

## **CHAPTER 3**

### **RULES OF ORIGIN AND ORIGIN PROCEDURES**

#### **Section A: Rules of Origin**

##### **ARTICLE 3.1: ORIGINATING GOODS**

Unless otherwise provided in this Chapter, a good shall be regarded as originating in a Party where:

- (a) the good is wholly obtained in the territory of one or both of the Parties within the meaning of Article 3.2;
- (b) the good is produced entirely in the territory of one or both of the Parties, exclusively from originating materials;
- (c) the good satisfies all applicable requirements of Annex 3-A, as a result of processes performed entirely in the territory of one or both of the Parties by one or more producers; or
- (d) the good otherwise qualifies as an originating good in accordance with this Chapter.

##### **ARTICLE 3.2: WHOLLY OBTAINED GOODS**

For the purposes of Article 3.1(a), the following goods shall be considered to be wholly obtained in the territory of one or both of the Parties:

- (a) mineral goods and other natural resources taken or extracted from the territory of one or both of the Parties;
- (b) vegetable goods<sup>2</sup> grown and harvested, picked or gathered in the territory of one or both of the Parties;
- (c) live animals born and raised in the territory of one or both of the Parties;
- (d) goods obtained from live animals born and raised in the territory of one or both of the Parties;
- (e) goods obtained from hunting, trapping, gathering, capturing, aquaculture or fishing conducted within the land territory, internal waters and the outer limit of the territorial sea of one or both of the Parties;

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<sup>2</sup> For the purposes of this Chapter, “vegetable goods” include plants, fungi, algae, and products thereof.

- (f) fish, shellfish and other marine life taken from the sea, seabed, ocean floor or subsoil outside the territorial seas of the Parties by a vessel registered or recorded with a Party and entitled to fly its flag;
- (g) goods produced on board a factory ship from the fish, shellfish or other marine life referred to in subparagraph(f), provided that such factory ship is registered or recorded with a Party and entitled to fly its flag;
- (h) goods, other than fish, shellfish and other marine life, taken or extracted from the seabed, ocean floor or subsoil outside the territory of one or both of the Parties by a Party or a person of a Party, provided that the Party or person of the Party has rights to exploit such seabed, ocean floor or subsoil;
- (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 in the territory of one or both of the Parties; or
  - (ii) used goods collected in the territory of one or both of the Parties, provided that such goods are fit only for the recovery of raw materials;
- (k) goods collected from the territory of one or both of the Parties which can no longer perform their original purpose and are fit only for the recovery of raw materials; and
- (l) goods produced entirely in the territory of one or both of the Parties exclusively from goods referred to in this Article or from their derivatives, at any stage of production.

### ARTICLE 3.3: REGIONAL VALUE CONTENT

1. Where Annex 3-A specifies a regional value content requirement, the regional value content shall be calculated in accordance with one of the following methods:

- (a) build-down method

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

- (b) build-up method

$$RVC = \frac{VOM}{AV} \times 100$$

where,

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

AV is the adjusted value of the good and shall be:

- (a) the FOB value of the good determined in accordance with the Customs Valuation Agreement, inclusive of the cost of transport and insurance to the port or site of final shipment abroad; or
- (b) if there is no FOB value of the good or it is unknown and cannot be ascertained, the value determined in accordance with the Customs Valuation Agreement, *mutatis mutandis*.

VNM is the value of non-originating materials (including materials of undetermined origin) used in the production of the good, as determined in Article 3.4; and

VOM is the value of originating materials used in the production of the good, as determined in Article 3.4.

2. All costs considered for the calculation of regional value content shall be recorded and maintained in conformity with the Generally Accepted Accounting Principles applicable in the territory of the Party where the good is produced.

3. All values for the purposes of calculating regional value content shall be determined in accordance with the Customs Valuation Agreement. For this purpose, the Customs Valuation Agreement shall apply *mutatis mutandis* to domestic transactions.

#### ARTICLE 3.4: VALUE OF MATERIALS

1. Subject to paragraph 2, the value of non-originating materials referred to in Article 3.3 shall be:

- (a) for a material imported directly by the producer of a good, the CIF value at the time of importation of the material; or
- (b) for a material acquired within the territory of the Party where the good is produced, the earliest ascertainable value of the non-originating material in the territory of that Party.

