

**CHAPTER 3**  
**RULES OF ORIGIN AND IMPLEMENTATION PROCEDURES**

**SECTION I**  
**RULES OF ORIGIN**

**ARTICLE 22**

**Definitions**

For the purposes of this Chapter:

- (a) **“Harmonized System”** means the current version of the Harmonized Commodity Description and Coding System defined by the International Convention on the Harmonized Commodity Description and Coding System of 14 June 1983;
- (b) **“consignment”** means products which are sent simultaneously from one exporter to one consignee.
- (c) **“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 (WTO Agreement on Customs Valuation);
- (d) **“ex-works price”** means the price paid for the product ex works to the manufacturer in the Party 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 related to its production, minus any internal taxes which are, or may be, repaid when the product obtained is exported. Where the last working or processing has been subcontracted to a manufacturer, the term 'manufacturer' refers to the enterprise that has employed the subcontractor;  
  
Where the actual price paid does not reflect all costs related to the manufacturing of the product which are actually incurred in the Party, the ex-works price means the sum of all those costs, minus any internal taxes which are, or may be, repaid when the product obtained is exported;
- (e) **“goods”** means both material and product;
- (f) **“production”** means any kind of working or processing, including assembly;
- (g) **“product”** means the product being manufactured, even if it is intended for later use in another manufacturing operation;
- (h) **“material”** means any ingredient, raw material, component or part, etc., used in the manufacture of the product;
- (i) **“non-originating material”** means material that is not considered as originating in a Party in accordance with these Rules or material of unknown origin;
- (j) **“authorized body”** means any body designated under domestic legislation of a Party or by the governmental authority of a Party to issue a Certificate of Origin.

## **ARTICLE 23**

### **Originating Goods**

For the purposes of this Agreement, the following goods shall be considered as originating in a Party, if they are:

- (a) wholly obtained or produced in such Party, as provided for in Article 24 (Wholly Obtained Goods) of this Chapter;
- (b) produced in a Party exclusively from originating materials; or
- (c) 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 2 (List of Product Specific Rules) which must comply with the requirements specified therein.

## **ARTICLE 24**

### **Wholly Obtained Goods**

The following shall be considered as wholly obtained in a Party:

- (a) mineral products extracted from its soil or from its seabed;
- (b) plants, including aquatic plants, and vegetable products grown or harvested there;
- (c) live animals born and raised there and products obtained from such animals;
- (d) products obtained by hunting or fishing conducted there;
- (e) products of aquaculture where the fish, crustaceans, molluscs and other aquatic invertebrates are born or raised there from eggs, larvae, fry or fingerlings;
- (f) products of sea fishing and other products taken from the territorial sea or the Exclusive Economic Zone of a Party by vessels registered with that Party and flying the flag of that Party;
- (g) products of sea fishing and other products taken from the high sea by vessels registered with a Party and flying the flag of that Party;
- (h) products processed or made on board factory ships registered with a Party and flying the flag of that Party, exclusively from products referred to in subparagraphs (f) and (g);
- (i) waste and scrap resulting from manufacturing operations conducted there which fit only for the recovery of raw materials;
- (j) products extracted from the seabed and subsoil outside the territorial water of a Party, provided that the Party has the right to exploit such seabed or subsoil under domestic legislation in accordance with international law;
- (k) goods produced there exclusively from the products specified in points (a) to (j).

## **ARTICLE 25**

### **Regional Value Content (RVC)**

1. For the purpose of sub-paragraph (c) of Article 23 (Originating Goods) of this Chapter, the Regional Value Content (RVC) criterion shall be calculated as follows:

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

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 an exporting Party shall be applied.

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

## **ARTICLE 26**

### **De Minimis**

A product that does not meet tariff classification change requirements, pursuant to Annex 2 (List of Product Specific Rules), shall nonetheless be considered to be an originating product, provided that:

- (a) the value of all non-originating materials, determined pursuant to Article 25 (Regional Value Content) of this Chapter, including materials of undetermined origin, that do not meet the tariff classification change requirement does not exceed 10% of the ex-works price of the given product; and
- (b) the goods meet all the other applicable criteria of this Chapter.

