

## CHAPTER 3 RULES OF ORIGIN AND ORIGIN IMPLEMENTATION PROCEDURES

### Section A: Rules of Origin

#### Article 3.1: Definitions

For the purposes of this Chapter:

**aquaculture** means the farming of aquatic organisms, including fish, mollusks, crustaceans, other aquatic invertebrates and aquatic plants, from seedstock such as eggs, fry, fingerlings, and larvae, by intervention in the rearing or growth processes to enhance production, such as regular stocking, feeding, or protection from predators;

**authorized body** means any body designated under domestic laws and regulations of the exporting Party to issue a Certificate of Origin;

**CIF** means the value of the imported good inclusive of the cost of insurance and freight up to the port or place of entry in the country of importation. The valuation shall be made in accordance with the Customs Valuation Agreement;

**FOB** means the value of the good free on board, regardless of the mode of transportation, inclusive of the cost of transport to the port or site of final shipment abroad. The valuation shall be made in accordance with the Customs Valuation Agreement;

**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 or consensus or substantial authoritative support given in 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 any merchandise, product, article, or material;

**Harmonized System (HS)** means the *Harmonized Commodity Description and Coding System*, including its General Rules of Interpretation, Section Notes, and Chapter Notes;

**material** means any ingredient, part, component, subassembly and/or good that were physically incorporated into another good or were subject to the production of another good;

**neutral elements** means a good used in the production, testing or inspection of another good but not physically incorporated into the good;

**non-originating goods or non-originating materials** means goods or materials that do not qualify as originating under this Chapter, and includes goods or materials of undetermined origin;

**originating goods or originating materials** means goods or materials which qualify as originating in accordance with the provisions of this Chapter;

**packing materials and containers for shipment** means goods used to protect a good during its transportation other than containers or packaging materials used for retail sale;

**producer** means a person who engages in the production of a good in the territory of a Party;

**production** means any kind of working or processing, including growing, raising, mining, harvesting, fishing, aquaculture, farming, trapping, hunting, capturing, gathering, collecting, breeding, extracting, manufacturing, or assembling a good.

### **Article 3.2: Originating Goods**

Except as otherwise provided in this Chapter, a good shall be considered as originating in a Party where:

- (a) the good is wholly obtained or produced entirely in a Party as specified in Article 3.4;
- (b) the good is produced entirely in a Party, exclusively from originating materials; or
- (c) the good is produced entirely in a Party using non-originating materials and conforms to Annex 3-A;

and the good meets the other applicable provisions of this Chapter.

### **Article 3.3: Treatment of Certain Goods**

1. Notwithstanding the provisions of Article 3.2, goods listed in Annex 3-B which has undergone working or processing on materials exported from a Party, and subsequently re-imported to that Party for export to the other Party, in an area outside the territories of the Parties<sup>1</sup> (hereinafter referred to as “Outward Processing Zone”), shall be considered as originating, provided that:

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<sup>1</sup> For the purposes of this paragraph, the Parties agree that the area within which the good is processed under this Article shall be limited to the existing area of the industrial complex located and operated in the Korean Peninsula prior to the signing of this Agreement.

- (a) total value of non-originating materials shall not exceed 40 percent of the FOB price of the final goods for which originating status is claimed; and
- (b) the value of originating materials exported from the Party concerned shall not be less than 60 percent of the total value of materials used in the processing of those goods.

2. The Parties shall establish a Committee on Outward Processing Zones under the auspices of the Joint Commission to perform the following functions:

- (a) monitor the implementation of paragraph 1 of this Article;
- (b) report to the Joint Commission on its activities and provide recommendations to the Joint Commission as necessary;
- (c) review and designate the expansion of the existing Outward Processing Zone and the additional Outward Processing Zones<sup>2</sup>; and
- (d) discuss other matters specifically mandated by the Joint Commission.

3. For greater certainty, except as otherwise provided in this Article, the relevant Articles in this Chapter shall be applied *mutatis mutandis* to the goods to which paragraph 1 of this Article applies.

### **Article 3.4: Goods Wholly Obtained or Produced**

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

- (a) live animals born and raised in a Party;
- (b) goods obtained from live animals referred to in subparagraph (a) above;
- (c) plants and plant products grown, and harvested, picked or gathered in a Party;
- (d) goods obtained from hunting, trapping, fishing, aquaculture, gathering or capturing conducted within the land territory, the internal waters or within the territorial sea of the Party;

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<sup>2</sup> For the purposes of this subparagraph, Outward Processing Zones shall refer to industrial zones in the Korean Peninsula. The relevant authorities of the Parties shall discuss and agree on the relevant rules and procedures for the additionally designated Outward Processing Zones and the expansion of the existing Outward Processing Zones.

