

## CHAPTER 4

### RULES OF ORIGIN

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#### **ARTICLE 4.1 : DEFINITIONS**

For the purposes of this Chapter:

**customs value** means:

- (a) the price actually paid or payable for a good or material with respect to a transaction of the seller of the good, pursuant to the principles of Article 1 of the Customs Valuation Agreement, adjusted in accordance with Article 8 of the Customs Valuation Agreement; or
- (b) in the event that there is no such value or such value of the good is unascertainable, the value determined in accordance with Articles 2 through 7 of the Customs Valuation Agreement;

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

**fungible goods or materials** means goods or materials that are interchangeable for commercial purposes and whose properties are essentially identical;

**good** means any merchandise, product, article or material;

**goods wholly obtained or produced entirely in the territory of one or both of the Parties** means:

- (a) mineral goods extracted there;
- (b) plants and plant products grown and harvested, picked or gathered there;
- (c) live animals born and raised there;
- (d) goods obtained from hunting or trapping conducted there;
- (e) goods obtained from fishing within the outer limit of the territorial sea of one or both of the parties;
- (f) products of sea-fishing and other products taken from the sea outside of the

- territorial sea of one or both of the Parties by vessels registered or recorded with a Party and flying its flag;
- (g) goods produced on board factory ships from the goods referred to in paragraph (f), provided such factory ships are registered or recorded with one of the Parties and flying its flag;
  - (h) goods taken by a Party or a person of a Party from the seabed or beneath the seabed outside territorial waters, provided that the Party has rights to exploit such seabed;
  - (i) goods taken from outer space, provided that they are obtained by a Party or a person of a Party and not processed in the territory of a non-Party;
  - (j) waste and scrap derived from:
    - (i) production there; or
    - (ii) used goods collected there, provided that such goods are fit only for the recovery of raw materials; and
  - (k) goods produced in the territory of one or both of the Parties exclusively from goods referred to in paragraphs (a), (b), (c), (d), (e), (f), (g), (h), (i) and (j), or from their derivatives, at any stage of production;

**intermediate material** means a material that is self-produced and used in the production of a good, and designated pursuant to Article 4.7;

**material** means a good that is used in the production of another good and physically incorporated into the good;

**non-originating good or non-originating material** means a good or material that does not qualify as originating under this Chapter;

**originating material** means a material that qualifies as originating under Article 4.2;

**packing materials and containers for shipment** means goods used to protect a good during its transportation, different from those containers or materials used for its individual sale;

**producer** means a person who grows, mines, raises, harvests, fishes, reproduces and breeds, traps, hunts, manufactures, processes, assembles or disassembles a good;

**production** means method of obtaining goods including growing, raising, mining,

harvesting, fishing, reproducing and breeding, trapping, hunting, manufacturing, processing, assembling or disassembling a good;

**used** means used or consumed in the production of goods; and

**value of materials means:**

- (a) except in the case of packing materials and containers for shipment, for the purposes of calculating the regional value content of a good and for the purposes of applying the De Minimis rule, the value of a material that is used in the production of a good shall:
  - (i) for a material that is imported by the producer of the good, be the customs value of the material with respect to the importation including the costs of freight, insurance, packing and all other costs incurred in the international shipment of that material to the location of the producer, if not included;
  - (ii) for a material purchased in the territory where the good is produced, be the producer's price actually paid or payable for the material including the costs of freight, insurance, packing and all other costs incurred in transporting the material to the location of the producer, if not included; and
  - (iii) for an intermediate material, be determined by computing the sum of:
    - (A) all costs incurred in the production of the material, including general expenses; and
    - (B) an amount for profit;
- (b) for the value of non-originating materials, the following expenses may be deducted from the value of the material:
  - (i) the duties, taxes and customs brokerage fees on the materials paid in the territory of one or more of the Parties, other than the duties and taxes that are waived, refunded, refundable or otherwise recoverable,

- including credit against duties or taxes paid or payable;
- (ii) inland transportation costs incurred to transport the materials to the local producer;
  - (iii) the costs of waste and spoilage resulting from the use of the material in the production of the good, less the value of renewable scrap or by-product; and
  - (iv) the cost of originating materials used in the production of the non-originating material in the territory of a Party.

#### **ARTICLE 4.2 : ORIGINATING GOODS**

1. For the purposes of this Agreement, an originating good means a good:
  - (a) wholly obtained or produced entirely in the territory of one or both of the Parties;
  - (b) that has satisfied the requirements specified in Annex 4A as well as other applicable requirements under this Chapter as a result of the production occurring entirely in the territory of one or both of the Parties;
  - (c) otherwise provided as an originating good under this Chapter; or
  - (d) produced entirely in the territory of one or both of the Parties exclusively from originating materials pursuant to this Chapter.
2. Product-specific rules, requiring that the materials used undergo a change in tariff classification or a specific manufacturing or processing operation, shall apply only to non-originating materials.

#### **ARTICLE 4.3 : TREATMENT OF CERTAIN GOODS**

1. The goods listed in Annex 4B shall be originating goods when the goods are imported into the territory of Singapore from the territory of Korea. The goods shall also be originating material for purposes of satisfying the requirements specified in this Chapter.