## **ARTICLE 27**

### **Minimal Operations or Processes**

1. Without prejudice to paragraph 2 of this Article, the following operations shall be considered to be insufficient working or processing to confer the status of an originating product, whether or not the requirements of sub-paragraph (c) of Article 23 (Originating Goods) of this Chapter are satisfied:

- (a) preserving operations that are necessary to ensure that a good retains its condition during storage and (or) transportation;
- (b) operations to prepare the goods for sale and (or) transportation (splitting up of consignments, forming of consignments, sorting, repacking), disassembly and assembly of packages;
- (c) washing, cleaning, removal of dust, oil, paint or other coverings;
- (d) ironing or pressing of textiles (any type of fibre and yarn, woven fabrics of all types of fibres and yarn and articles thereof);
- (e) painting, polishing, varnishing, coating, impregnating with oil or other substances;
- (f) husking, partial or total bleaching, polishing or glazing of cereals and rice;
- (g) freezing, defrosting;
- (h) operations of colouring, dissolving or blending sugar, including blending with other materials, or forming sugar lumps;
- (i) peeling, removing seeds, stones, shells or cutting of fruits, nuts and vegetables;
- (j) sharpening, simple grinding or simple cutting;
- (k) sifting, screening, sorting, classifying, grading, matching, making-up of sets of articles;
- (l) simple placing in bottles, cans, flasks, bags, cases, boxes, fixing on cards or boards and all other simple packaging operations;
- (m) simple operations of assembly or disassembly of goods into parts;
- (n) engraving, affixing or printing trademarks, logos, labels and other like distinguishing signs on goods or their packaging;
- (o) mixing of goods which does not lead to a sufficient difference of good from the original components;
- (p) slaughter of animals;
- (q) cutting of meat, fish; or
- (r) a combination of two or more operations specified above.

2. All the operations carried out in the exporting Party on a given product shall be taken into account when determining whether the working or processing undergone by that product is to be regarded as insufficient within the meaning of paragraph 1 of this Article.

3. For the purposes of paragraph 1 of this Article “simple operations” shall mean operations which do not require special knowledge (skills), or machines, apparatus and equipment specially designed for those operations.

## **ARTICLE 28**

## **Cumulation of Origin**

1. The goods originating in a Party which are used as materials in the manufacture of goods in another Party shall be considered as originating in such Party where the last operations other than those referred to in paragraph 1 of Article 27 (Minimal Operations or Processes) of this Chapter have been carried out.

2. Products originating in a Party, which do not undergo any working or processing in the exporting Party, shall retain its origin if they are exported to the other Party.

## **ARTICLE 29**

### **Unit of Qualification**

The unit of qualification for the application of this Chapter shall be the particular product which is considered to be the basic unit when determining classification using the nomenclature of the Harmonised System. It follows that:

(a) when a product composed of a group or assembly of articles is classified under the terms of the Harmonised System in a single heading or subheading, the whole constitutes the unit of qualification;

(b) when a consignment consists of a number of identical products classified under the same heading or subheading of the Harmonised System, each individual item shall be taken into account when applying this Chapter.

## **ARTICLE 30**

### **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 2 (List of Product Specific Rules) of this Agreement, accessories, spare parts, or tools described in paragraph 1 of this Article shall be disregarded when determining the origin of the goods.

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 of this Article 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 31**

### **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 of this Article, 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 32**

### **Neutral Elements**

When determining whether a product is an originating product, the origin of neutral elements used in the production, testing or inspection of the product but not physically incorporated into the product by themselves, shall not be taken into account. Such neutral elements include, but are not limited to the following:

- (a) fuel, energy, catalysts and solvents;
- (b) equipment, devices and supplies used for testing or inspecting the products;
- (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;  
and
- (f) lubricants, greases, compounding materials and other materials used in production or used to operate equipment and buildings.

## **ARTICLE 33**

### **Sets**

Goods classified as set in accordance with the General Rule 3 for the Interpretation of the Harmonised System, shall be regarded as originating if all the components included in the set considered as originating materials. 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 non-originating products as determined in accordance with Article 25 (Regional Value Content) of this Chapter, does not exceed 15% of the ex-works price of the set.

## **ARTICLE 34**

### **Principle of Territoriality**

The conditions for acquiring originating status of the product set out in Article 23 (Originating Goods) and Article 32 (Neutral Elements) of this Chapter shall be fulfilled without any interruption in a Party.

## **ARTICLE 35**

### **Direct Transport**

1. Preferential tariff treatment provided for in this Agreement shall be applied to goods which satisfy the requirements of this Chapter and are directly transported between the Parties.