- (e) minerals and other natural resources not included in subparagraphs (a) through (d) above, extracted or taken from the soil, waters, seabed or subsoil of the Party;
- (f) goods taken from the waters, seabed or subsoil outside the territorial sea of a Party, provided that the Party has rights to exploit such waters, seabed or subsoil;
- (g) goods of sea fishing and other marine products taken from the waters, seabed or subsoil outside the territorial sea of a Party by vessels registered or recorded with a Party and flying the flag of that Party;
- (h) goods produced or processed on board factory ships registered or recorded with a Party and flying the flag of that Party, exclusively from goods referred to in subparagraph (g) above;
- (i) scrap and waste derived from manufacturing or processing operations in a Party, which are fit only for the recovery of raw materials or which are to be utilized as raw material for the production of another good; or used goods consumed and collected in a Party provided that such goods are fit only for the recovery of raw materials; and
- (j) goods obtained or produced in a Party exclusively from goods referred to in subparagraphs (a) through (i) above.

### **Article 3.5: Regional Value Content**

1. For the purposes of the Regional Value Content (hereinafter referred to as “RVC”) requirement provided in Annex 3-A, the RVC shall be calculated as follows:

$$RVC = \frac{FOB - VNM}{FOB} \times 100$$

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 according to the following circumstances:

- (a) in case of the imported non-originating materials, VNM shall be the CIF value of the materials at the time of importation; and

- (b) in case of the non-originating materials obtained in a Party, VNM shall be the earliest ascertainable price paid or payable for the non-originating materials used in the production of the goods in that Party. The value of such non-originating materials shall not include freight, insurance, packing costs and any other costs incurred in transporting the material from the supplier's warehouse to the producer's location.

3. If a product which has acquired originating status in a Party is used as material in the manufacture of another product in that Party, no account shall be taken of the non-originating components of that material in the determination of the originating status of the latter product.

### **Article 3.6: Accumulation**

Where originating goods or materials of a Party are incorporated into a good in the other Party, the goods or materials so incorporated shall be regarded to be originating in the other Party.

### **Article 3.7: Minimal Operations or Processes**

1. The following operations or processes which contribute minimally to the essential characteristics of the goods, either by themselves or in combination, do not confer origin whether or not the goods satisfy the product specific rules of origin as specified in Annex 3-A:

- (a) operations to ensure the preservation of goods 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) change of packaging, breaking-up and assembly of package;
- (d) washing, cleaning; removal of dust, oxide, oil, paint or other coverings;
- (e) ironing or pressing of textiles;
- (f) simple painting and polishing operations;
- (g) husking, partial or total bleaching, polishing, and glazing of cereals and rice;
- (h) operations to color or flavor sugar or form sugar lumps; partial or total milling of crystal sugar;
- (i) peeling, stoning and shelling of fruits, nuts and vegetables;
- (j) sharpening, simple grinding or simple cutting;

- (k) sifting, screening, sorting, classifying, grading or matching (including the making-up of sets of articles), slitting, bending, coiling or uncoiling;
- (l) simple placing in bottles, cans, flasks, bags, cases or boxes, fixing on cards or boards and all other simple packaging operations;
- (m) affixing or printing marks, labels, logos and other like distinguishing signs on products or their packaging;
- (n) simple mixing of products, whether or not of different kinds; mixing of sugar with any material;
- (o) testing or calibrations;
- (p) mere dilution with water or another substance that does not materially alter the characteristics of the goods;
- (q) drying, salting (or keeping in brine), refrigeration or freezing;
- (r) slaughter of animals; or
- (s) a combination of two or more operations specified in subparagraphs (a) through (r).

2. All operations carried out in a Party on a good shall be considered together when determining whether the working or processing undergone by that good is to be regarded as minimal operations or processes within the meaning of paragraph 1.