2. For the purposes of paragraph 1, the following, where included in accordance with paragraph 1, may be deducted from the value of the non-originating materials:

- (a) the value of originating materials used in the production of the non-originating material in the territory of a Party;
- (b) the costs of freight, insurance, packing, and all other costs incurred in transporting the material within a Party's territory or between the territories of the Parties to the location of the producer;

- (c) duties, taxes, and customs brokerage fees on the material paid in the territory of one or both of the Parties, other than duties and taxes that are waived, refunded, refundable, or otherwise recoverable, including credit against duty or tax paid or payable; and
- (d) the cost of processing incurred in the territory of one or both of the Parties in the production of the non-originating material.

3. Subject to paragraph 4, the value of originating materials referred to in Article 3.3 shall be:

- (a) for a material imported directly by the producer of a good, the CIF value at the time of importation of the material;
- (b) for a material acquired within the territory of the Party where the good is produced, the value of the material; or
- (c) for a material that is self-produced, the sum of all costs incurred in the production of the material, including general expenses, and an amount for profit equivalent to the profit added in the normal course of trade.

4. For the purposes of paragraph 3, the following, where not included in accordance with paragraph 3, may be added to the value of the originating materials:

- (a) the costs of freight, insurance, packing, and all other costs incurred in transporting the material within a Party's territory or between the territories of the Parties to the location of the producer; and
- (b) duties, taxes, and customs brokerage fees on the material paid in the territory of one or both of the Parties, other than duties and taxes that are waived, refunded, refundable, or otherwise recoverable, including credit against duty or tax paid or payable.

5. For greater certainty, when an originating good is used in the subsequent production of another good, no account shall be taken of the non-originating materials contained in the originating good for the purposes of determining the originating status of the subsequently produced good.

6. For greater certainty, when a non-originating good is used in the subsequent production of another good, an account shall be taken only of the non-originating materials contained in the non-originating good for the purposes of determining the originating status of the subsequently produced good.

#### ARTICLE 3.5: ACCUMULATION

1. Originating goods of a Party, incorporated into a good in the territory of the other Party, shall be considered to be originating in the territory of the other Party.

2. A good is originating where the good is produced in the territory of one or both of the Parties by one or more producers, provided that the good satisfies the requirements in Article 3.1 and all other applicable requirements in this Chapter.

#### ARTICLE 3.6: DE MINIMIS

1. A good that does not satisfy a change in tariff classification requirement pursuant to Annex 3-A is nonetheless originating if the value of all non-originating materials that have been used in the production of the good and do not undergo the applicable change in tariff classification does not exceed 10 percent of the adjusted value of the good, provided that the value of such non-originating materials shall be included in the value of non-originating materials for any applicable regional value content requirement and that the good meets all other applicable requirements in this Chapter.

2. Paragraph 1 shall not apply to goods classified in Chapters 1 through 14 of the Harmonized System unless the non-originating material is provided for in a different subheading than the good for which origin is being determined under this Article.

3. Neither paragraph 1 or 2 shall apply to goods classified under Harmonized System codes 0301 through 0303; 0305 through 0308; 0701 through 0710.10; 0713 through 0714; 0801 through 0810; and 0813.10 through 0813.40.

4. A good classified in Chapters 50 through 63 of the Harmonized System, produced in the territory of a Party, shall be considered to be an originating good if the total weight of all non-originating fibres or yarns used in the production of the component that determines the tariff classification of the good, that do not undergo the applicable change in tariff classification, does not exceed 10 percent of the weight of the good.

#### ARTICLE 3.7: FUNGIBLE GOODS AND MATERIALS

1. An importer claiming preferential tariff treatment for a good may claim that a fungible good or material is originating where the importer, exporter, or producer has:

- (a) physically segregated each fungible good or material; or
- (b) used any inventory management method, such as averaging, last-in-first-out (LIFO) or first-in-first-out (FIFO), recognised in the Generally Accepted Accounting Principles of the Party in which the production is performed or otherwise accepted by the Party in which the production is performed.

2. The inventory management method selected in accordance with paragraph 1 for a particular fungible good or material shall continue to be used for that good or material throughout the fiscal year of the person that selected the inventory management method.

#### ARTICLE 3.8: ACCESSORIES, SPARE PARTS AND TOOLS

The origin of the accessories, spare parts or tools presented and classified with a good and delivered with the good at the time of importation:

- (a) shall be disregarded if the good is subject to a change in tariff classification requirement; and
- (b) 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, if the good is subject to a regional value content requirement,

provided that:

- (c) the accessories, spare parts or tools are not invoiced separately from the good and are included in the price of the good, regardless of whether they appear specified or separately identified in the invoice itself; and
- (d) the quantities and value of the accessories, spare parts or tools are customary for the good.