2. Upon request of a Party, the Parties shall have consultations on the operation or revision of this Article and Annex 4B.

#### **ARTICLE 4.4 : OUTWARD PROCESSING**

1. Notwithstanding the relevant provisions of Article 4.2 and the product-specific requirements set out in Annex 4A, a good listed in Annex 4C shall be considered as originating even if it has undergone processes of production or operation outside the territory of a Party on a material exported from the Party and subsequently re-imported to the Party, provided that:

- (a) the total value of non-originating inputs as set out in paragraph 2 does not exceed forty (40) per cent of the customs value of the final good for which originating status is claimed;
- (b) the value of originating materials is not less than forty-five (45) per cent of the customs value of the final good for which originating status is claimed;
- (c) the materials exported from a Party shall have been wholly obtained or produced in the Party or have undergone there processes of production or operation going beyond the non-qualifying operations in Article 4.16, prior to being exported outside the territory of the Party;
- (d) the producer of the exported material and the producer of the final good for which originating status is claimed are the same;
- (e) the re-imported good has been obtained through the processes of production or operation of the exported material; and
- (f) the last process of production or operation<sup>4-1</sup> takes place in the territory of the Party.

2. For the purposes of paragraph 1(a), the total value of non-originating inputs shall be the value of any non-originating materials added in a Party as well as the value of any materials added and all other costs accumulated outside the territory of the Party, including transportation cost.

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<sup>4-1</sup> The last process of production or operation does not exclude the non-qualifying operations stipulated in Article 4.16

## **ARTICLE 4.5 : REGIONAL VALUE CONTENT**

When a regional value content is required to determine an originating good, the regional value content of a good shall be calculated on the basis of the following method:

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

where

RVC is the regional value content, expressed as a percentage;

CV is the customs value adjusted to an F.O.B. basis; and

VNM is the value of non-originating materials used by the producer in the production of the good.

## **ARTICLE 4.6 : UNASSEMBLED OR DISASSEMBLED GOODS**

A good that is imported into the territory of a Party in an unassembled or disassembled form but is classified as an assembled good pursuant to the provisions of sub-paragraph (a) of paragraph 2 of the General Rule for the Interpretation of the Harmonized System shall be considered as an originating good, if the good meets the requirements of Article 4.2.

## **ARTICLE 4.7 : INTERMEDIATE MATERIALS**

Any self-produced material that is used in the production of a good may be designated by the producer of the good as an intermediate material for the purpose of calculating the regional value content of the good under Article 4.5, provided that where the intermediate material is subject to a regional value content requirement, no other

self-produced material subject to a regional value content requirement used in the production of that intermediate material may itself be designated by the producer as an intermediate material.

#### **ARTICLE 4.8 : NEUTRAL ELEMENTS**

In order to determine whether a good originates it shall not be necessary to determine the origin of the following which might be used in its production and not incorporated into the good:

- (a) fuel and energy;
- (b) tools, dies and moulds;
- (c) spare parts and materials used in the maintenance of equipment and buildings;
- (d) lubricants, greases, compounding materials and other materials used in production or used to operate equipment and buildings;
- (e) gloves, glasses, footwear, clothing, safety equipment and supplies;
- (f) equipment, devices and supplies used for testing or inspecting the goods; 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 4.9 : ACCUMULATION**

1. Originating materials from the territory of a Party incorporated in the production of a good in the territory of the other Party, shall be considered to originate in the territory of the other Party.
2. For the purpose of establishing that a good is originating, the producer of a good may accumulate one's production with the production, in the territory of one or both of the Parties by one or more producers, of materials incorporated in the production of the good, so that the production of those materials is considered as done by that producer, provided that the good complies with the criteria set out in Article 4.2.

#### **ARTICLE 4.10 : DE MINIMIS**

1. A good that does not undergo a change in tariff classification pursuant to Annex 4A shall be considered as originating if:

- (a) the value of all non-originating materials used in its production that do not undergo the required change in tariff classification does not exceed ten (10) per cent of the customs value of the good; and
- (b) the good meets all other applicable criteria set forth in this Chapter for qualifying as an originating good.

The value of such non-originating materials shall, however, be included in the value of non-originating materials for any applicable regional value content requirement for the good.

2. Paragraph 1 shall not apply to:

- (a) a non-originating material used in the production of a good provided for in Chapters 1 through 14 of the Harmonized System; and
- (b) a non-originating material used in the production of a good provided for in Chapters 15 through 24 of the Harmonized System unless 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 Article.

3. A good provided for in Chapters 50 through 63 of the Harmonized System that is not an originating good, because certain fibres or yarns used in the production of the component of the good that determines the tariff classification of the good do not undergo an applicable change in tariff classification set out in Annex 4A, shall nonetheless be considered as originating if the total weight of all such fibres or yarns in that component is not more than eight (8) per cent of the total weight of that component.