3. The Parties may agree on other operation as minimal operations or processes.

### **Article 3.8: De Minimis**

A good that does not satisfy a change in tariff classification requirement provided in Annex 3-A will nevertheless be an originating good if:

- (a) (i) for a good, other than that provided for in Chapters 15 through 24 and Chapters 50 through 63 of the HS Code, the value of all non-originating materials used in the production of the good that did not undergo the required change in tariff classification does not exceed 10 per cent of the FOB value of the good;
- (ii) for a good provided for in Chapters 15 through 24 of the HS Code, the value of all non-originating materials used in the production of the good that did not undergo the required change in tariff

classification does not exceed 10 per cent of the FOB value of the good, provided that the non-originating material is provided for in a different subheading from that of the good for which the origin is being determined under this subparagraph; or

(iii) for a good provided for in Chapter 50 through 63 of the HS Code, the weight of all non-originating materials used in its production that did not undergo the required change in tariff classification does not exceed 10 per cent of the total weight of the good, or the value of all non-originating materials used in the production of the good that did not undergo the required change in tariff classification does not exceed 10 per cent of the FOB value of the good; and

(b) the good meets all other applicable criteria of this Chapter.

### **Article 3.9: Fungible Materials**

1. In determining whether a material used in the production is originating, any fungible materials shall be distinguished by:

- (a) physically separating each fungible material; or
- (b) using any inventory management method recognized in the Generally Accepted Accounting Principles of a Party in which the production is performed.

2. The inventory management method selected under paragraph 1 for a particular fungible material shall continue to be used for that material throughout the fiscal year.

### **Article 3.10: Neutral Elements**

In determining whether a good is originating, the origin of the following neutral elements shall be disregarded:

- (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 3.11: Sets**

1. Sets, as defined in General Rule 3 for the Interpretation of the Harmonized System, shall be regarded as originating when all the components of the sets are originating.
2. 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 as determined in accordance with Article 3.5, does not exceed 15 percent of the FOB value of the set.

### **Article 3.12: Packing Materials and Containers**

1. Packing materials and containers used for the transport of goods shall not be taken into account in determining the origin of the goods.
2. Packaging materials and containers in which a good is packaged for retail sale shall, if classified with the good, be disregarded in determining whether all the non-originating materials used in the production of the good undergo the applicable change in tariff classification in the product specific rules of origin. However, if the good is 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 when determining the origin of the good.

### **Article 3.13: Accessories, Spare Parts and Tools**

1. Accessories, spare parts, or tools delivered and presented with the good at the time of importation shall be disregarded when determining the origin of the good, provided that:
  - (a) the accessories, spare parts, or tools are classified with and not invoiced separately from the good; and
  - (b) the quantities and values of the said accessories, spare parts or tools are customary for the good.
2. Where the goods are 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 goods.

### **Article 3.14: Direct Transport**

1. The originating goods of the Parties claiming for preferential tariff treatment shall be directly transported between the Parties.
2. Goods whose transport involves transit through one or more Non-Parties, with or without trans-shipment or temporary storage in such Non-Parties, shall be considered 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 enter into trade or consumption in the non-Party; and
  - (c) the goods do not undergo any other operation in the non-Party other than unloading, splitting up of loads for transport reasons, and reloading, or any operation necessary to preserve it in good condition.

In the case where the goods are temporarily stored in a Non-Party as provided in this paragraph, the goods shall remain under control of the customs authorities in that Non-Party during its stay. The stay of the goods in that Non-Party shall not exceed three months from the date of their entry. In the case of force majeure, the stay of the goods in that Non-Party may exceed three months but shall not exceed six months from the date of their entry.

3. For the purpose of paragraph 2 of this Article, the following documents shall be submitted to the customs authority of the importing Party upon import declaration of the goods:
  - (a) in the case of transit or trans-shipment, transport documents such as the airway bill, the bill of lading, or the multimodal or combined transport documents covering the whole transporting route from the exporting Party to the importing Party; and
  - (b) in the case of storage or devanning of the containers, transport documents such as the airway bill, the bill of lading, or the multimodal or combined transport documents covering the whole transporting route from the exporting Party to the importing Party, and supporting documents provided by the customs authority of a Non-Party. The importing customs authority may designate other competent agencies in such Non-Party to issue such supporting documents and inform the exporting customs authority of such designation.