2. Notwithstanding paragraph 1 of this Article, the following shall be considered as transported directly from the exporting Party to the importing Party:

- (a) goods that are transported without passing through a non-Party; and
- (b) goods whose transport involves transit through one or more non-Parties with or without trans-shipment or temporary storage in such non-Parties, provided that:
  - (i) the transit is justified by geographical reasons or by consideration related exclusively to transport requirements;
  - (ii) the goods do not enter into trade or consumption there; and
  - (iii) the goods do not undergo subsequent production or any operation there other than unloading, reloading, splitting-up of consignments or any other operation necessary to preserve them in good condition, provided that the goods remain under customs control during transit through non-Parties.

3. Compliance with the provisions set out in paragraph 2 of this Article 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 II**

### **IMPLEMENTATION PROCEDURES**

## **ARTICLE 36**

### **Proof of Origin**

1. In order to confirm the originating status of goods for obtaining free trade regime under this Agreement, either of the following proof of origin shall be submitted to the customs authority of the importing Party:

- (a) Certificate of Origin as referred to in Article 37 (Certificate of Origin) of this Chapter; or
- (b) Origin Declaration made out by an Approved Exporter as referred to in Article 38 (Origin Declaration by Approved Exporter) of this Chapter.

2. For the purposes of paragraph 1 of this Article, the Parties may agree to establish a system that allows proofs of origin listed in subparagraph (a) and (b) of paragraph 1 of this Article to be issued electronically and/or submitted electronically.

## **ARTICLE 37**

### **Certificate of Origin**

1. A Certificate of Origin shall be issued by the authorized body of the exporting Party.

2. The Certificate of Origin shall be issued before or at the time of exportation whenever the products to be exported can be considered originating in that Party subject to the provisions of this Chapter. The exporter, producer or their authorized representative, in accordance with the domestic legislation, shall submit a written application for the Certificate of Origin together with appropriate supporting documents proving that the products to be exported qualify for the issuance of a Certificate of Origin.

3. The Certificate of Origin, specimen of which is set out in Annex 3 (Certificate of Origin) of this Agreement shall be completed in English and duly signed and stamped. A Certificate of Origin shall be valid only within one year from the date of its issuance.

4. In exceptional cases where a Certificate of Origin has not been issued before or at the time of exportation, the Certificate of Origin may be issued retrospectively within one year from the date of shipment, bearing the remark “ISSUED RETROSPECTIVELY”, and remain valid for one year from the date of shipment.

5. 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 be marked with “DUPLICATE” together with the reference number and the date of issuance of the original Certificate of Origin. The certified copy shall be valid during the term of validity of the original Certificate of Origin.

6. Certificates of Origin which are submitted to the customs authority of the importing Party after the validity may be accepted when failure to observe the time limit is due to force majeure.

## **ARTICLE 38**

### **Origin Declaration by Approved Exporter**

1. An Origin Declaration as referred to in point (b) of Article 36 (Proof of Origin) of this Chapter may be made out by an Approved Exporter in accordance with the text as provided in Annex 4 (Origin Declaration) of this Agreement (version in English). The status of Approved Exporter shall be granted and administered by the exporting Party in accordance with its domestic legislation.

2. An Origin Declaration may be made out if the products can be considered as originating in a Party and fulfil the other requirements of this Chapter.



3. The Approved Exporter making out an Origin Declaration shall be prepared to submit at any time, at the request of the customs authorities of the exporting Party, all appropriate documents proving the originating status of the products concerned as well as the fulfillment of the other requirements of this Chapter.

4. An Origin Declaration shall be made out by the Approved Exporter by typing, stamping or printing on the invoice, the delivery note or another commercial document, as deemed valid by the customs authority of the importing Party, which describe the goods concerned in such a detail so as to render it identifiable. Origin Declaration shall bear the authorization number of the Approved Exporter, the name and the original signature of the person signing the declaration of origin in manuscript. An Origin Declaration may be made out by the Approved Exporter retrospectively within one year from the date of shipment.

5. An Origin Declaration shall be valid only within one year from the date of the issuance of the invoice or other commercial documents.

## **ARTICLE 39**

### **Electronic System to Exchange Origin Data**

The Parties will endeavour to develop an electronic system to exchange origin data to ensure the effective and efficient implementation of this Chapter.

## **ARTICLE 40**

### **Preservation of Origin Documents**

1. Each Party shall require its producers, exporters and importers to preserve documents related to the origin of the products as well as the fulfillment of the other requirements of this Chapter for at least three years.

2. Each Party shall require that its authorized bodies preserve copies of Certificates of Origin and other documentary evidence of origin for at least three years.

3. Exporters and importers benefiting from this Agreement shall, within the framework of this Agreement and subject to domestic legislation of the exporting Party and importing Party respectively, comply with the requirements of that Party and submit, at their request, supporting documents regarding the fulfillment of the requirements of this Chapter.