#### ARTICLE 3.9: PACKAGING MATERIALS AND CONTAINERS FOR RETAIL SALE

1. 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 3-A.

2. If a good is subject to a regional value content requirement, the value of packaging materials and containers described in paragraph 1 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 3.10: PACKING MATERIALS AND CONTAINERS FOR TRANSPORTATION AND SHIPMENT

1. Packing materials and containers for transportation and shipment shall not be taken into account when determining whether a good is originating.

2. For the purposes of paragraph 1, “packing materials and containers for transportation and shipment” means the goods used to protect a good during its transportation and does not include the packaging materials and containers in which the good is packaged for retail sale.

#### ARTICLE 3.11: INDIRECT MATERIALS

1. In determining whether a good is originating, indirect materials shall be treated as originating.

2. For the purposes of paragraph 1, “indirect materials” means articles used in the production of a good which are not physically incorporated into it, nor form part of it, including:

- (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 good;
- (g) catalysts and solvents; and
- (h) 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 3.12: NON-QUALIFYING OPERATION

1. Notwithstanding other provisions of this Chapter, a good shall not be considered to be originating merely by reason of having undergone one or more of the following operations or processes:

- (a) preserving operations to ensure that the products remain in good condition during transport and storage;
- (b) changes of packaging, breaking-up and assembly of packages;
- (c) washing, cleaning, or removal of dust, oxide, oil, paint or other coverings;
- (d) sharpening, simple grinding or crushing or simple cutting;
- (e) simple placing in bottles, cans, flasks, bags, cases or boxes, fixing on cards or boards and all other simple packaging operations;
- (f) affixing or printing marks, labels, logos and other like distinguishing signs on products or their packaging;
- (g) disassembly; or
- (h) mere reclassification of goods without any physical change.

2. All operations and processes carried out in the territory of a Party on a good shall be considered together when determining whether the operations and processes undergone by that good fall within the scope of paragraph 1.

#### ARTICLE 3.13: OUTWARD PROCESSING ZONES ON THE KOREAN PENINSULA

Notwithstanding Article 3.1, the Parties agree that certain goods shall be considered to be originating even if they have undergone working or processing outside Korea, on materials exported from Korea and subsequently re-imported there, provided that the working or processing is done in the areas designated by the Parties pursuant to Annex 3-B.

#### ARTICLE 3.14: DIRECT TRANSPORT

1. An originating good shall retain its originating status as determined in accordance with Article 3.1, provided that it is directly transported to the importing Party without passing through the territory of a non-Party.

2. An originating good that is transported through the territory of a non-Party shall not retain its originating status as determined in accordance with Article 3.1 if it:

- (a) has undergone any subsequent production or other operation outside the territories of the Parties other than unloading, reloading, storing, repacking, relabelling<sup>3</sup>, splitting up of loads for transport reasons or any other operation necessary to preserve it in good condition or to transport the good to the territory of a Party; or
- (b) does not remain under the customs control in the territory of a non-Party.

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

#### ARTICLE 3.15: CERTIFICATE OF ORIGIN

1. A claim that a good should be treated as originating and accepted as eligible for a preferential tariff shall be supported by a Certificate of Origin.

2. The Certificate of Origin shall be completed by the exporter or the producer and shall:

- (a) specify that the goods described therein are originating;
- (b) be made in respect of one or more goods and may include a variety of goods;
- (c) be in a printed format or such other medium including electronic format; and

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<sup>3</sup> For the purposes of this paragraph, “relabelling” means the affixing of labels necessary to meet the requirements of the importing Party; “repacking” means a packing operation necessary to transport the good to the territory of the importing Party.



- (d) be completed in English and contain the data elements set out with instructions in Annex 3-C. A model format for a Certificate of Origin is provided in Annex 3-D.
- 3. Where an exporter in the territory of a Party is not the producer of the good, the exporter may complete and sign a Certificate of Origin on the basis of:
  - (a) its knowledge that the good qualifies as an originating good; or
  - (b) a written declaration or statement, such as a Certificate of Origin, that the good qualifies as an originating good, provided by the producer.
- 4. Nothing in this Article shall be construed to require a producer who is not the exporter of the good to provide a Certificate of Origin, or written declaration or statement that the good qualifies as an originating good.
- 5. A Certificate of Origin shall be applicable to:
  - (a) a single importation of one or more goods into a Party's territory; or
  - (b) multiple importations of the goods described therein that occur within the period of validity of the Certificate of Origin.
- 6. A Certificate of Origin shall remain valid for at least two years, or for such longer period specified by the laws and regulations of the importing Party, after the date on which the Certificate of Origin was signed.
- 7. For any originating good that is imported into the territory of a Party on or after the date of entry into force of this Agreement, each Party shall accept a Certificate of Origin that has been completed and signed prior to that date.