## **Section B: Origin Implementation Procedures**

### **Article 3.15: Certificate of Origin**

1. A Certificate of Origin as set out in Annex 3-C shall be issued by the authorized bodies of the exporting Party, on application by the exporter, producer, or under the exporter's responsibility, by his authorized representative, in accordance with the domestic legislation, subject to the condition that the goods concerned fulfill the requirements of this Chapter.
2. A Certificate of Origin shall:
  - (a) contain a unique certificate number;
  - (b) state the basis on which the goods are deemed to qualify as originating for the purposes of this Chapter;
  - (c) contain security features, such as signatures and stamps, and the stamps shall conform to those notified by the exporting Party to the importing Party;
  - (d) be completed in English; and
  - (e) be in printed format, which is understood as a Certificate of Origin either manually or electronically signed and stamped by the authorized body. It is required that only one original hard copy of the Certificate of Origin be printed.
3. A Certificate of Origin shall be issued before or at the time of shipment or within seven working days after shipment of the goods in question. It shall be valid for one year from the date of issuance in the exporting Party.
4. If a Certificate of Origin has not been issued before or at the time of shipment or within seven working days after shipment due to force majeure, involuntary errors, omissions or other valid causes, a Certificate of Origin may be issued retrospectively but no longer than one year from the date of shipment, bearing the words "ISSUED RETROACTIVELY".
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 bear the words "CERTIFIED TRUE COPY of the original Certificate of Origin number \_\_\_ dated \_\_\_".

### **Article 3.16: Authorized Body**

1. Each Party shall inform the customs authority of the other Party of the name of each authorized body, as well as relevant contact details, and shall provide details of any specimen of stamps for relevant forms and documents used by each authorized body, prior to the issuance of any certificates by that body.

2. Any change in the information provided above shall be promptly notified to the customs authority of the other Party and enter into force seven working days after the date of notification or on a later date indicated in such notification.

### **Article 3.17: Claims for Preferential Tariff Treatment**

1. Unless otherwise provided in this Chapter, the importer claiming preferential tariff treatment shall:

- (a) make a written statement in the customs declaration, indicating 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 original Certificate of Origin and other documentary evidences related to the importation of the goods in accordance with their respective domestic laws and regulations<sup>3</sup>.

2. The importer shall promptly make a corrected declaration and pay any duties owed, where the importer has reason to believe that a Certificate of Origin on which a declaration was based contains information that is not correct.

### **Article 3.18: Post-Importation Preferential Tariff Treatment**

1. Each Party shall provide that, where a originating good was imported, importer may, no later than one year after the date of importation, apply for refund of any excess duties, deposit, or guarantee paid as a result of the good not having been accorded preferential tariff treatment, on presentation to the customs authority of the importing Party of:

- (a) a valid Certificate of Origin demonstrating that the good was originating at the time of importation; and

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<sup>3</sup> If all the information of a Certificate of Origin is exchanged between the customs authority of each Party through Article 3.27 (Electronic Origin Data Exchange System), the customs authority of each Party may not require the importer to submit the Certificate of Origin on importation. Nevertheless, the customs authority of each Party reserves the right to require the importer to submit the Certificate of Origin, when it deems necessary. This footnote shall be without prejudice to any other requirements under this Chapter.

- (b) such other documentation relating to the importation of the good as the importing Party may require.

2. Without prejudice to paragraph 1, each Party may require, in accordance with its respective laws and regulations, that the importer shall formally declare to the customs authority upon importation as a precondition for claiming preferential tariff treatment, failing which no preferential tariff treatment is to be granted.

### **Article 3.19: Exemption of Obligation of Submitting Certificate of Origin**

1. For the purpose of granting preferential tariff treatment under this Chapter, a Party shall waive the requirements for the presentation of a Certificate of Origin for consignment of originating products of a customs value not exceeding 700 US dollars or its equivalent amount in the Party's currency; or

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 3.20: Record Keeping Requirements**

1. Each Party shall require its producers or exporters to retain origin documents for three years from the date the Certificate of Origin was issued for the producers or exporters. These documents include records of, but not limited to the following:

- (a) the purchase of, cost of, value of, and payment for, the good;
- (b) the purchase of, cost of, value of, and payment for all materials, including neutral elements, used in the production of the good;
- (c) the production of the good in the form in which it was exported; and
- (d) such other documentation as is required by the laws and regulations of each Party.

2. Each Party shall require its importer to retain all records related to the importation in accordance with its laws and regulations.

3. Each Party shall require that its authorized bodies retain copies of Certificates of Origin and any other documentary evidence sufficient to substantiate the origin of the goods for three years.

4. An exporter, producer, importer or authorized bodies may choose to maintain the

records specified in paragraphs 1 through 3 in any medium that allows for prompt retrieval, including, but not limited to, digital, electronic, optical, magnetic, or written form in accordance with its domestic legislation.

### **Article 3.21: Minor Discrepancies and Errors**

Without prejudice to Article 3.23, where the minor discrepancies and errors are ascertained by the customs authority of the importing Party such as illegibility, defect on its face, and discrepancy between the Certificate of Origin and the written declaration to the customs, the importer shall be granted a period of not less than five working days, but not exceeding 30 working days, from the date of request by the customs authority to provide a copy of the corrected Certificate of Origin.

