling, steam and shrinking, and wet decatizing), provided that the value of all the non-originating materials used does not exceed 50 % of the EXW of the product.

Note 7 - Tolerances applicable to products containing two or more basic textile materials

1. For the purposes of this Note, basic textile materials are the following:

- (a) silk;
- (b) wool;
- (c) coarse animal hair;
- (d) fine animal hair;
- (e) horsehair;
- (f) cotton;
- (g) paper-making materials and paper;

- (h) flax;
- (i) true hemp;
- (j) jute and other textile bast fibres;
- (k) sisal and other textile fibres of the genus *Agave*;
- (l) coconut, abaca, ramie and other vegetable textile fibres;
- (m) synthetic man-made filaments;
- (n) artificial man-made filaments;
- (o) current-conducting filaments;
- (p) synthetic man-made staple fibres of polypropylene;
- (q) synthetic man-made staple fibres of polyester;
- (r) synthetic man-made staple fibres of polyamide;
- (s) synthetic man-made staple fibres of polyacrylonitrile;
- (t) synthetic man-made staple fibres of polyimide;
- (u) synthetic man-made staple fibres of polytetrafluoroethylene;
- (v) synthetic man-made staple fibres of poly (phenylene sulphide);
- (w) synthetic man-made staple fibres of poly (vinyl chloride);
- (x) other synthetic man-made staple fibres;
- (y) artificial man-made staple fibres of viscose;
- (z) other artificial man-made staple fibres;
- (aa) yarn made of polyurethane segmented with flexible segments of polyether, whether or not gimped;
- (bb) yarn made of polyurethane segmented with flexible segments of polyester whether or not gimped;
- (cc) products of heading 56.05 (metallised yarn) incorporating strip consisting of a core of aluminium foil or of a core of plastic film irrespective of whether or not coated with aluminium powder, of a width not exceeding 5 mm, sandwiched by means of a transparent or coloured adhesive between two layers of plastic film;
- (dd) other products of heading 56.05;
- (ee) glass fibres; and
- (ff) metal fibres.

2. Where reference to this Note is made in Annex 2 (List Rules), the requirements set out in its Column 2 shall not apply, as a tolerance, to non-originating basic textile materials which are used in the production of a product, provided that:

- (a) the product contains two or more basic textile materials; and
- (b) the weight of the non-originating basic textile materials, taken together, does not exceed 10 % of the total weight of all the basic textile materials used.

Example: For a woollen fabric of heading 51.12 containing woollen yarn of heading 51.07, synthetic yarn of staple fibres of heading 55.09 and materials other than basic textile materials, non-originating woollen yarn which does not satisfy the requirement set out in Annex 2 (List Rules), or non-originating synthetic yarn which does not satisfy the requirement set out in Annex 2 (List

Rules), or a combination of both, may be used, provided that their total weight does not exceed 10 % of the weight of all the basic textile materials.

3. Notwithstanding Note 7.2(b), for products containing “yarn made of polyurethane segmented with flexible segments of polyether, whether or not gimped”, the maximum tolerance is 20 %. However, the percentage of the other non-originating basic textile materials shall not exceed 10 %.

4. Notwithstanding Note 7.2(b), for products containing “strip consisting of a core of aluminium foil or of a core of plastic film irrespective of whether or not coated with aluminium powder, of a width not exceeding 5 mm, sandwiched by means of a transparent or coloured adhesive between two layers of plastic film”, the maximum tolerance is 30 %. However, the percentage of the other non-originating basic textile materials shall not exceed 10 %.

Note 8 - Other tolerances applicable to certain textile products

1. Where reference to this Note is made in Annex 2 (List Rules), non-originating textile materials (with the exception of linings and interlinings) which do not satisfy the requirements set out in its Column 2 for a made-up textile product may be used, provided that they are classified in a heading other than that of the product and that their value does not exceed 8 % of the EXW of the product.

2. Non-originating materials which are not classified in Chapters 50 to 63 may be used without restriction in the production of textile products classified in Chapters 50 to 63, whether or not they contain textiles.

Example: If a requirement set out in Annex 2 (List Rules) provides that yarn shall be used, for a certain textile item (such as trousers), this does not prevent the use of non-originating metal items (such as buttons), because metal items are not classified in Chapters 50 to 63. For the same reasons, it does not prevent the use of non-originating slide fasteners, even though slide-fasteners normally contain textiles.

3. Where a requirement set out in Annex 2 (List Rules) consists in a maximum value of non-originating materials, the value of the non-originating materials which are not classified in Chapters 50 to 63 shall be taken into account in the calculation of the value of the non-originating materials.

Note 9 - Agricultural products

Agricultural products classified under Section II of the Harmonized System and heading 24.01, which are grown or harvested in the territory of a Party, shall be treated as originating in the territory of that Party, even if grown from seeds, bulbs, rootstock, cuttings, slips, grafts, shoots, buds, or other live parts of plants imported from a third country.