#### ARTICLE 3.16: AUTHORISED BODIES

- 1. Further to Article 3.15, for Australia, a Certificate of Origin may be issued by an authorised body following a written application submitted by an exporter or producer.
- 2. Australia shall provide that its authorised bodies carry out proper examination of each application for a Certificate of Origin to ensure that:
  - (a) the goods described therein are originating; and
  - (b) the data to be contained in the Certificate of Origin corresponds to that in supporting documentary evidence submitted.
- 3. Australia shall provide that its authorised bodies retain copies of Certificates of Origin and supporting documentary evidence for five years after the date of issue. Such

documentation may be maintained in any medium that allows for prompt retrieval, including but not limited to, digital, optical, magnetic or written form.

4. Australia shall provide that an authorised body that has reason to believe that a Certificate of Origin, which it has issued, contains information that is not correct, shall promptly notify in writing the person to whom the Certificate of Origin was issued.

5. Australia shall notify the names, addresses, specimens of the impressions of the official seals of its authorised bodies and other details that the Parties may agree to Korea. Any subsequent change shall be promptly notified.

#### ARTICLE 3.17: CLAIMS FOR PREFERENTIAL TARIFF TREATMENT

1. Unless otherwise provided in this Chapter, each Party shall grant preferential tariff treatment to a good imported into its territory from the other Party, provided that:

- (a) the importer requests preferential tariff treatment at the time of importation;
- (b) the good qualifies as an originating good;
- (c) the importer has the Certificate of Origin in its possession at the time the customs import declaration is made, if required by the laws or regulations of the importing Party; and
- (d) the importer provides, on request of the importing Party's customs administration, a copy of the Certificate of Origin and such other documentation relating to the importation of the good in accordance with the laws and regulations of the importing Party.

2. An importer should promptly make a corrected customs import declaration in a manner required by the customs administration of the importing Party and pay any duties owing where the importer has reason to believe that a Certificate of Origin on which a claim was based contains information that is not correct.

#### ARTICLE 3.18: POST-IMPORTATION CLAIMS FOR PREFERENTIAL TARIFF TREATMENT

Each Party shall provide that, where a good would have qualified as an originating good when it was imported into the territory of that Party, the importer of the good may, within a period of at least one year, or for such longer period specified by the laws and regulations of the importing Party, after the date on which the good was imported, apply for a refund of any excess duties paid as the result of the good not having been accorded preferential tariff treatment, on presentation to the customs administration of the importing Party:

- (a) a Certificate of Origin and, where appropriate, other evidence that the good qualifies as an originating good; and

- (b) such other documentation in relation to the importation as the customs administration may require to satisfactorily evidence the tariff preference claimed.

#### ARTICLE 3.19: WAIVER OF CERTIFICATE OF ORIGIN

Each Party shall provide that a Certificate of Origin shall not be required for:

- (a) an importation of a good whose customs value does not exceed 1,000 US dollars or its equivalent amount for Korea or 1,000 Australian dollars for Australia, or such higher amount as each Party may establish; or
- (b) an importation of a good for which the importing Party has waived the requirement for a Certificate of Origin,

provided that the importation does not form part of a series of importations that may reasonably be considered to have been undertaken or arranged for the purpose of avoiding the certification requirements of Articles 3.15 and 3.17.

#### ARTICLE 3.20: DISCREPANCIES AND VARIATIONS

1. Where the origin of the good is not in doubt, minor transcription errors or discrepancies in documentation shall not *ipso facto* invalidate the Certificate of Origin, if it is duly established that it does correspond to the goods submitted.
2. Variations in the format of the Certificate of Origin from the model format set out in Annex 3-D shall not invalidate the Certificate of Origin, provided that the Certificate of Origin contains the data elements set out in Annex 3-C.