### **Article 3.22: Non-Party Invoice**

The importing Party shall not reject a Certificate of Origin only for the reason that the invoice was issued in a non-Party, provided that the requirements under this Chapter are complied with.

### **Article 3.23: Verification of Origin**

1. For the purpose of determining whether a good imported into one Party from the other Party qualifies as an originating good, the customs authority of the importing Party may conduct a verification process in sequence by means of:

- (a) requests for information relating to the origin of imported good from the importer;
- (b) requests to the customs authority of the exporting Party to verify the origin of the goods;
- (c) requests to the customs authority of the exporting Party for a verification visit to exporter or producer in the exporting Party; or
- (d) such other procedures as agreed upon by the customs authorities of the Parties.

2. For the purposes of subparagraph 1(b),

- (a) the customs authority of the importing Party shall provide to the customs authority of the exporting Party with:
  - (i) the reasons why such verification is requested;
  - (ii) the Certificate of Origin of the goods, or a copy thereof; and

- (iii) any other information or documents as may be necessary for such request;
- (b) the customs authority of the exporting Party shall provide the customs authority of the importing Party with verification results, to the extent possible including facts and findings, and relevant supporting documents made available by the exporter or producer, within six months from the date of the receipt of the request; and
- (c) the customs authority of the importing Party shall notify the results of the determination as to whether the good in question is originating or not to the customs authority of the exporting Party within three months from the date of the receipt of the results of the verification from the customs authority of the exporting Party.

3. For the purposes of subparagraph 1(c), if the customs authority of the importing Party is not satisfied with the verification results provided by the customs authority of the exporting Party, the customs authority of the importing Party may, at the consent of the customs authority of the exporting Party, conduct verification visits to the premises of the exporter or producer in the exporting Party, under the escort of the customs authority of the exporting Party.

- (a) Before conducting a verification visit, the customs authority of the importing Party shall, at least 30 days prior to the date of verification visit, deliver a written request to the customs authority of the exporting Party of its intention to conduct such verification visit. The customs authority of the exporting Party should decide whether to accept such request and reply to the customs authority of the importing Party within 30 days from the date of receipt of the request.
- (b) When the customs authority of the exporting Party agrees to the request of verification visit but needs to postpone the proposed verification visit, the customs authority of the importing Party shall be notified together with the approval of the verification visit. Such postponement shall not exceed 60 days from the proposed date of the verification visit.
- (c) In case the customs authority of the exporting Party agrees to such request, the customs authority of the importing Party can conduct verification visit to exporter or producer, in the company of customs officials of the exporting Party.
- (d) Prior to initiating the verification visit, matters concerning the verification shall be mutually discussed between customs authorities of both Parties. In the course of verification visit, any request from the customs authority of the importing Party shall be made through the customs authority of the exporting Party.

- (e) The customs authority of the importing Party shall notify the customs authority of the exporting Party of the determination on whether or not the good is originating and the result of verification visit, to the extent possible including legal basis and findings of fact in a written form.
- (f) The exporter or producer may submit comments or documents regarding eligibility of the good for preferential tariff treatment to the customs authority of the exporting Party in a written form.
- (g) The customs authority of the importing Party shall notify the final determination on whether or not the good is originating to the customs authority of the exporting Party and the importer in a written form within 30 days from the receipt of the comments or information provided from the customs authority of the exporting Party under subparagraph 3(f).
- (h) The verification visit process, from the actual visit to the final determination under subparagraph 3(g), shall be carried out within a maximum period of six months.
- (i) Details for the verification visit may be decided jointly by the customs authorities of both Parties in advance.

4. The customs authority of the importing Party may suspend provision of preferential tariff treatment while awaiting the results of the verification. However, it may release the good to the importer subject to any administrative measures deemed necessary, provided that they are not held to be subject to import prohibition or restriction and there is no suspicion of fraud.

5. The customs authority of the importing Party may deny preferential tariff treatment, in case where:

- (a) the importer fails to respond to the customs authority of the importing Party within one month from the date of receipt of the request under subparagraph 1(a);
- (b) the customs authority of the exporting Party fails to provide verification results to the customs authority of the importing Party within six months under subparagraph 2(b);
- (c) the verification results provided to the customs authority of the importing Party or the results of verification visit do not contain information necessary to confirm the authenticity of the origin status of the good in question;
- (d) the customs authority of the exporting Party denies the request of verification visit from the customs authority of the importing Party; or
- (e) the customs authority of the exporting Party fails to respond to the request of verification visit from the customs authority of the importing Party within

30 days under subparagraph 3(a).