## **ARTICLE 41**

### **Requirements Regarding Importation**

1. Each Party shall grant preferential tariff treatment in accordance with this Agreement to originating products imported from the other Party on the basis of a proof of origin as defined in Article 36 (Proof of Origin) of this Chapter.

2. In order to obtain preferential tariff treatment, the importer shall, in accordance with the procedures applicable in the importing Party, request preferential tariff treatment at the time of importation of an originating product and submit the proof of origin as defined in Article 36 (Proof of Origin), as well as other documentary evidence upon requirements of the customs authorities of the importing Party.

3. For the purpose of paragraph 2 of this Article, a proof of origin shall be submitted to the customs authorities of the importing Party within 12 months from the date of issuance.

4. If the importer is not in possession of a proof of origin at the time of importation, the importer may, in accordance with the domestic legislation of the importing Party, make a claim for preferential tariff treatment at the time of importation and present the proof of origin and, if required, other documentation relating to the importation within a period as specified in the legislation of the importing Party. The customs authorities of the importing Party shall complete the import formalities in accordance with the domestic legislation.

## **ARTICLE 42**

### **Discrepancies and Minor Errors**

1. The discovery of slight discrepancies between the statements made in the proof of origin and those made in the documents submitted to the customs authority for the purpose of carrying out the formalities for importing the products shall not *ipso facto* render the proof of origin null and void if it is duly established that that document does correspond to the products submitted.

2. Minor errors such as typing errors on a proof of origin shall not cause the documents referred to in paragraph 1 of this Article to be rejected if those errors are not such as to create doubts concerning the correctness of the statements made in those documents.

## **ARTICLE 43**

### **Notification and Cooperation**

1. The Parties shall provide each other with samples of Certificates of Origin including the information on the security features, specimen impressions of stamps used by the authorized bodies for the issue of Certificates of Origin, the models of the authorization numbers granted to approved exporters and the addresses of the customs authorities responsible for verification of origin.

2. In order to ensure the proper application of this Chapter, the Parties shall assist each other, through the customs authorities, in checking the authenticity of the Certificates of Origin and the Origin Declarations and the correctness of the information given in those documents.

## **ARTICLE 44**

### **Verification of Origin**

1. To ensure the effective application of this Chapter, the Parties shall assist each other to carry out verification on the authenticity of the proof of origin, the correctness of the information given therein, the originating status of the products concerned, and the fulfillment of any other requirements under this Chapter.

2. The customs authority of the exporting Party shall carry out verifications referred to in paragraph 1 of this Article upon request of the customs authority of the importing Party.

3. The importing Party shall submit the verification request to the exporting Party within three years from the completion or issuance of the proof of origin. The exporting Party is not obliged to conduct verifications based on verification requests received after that deadline.

4. The verification request shall include a copy of the proof of origin and, if appropriate, any other document or information giving reason to believe that the proof of origin is invalid. The reasons for the request shall be specified.

5. The customs authorities of the importing Party may, in accordance with their domestic legislation, suspend preferential tariff treatment or require payment of a deposit equivalent to the full amount of duties on a product covered by a proof of origin until the verification procedure has been accomplished.

6. The customs authority of the exporting Party may request evidence, carry out inspections at exporter's or producer's premises, check the exporter's and the producer's accounts and take other appropriate measures to verify compliance with this Chapter.

7. The requested Party shall notify the requesting Party of the results and findings of the verification within six months from the date of the verification request, unless the Parties agree upon another time frame on justified grounds. If the requesting Party receives no reply within six months or another time frame as agreed upon by the Parties, or if the reply does not state clearly whether the proof of origin is valid or whether a product is an originating product, the requesting Party may deny preferential tariff treatment to the product covered by the proof of origin concerned.

## **ARTICLE 45**

### **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 proof of origin does not meet the requirements of this Chapter; or

(d) in a case stipulated in paragraph 7 of Article 44 (Verification of Origin) of this Chapter.

## **ARTICLE 46**

### **Confidentiality**

Subject to the domestic legislation of each Party, all information which is specified by a Party as confidential or provided on a confidential basis shall not be disclosed without the explicit permission of the person or authority providing it.

## **ARTICLE 47**

### **Sub-Committee on Rules of Origin**

In accordance with paragraph 3 of Article 70 (The Joint Committee) of the Agreement, the Sub-Committee on Rules of Origin shall be set up, charged with carrying out administrative cooperation with a view to the correct and uniform application of this Chapter.