#### **ARTICLE 4.11 : FUNGIBLE GOODS AND MATERIALS**

1. The determination of whether fungible goods or materials are originating goods shall be made either by physical segregation of each good or material or through the use of any of the inventory management method, such as averaging, last-in, first-out, or first in, first-out, recognised in the Generally Accepted Accounting Principles of a Party in

which the production is performed or otherwise accepted by the Party in which the production is performed.

2. Once a particular inventory management method is selected under paragraph 1, that method shall continue to be used for those fungible goods or materials throughout the fiscal year of the person that selected the inventory management method.

#### **ARTICLE 4.12 : ACCESSORIES, SPARE PARTS AND TOOLS**

1. Accessories, spare parts, or tools, delivered with a good that form part of standard accessories, spare parts or tools of the good, shall be considered as originating if the good is an originating good, and shall be disregarded in determining whether all the non-originating materials used in the production of the good undergo the applicable change in tariff classification set out in Annex 4A, provided that:

- (a) the accessories, spare parts or tools are not invoiced separately from the good; and
- (b) the quantities and value of the accessories, spare parts or tools are customary for the good.

2. If the good is subject to a regional value-content requirement, the value of the accessories, spare parts or tools shall be taken into account as originating or non-originating materials, as the case may be, in calculating the regional value content of the good.

#### **ARTICLE 4.13 : PACKAGING MATERIALS AND CONTAINERS FOR RETAIL SALE**

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 set out in Annex 4A, and, if the good is subject to a regional value content requirement, the value of such packaging materials and containers shall be taken into account as originating or non-originating materials, as the case may be, in calculating the regional value content of the good.

#### **ARTICLE 4.14 : PACKING MATERIALS AND CONTAINERS FOR SHIPMENT**

Packing materials and containers in which a good is packed for shipment shall be disregarded in determining whether:

- (a) the non-originating materials used in the production of the good undergo an applicable change in tariff classification set out in Annex 4A; and
- (b) the good satisfies a regional value content requirement.

#### **ARTICLE 4.15 : DIRECT CONSIGNMENT**

A good shall not be considered to be an originating good of a Party by reason of having undergone production that satisfies the requirements of Article 4.2, if, subsequent to that production:

- (a) the good is not transported directly to the territory of the other Party; or
- (b) where the good is shipped through or transshipped in the territory of a country that is not a Party under this Agreement, the importer has failed to meet the requirements stipulated in paragraph (c) of Article 5.9.

#### **ARTICLE 4.16 : NON-QUALIFYING OPERATIONS**

Notwithstanding any provision in this Chapter, a good shall not be considered to have satisfied the requirements for an originating good in Article 4.2 merely by reason of going through certain operations or processes including, *inter alia*, the following :

- (a) operations to ensure the preservation of products in good condition during transport and storage (such as drying, freezing, keeping in brine) and other similar operations;
- (b) changes of packaging and breaking up and assembly of packages;
- (c) affixing marks, labels and other like distinguishing signs on products or their packaging;
- (d) disassembly;
- (e) testing or calibrations;

- (f) placing in bottles, cases, boxes and other simple packaging operations;
- (g) simple cutting, including peeling, unshelling or unflaking, grain removing, removal of bones, crushing or squeezing, and macerating;
- (h) simple mixing;
- (i) simple assembly of parts to constitute a complete product;
- (j) simple making-up of sets of articles;
- (k) slaughter of animals;
- (l) quality check or grinding;
- (m) elimination of dust from broken or damaged parts, application of oil, paint for rust treatment or other protecting materials;
- (n) salifying or sweetening;
- (o) dilution with water or with any other aqueous, ionized or salted solution;
- (p) division of bulk shipment; and
- (q) a combination of two or more operations referred to in paragraphs (a) through (p),

carried out in the territory of the Parties, when non-originating materials are used in those operations.

#### **ARTICLE 4.17 : INTERPRETATION AND APPLICATION**

For the purposes of this Chapter:

- (a) the basis for tariff classification in this Chapter is the Harmonised System as amended on January 1, 2002;
- (b) in applying the Customs Valuation Agreement for the determination of the origin of a good under this Chapter:
  - (i) the principles of the Customs Valuation Agreement shall apply to domestic transactions, with such modifications as may be required by the circumstances, as would apply to international transactions;
  - (ii) the provisions of this Chapter shall take precedence over the Customs Valuation Agreement to the extent of any difference; and
  - (iii) the definitions in Article 4.1 shall take precedence over the definitions in the Customs Valuation Agreement to the extent of any difference; and
- (c) all costs referred to in this Chapter shall be recorded and maintained in accordance with the Generally Accepted Accounting Principles applic

able in the territory of the Party in which the good is produced.

#### **ARTICLE 4.18 : CONSULTATIONS AND MODIFICATIONS**

1. The Parties shall consult and co-operate to ensure that this Chapter is applied in an effective and uniform manner.
2. The Parties shall consult to review the rules of origin and discuss necessary amendments to this Chapter and its Annexes, as provided in Article 22.1 or upon the request of a Party, taking into account developments in technology, production processes, and other related matters including the recommended amendments to the Harmonized System.