6. Communications under this Article shall be in the English language.

#### **Article 3.24: Confidentiality**

1. A Party shall maintain the confidentiality of the information provided by the other Party, pursuant to this Chapter, and protect it from disclosure that could prejudice the competitive position of the person providing the information. Any violation of the confidentiality shall be treated in accordance with the legislation of each Party.

2. The information referred to in paragraph 1 shall not be disclosed without the specific permission of the person or government providing such information.

#### **Article 3.25: Denial of Preferential Tariff Treatment**

A Party may deny preferential tariff treatment to a good when:

- (a) the good 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 requirements of this Chapter; or
- (d) in a case according to paragraph 5 of Article 3.23.

#### **Article 3.26: Transitional Provision for Goods in Transit or Storage**

The provision of this Chapter may be applied to goods which on the date of entry into force of this Agreement, are either in transit, in the Parties, or in temporary storage in customs warehouses, subject to the submission to the customs authorities of the importing Party, within three months of the date of entry into force of this Agreement, of a Certificate of origin made out retrospectively together with the documents showing that the goods have been transported directly in accordance with Article 3.14.

#### **Article 3.27: Electronic Origin Data Exchange System**

According to “*Arrangement between the Korea Customs Service of the Republic of Korea and the General Administration of Customs of the People’s Republic of China on Strategic Cooperation*”, both Parties endeavor to develop an Electronic Origin Data Exchange System before the implementation of this Agreement to ensure the effective and efficient implementation of this Chapter in a manner jointly determined by the Parties.



### **Article 3.28: Sub-Committee on Rules of Origin**

1. The Parties hereby establish a Sub-Committee on Rules of Origin (hereinafter referred to as the “Sub-Committee”) comprising the customs authorities of the Parties, which shall report to the Committee on Customs as defined in Article 19.4 (Committees and Other Bodies).
2. The customs authorities of each Party may request consultations on matters arising from the implementation of this Chapter. The customs authority requested shall confirm the receipt of the request within 10 days and reply to the request within 60 days. For this purpose, contact points should be designated by each customs authority.
3. The Sub-Committee shall be convened at least once a year or at other times as the Parties may agree.
4. The functions of the Sub-Committee shall include:
  - (a) keeping Annex 3-A updated on the basis of the transposition of the Harmonized System;
  - (b) ensuring the effective, uniform and consistent administration of this Chapter, and enhancing the cooperation in this regard;
  - (c) addressing any technical issues related to the implementation of this Chapter and Annex 3-A, such as change in tariff classification, regional value content calculation, etc.; and
  - (d) meeting to review Articles 3.4 and 3.5 and documentary evidence of origin four years after the date of entry into force of this Agreement.

**ANNEX 3-A**  
**PRODUCT SPECIFIC RULES OF ORIGIN**

**Part I – General Interpretative Notes**

1. The product specific rules in this Annex are structured on the basis of the Harmonized System 2012. In the event of any inconsistency between this description and the description set out in the legal text of the Harmonized System established by the World Customs Organization, the description set out in the latter shall prevail.
2. The specific rule, or specific set of rules, that applies to a particular subheading (six-digit code) is set out immediately adjacent to the subheading.
3. When a subheading is subject to alternative specific rules of origin (e.g. CTH or RVC (40)), the rule will be considered to be met if one of the alternatives is satisfied.
4. When a subheading is subject to combination rules of origin (e.g. CTH and RVC (40)), the rule will be considered to be met if all the rules are satisfied.
5. Where a specific rule of origin is defined using the criterion of a change in tariff classification, each of the non-originating materials used in the production of the good shall be required to undergo the applicable change in tariff classification. A requirement of a change in tariff classification shall apply only to non-originating materials.
6. Where a specific rule of origin is defined using the criterion of a change in tariff classification, and the rule is written to exclude tariff provisions at the level of a chapter, heading or subheading of the Harmonized System, each Party shall construe the rule of origin to require that materials classified in those excluded provisions be originating for the good to qualify as originating.
7. For the purposes of this Annex:  
  
**subheading** means the first six-digit code under the nomenclature of the Harmonized System;  
  
**heading** means the first four-digit code under the nomenclature of the Harmonized System; and  
  
**chapter** means the first two-digit code under the nomenclature of the Harmonized System.
8. For the purposes of column 5 of this Annex:  
  
**CC** means that all non-originating materials used in the production of the good have

undergone a change in tariff classification at the first two-digit level;

**CTH** means that all non-originating materials used in the production of the good have undergone a change in tariff classification at the first four-digit level;

**CTSH** means that all non-originating materials used in the production of the good have undergone a change in tariff classification at the first six-digit level;

**WO** means that the good must be wholly obtained or produced entirely in a Party within the meaning of Article 3.4; and

**RVC (X)** means that the good must have a regional value content of not less than X percent as calculated under Article 3.5.

## **Part II – Product Specific Rules of Origin**

**ANNEX 3-B**  
**LIST OF GOODS**

1. Each Party shall apply Article 3.3 to goods listed in this Annex, which comprise three hundred ten in HS six-digit.

2. Both Parties may agree to amend the list of goods in this Annex annually.

230690, 321310, 321390, 340700, 350610, 391740, 391990, 392010, 392190, 392310, 392329, 392350, 392390, 392610, 392640, 392690, 401699, 420212, 420219, 420222, 420229, 420232, 420291, 420292, 420299, 420310, 420321, 420329, 430230, 430310, 441239, 482390\*, 490300, 490900, 500400, 520839, 521039, 540110, 550932, 550961, 550969, 551519, 560311, 560410, 560741, 560750, 560811, 580421, 581092, 610130, 610230, 610310, 610331, 610342, 610343, 610433, 610442, 610452, 610453, 610461, 610462, 610463, 610469, 610510, 610520, 610610, 610620, 610711, 610712, 610722, 610791, 610811, 610819, 610821, 610822, 610831, 610832, 610891, 610892, 610910, 610990, 611011, 611020, 611030, 611120, 611130, 611211, 611212, 611521, 611594, 611595, 611596, 611599, 611710, 611790, 620111, 620112, 620113, 620191, 620192, 620193, 620211, 620212, 620213, 620219, 620291, 620292, 620293, 620311, 620312, 620319, 620331, 620332, 620333, 620339, 620341, 620342, 620343, 620349, 620412, 620413, 620419, 620431, 620432, 620433, 620439, 620441, 620442, 620443, 620444, 620449, 620451, 620452, 620453, 620459, 620461, 620462, 620463, 620469, 620520, 620530, 620590, 620620, 620630, 620640, 620690, 620711, 620719, 620791, 620799, 620811, 620822, 620891, 620892, 620899, 620920, 621040, 621111, 621112, 621132, 621133, 621139, 621142, 621143, 621210, 621220, 621290, 621320, 621430, 621440, 621600, 621790, 630130, 630140, 630231, 630391, 630492, 630493, 630532, 630533, 630539, 630612, 630710, 630790, 640291, 640299, 640340, 640359, 640391, 640399, 640419, 640610, 640620, 640690, 650500, 680530, 681280, 691200, 691490, 701400, 701590, 701919, 711311, 720720, 730890, 732290, 732393, 732599, 732690, 761699, 821300, 821520, 830140, 830890, 831000, 840390, 841231, 841330, 841391, 841480, 841490, 841510, 841590, 841899, 842091, 842121, 842123, 842131, 842139\*, 842199, 842240, 843120, 843141, 844319, 844399\*, 846694, 847330, 847989, 848079, 848490, 850110, 850300\*, 850410, 850431, 850440, 850490, 850511, 850519, 850790, 851290, 851610\*, 851631, 851632, 851660, 851690, 851770, 852910, 852990\*, 853190, 853340, 853400, 853590, 853620, 853669, 853690, 853890, 853931\*, 853939\*, 854140, 854232, 854370, 854390, 854430, 854442, 854470, 854720, 854890, 870829\*, 870894\*, 870899, 871410, 871680, 880400, 900190, 900211\*, 900219, 900290, 901720, 902121, 903190, 910211, 911120, 911320, 940190\*, 940330, 940490, 940510, 940540, 940560, 940592, 940599, 950300, 950510, 950669, 960810, 960820, 960910, 960990, 961511, 961900\*

\* For tariff lines at the six-digit level marked with asterisk, this Annex applies only to tariff lines at the eight-digit level that are subject to tariff elimination, which means staging categories of “0, 5, 15 and 20” in China’s Tariff Schedule, under this Agreement.

**ANNEX 3-C  
CERTIFICATE OF ORIGIN**

**ORIGINAL**

<p>1. Exporter's name and address, country:</p>	<p>Certificate No.:</p> <p><b>CERTIFICATE OF ORIGIN</b> <b>Form for Korea-China FTA</b></p> <p>Issued in _____ (see Overleaf Instruction)</p>					
<p>2. Producer's name and address, country:</p>						
<p>3. Consignee's name and address, country:</p>						
<p>4. Means of transport and route (as far as known):</p> <p>Departure Date:</p> <p>Vessel/Flight/Train/Vehicle No.:</p> <p>Port of loading:</p> <p>Port of discharge:</p>	<p>5. Remarks:</p>					
<p>6. Item number (Max 20)</p>	<p>7. Marks and Numbers on packages</p>	<p>8. Number and kind of packages; description of goods</p>	<p>9. HS code (Six-digit code)</p>	<p>10. Origin criterion</p>	<p>11. Gross weight, quantity (Quantity Unit) or other measures (liters, m3, etc.)</p>	<p>12. Number and date of invoice</p>
<p>13. Declaration by the exporter:</p> <p>The undersigned hereby declares that the above details and statement are correct, that all the goods were produced in</p> <p style="text-align: center;">(Country)</p> <p>and that they comply with the origin requirements specified in the FTA for the goods exported to</p> <p style="text-align: center;">(Importing country)</p> <p>Place and date, signature of authorized signatory</p>				<p>14. Certification:</p> <p>On the basis of control carried out, it is hereby certified that the information herein is correct and that the goods described comply with the origin requirements specified in the Korea-China FTA.</p> <p>Place and date, signature and stamp of authorized body</p>		

### **Overleaf Instruction**

Certificate No.: Serial number of Certificate of Origin assigned by the authorized body.

- Box 1: State the full legal name and address (including country) of the exporter in either Korea or China.
- Box 2: State the full legal name and address (including country) of the producer. If goods from more than one producer are included in the certificate, list the additional producers, including their full legal name and address (including country). If the exporter or the producer wishes to maintain this information as confidential, it is acceptable to state "AVAILABLE UPON REQUEST." If the producer and the exporter are the same, please complete field with "SAME."
- Box 3: State the full legal name and address (including country) of the consignee resident in either Korea or China.
- Box 4: Complete the means of transport and route and specify the departure date, transport vehicle No., port of loading, and port of discharge.
- Box 5: In case where a good is invoiced by a non-Party operator, the full legal name, country of the non-Party operator shall be indicated in this box. In case of issuance of certificates retroactively, should bear the words "ISSUED RETROACTIVELY", and in case of a certified true copy, should bear the words "CERTIFIED TRUE COPY of the original Certificate of Origin number \_\_\_ dated \_\_\_".
- Box 6: State the item number, and the number of items should not exceed 20.
- Box 7: State the shipping marks and numbers on packages, when such marks and numbers exist, if the shipping marks are images or symbols, other than letter or numerical number, shall state "IMAGE OR SYMBOL (I/S)", otherwise shall state "NO MARKS AND NUMBERS (N/M)"
- Box 8: The number and kind of packages shall be specified. Provide a full description of each good. The description should be sufficiently detailed to enable the goods to be identified by the Customs Officers examining them and relate them to the invoice description and to the HS description of the good. If the goods are not packed, state "IN BULK".
- Box 9: For each good described in Box 8, identify the HS tariff classification to six-digit.
- Box 10: The exporter must indicate in Box 10 the origin criteria on the basis of which he claims that the goods qualify for preferential tariff treatment, in the manner shown in the following table:

Origin Criteria	Insert in Box 10
The good is wholly obtained or produced entirely in a Party, as set out and defined in Article 3.4 (Goods Wholly Obtained or Produced) or required so in Annex 3- A (Product Specific Rules of Origin).	WO
The good is produced entirely in a Party, exclusively from materials whose origin conforms to Chapter 3 (Rules of Origin and Origin Implementation Procedures).	WP
The good is produced in a Party, using non-originating materials that conform to a change in tariff classification, a regional value content, a process requirement or other requirements specified in Annex 3-A (Product Specific Rules of Origin).	PSR
The good is subject to Article 3.3 (Treatment of Certain goods)	OP

- Box 11: Gross weight in Kilos should be shown here. Other units of measurement e.g. volume or number of items which would indicate exact quantities may be used when customary.
- Box 12: Invoice number and date of invoice should be shown here. In case where a good is invoiced by a non-Party operator and the number and date of the commercial invoice is unknown, the number and date of the original commercial invoice, issued in the exporting Party, shall be indicated in this box.
- Box 13: This box shall be completed, signed and, dated by the exporter.
- Box 14: This box shall be completed, signed, dated, and stamped by the authorized person of the authorized body.

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Note: The instructions hereon are only used for the purposes of reference to complete the Certificate of Origin, and thus do not have to be reproduced or printed in the overleaf page. The instruction hereon can be printed or reproduced in the official language of a Party.