#### ARTICLE 3.21: OBLIGATIONS REGARDING EXPORTATIONS

1. Each Party shall provide that an exporter or a producer that has completed and signed a Certificate of Origin, shall, on request, provide a copy of the Certificate of Origin and such other documents to its customs administration, if required by the Party's laws and regulations.
2. Each Party shall provide that an exporter or producer that has completed and signed, or applied for, a Certificate of Origin, and that has reason to believe that the Certificate of Origin contains information that is not correct, shall promptly notify in writing all persons to whom the Certificate of Origin was given by the exporter or producer of any change that could affect the accuracy or validity of the Certificate of Origin.
3. Each Party shall, to the extent permitted by its laws and regulations, maintain penalties for issuing false Certificates of Origin or documentation related to the origin of a good submitted to a customs administration of the importing or exporting Party.

#### ARTICLE 3.22: RECORD KEEPING REQUIREMENTS

1. Each Party shall provide that:
  - (a) an exporter or a producer that completes and signs, or applies for a Certificate of Origin shall maintain, for five years after the date on which the Certificate of Origin was signed, all records necessary to demonstrate that the good for which the producer or exporter provided the Certificate of Origin was an originating good; and
  - (b) an importer claiming preferential tariff treatment shall maintain, for five years after the date of importation of the good, such documentation, including a copy of the Certificate of Origin, as the Party may require relating to the importation of the good.
2. Each Party shall provide that an importer, exporter or producer may choose to maintain the records specified in paragraph 1 in any medium that allows for prompt retrieval, including, but not limited to, digital, electronic, optical, magnetic or written form.

#### ARTICLE 3.23: ORIGIN VERIFICATION

1. For the purposes of determining whether a good imported into a Party from the other Party qualifies as an originating good, the customs administration of the importing Party may conduct a verification action by means of:
  - (a) written requests for information from the importer;
  - (b) where the Certificate of Origin was issued by an authorised body, requests to that authorised body to verify the validity of the Certificate of Origin;
  - (c) written requests for information from the exporter or producer of the exporting Party;
  - (d) requests that the customs administration of the exporting Party assist in verifying the origin of the good; or
  - (e) verification visits to the premises of the exporter or the producer in the territory of the other Party to observe the facilities and the production processes of the good and to review the records referring to origin, including accounting records.
2. For the purposes of paragraphs 1(a), 1(b) and 1(c), the customs administration shall allow the importer, exporter, producer or authorised body a period of 30 days from the date of the written request to respond. During this period the importer, exporter, producer or authorised body may request, in writing, an extension not exceeding 30 days.
3. For the purposes of this Article and Article 3.24, all the information requested by the importing Party and responded to by the exporting Party shall be communicated in English.

4. The customs administration of the importing Party shall complete any action under paragraph 1 to verify eligibility for preferential tariff treatment within the period specified in the laws, regulations or administrative procedures of the importing Party. Upon the completion of the verification action, the customs administration shall provide written advice to the importer, exporter or producer of its decision as well as the legal basis and findings of fact on which the decision was made. Where a verification visit was undertaken, the customs administration shall also provide advice of the decision to the exporting Party.

#### ARTICLE 3.24: VERIFICATION VISIT

1. Prior to conducting a verification visit under Article 3.23.1(e), the customs administration of the importing Party shall:

- (a) make a written request to the exporter or producer to conduct a verification visit of their premises; and
- (b) obtain the written consent of the exporter or producer whose premises are to be visited.

2. An exporter or producer should provide its written consent to a proposed verification visit within 30 days from the receipt of notification in accordance with paragraph 1(a).

3. The written request referred to in paragraph 1(a) shall include:

- (a) the identity of the customs administration issuing the request;
- (b) the name of the exporter of the good in the exporting Party to whom the request is addressed;
- (c) the date the written request is made;
- (d) the proposed date and place of the visit;
- (e) the objective and scope of the proposed visit, including specific reference to the good that is the subject of the verification referred to in the Certificate of Origin; and
- (f) the names and titles of the officials of the customs administration of the importing Party who will participate in the visit.

4. The customs administration of the importing Party shall notify the customs administration of the exporting Party when it requests a verification visit in accordance with this Article.

5. Officials of the customs administration of the exporting Party may participate in the verification visit as observers.

#### ARTICLE 3.25: DENIAL OF PREFERENTIAL TARIFF TREATMENT

1. The importing Party may deny a claim for preferential tariff treatment or recover unpaid duties in accordance with its laws and regulations, where:

- (a) the good does not meet the requirements of this Chapter;
- (b) the importer, exporter or producer of the good fails or has failed to comply with any of the relevant requirements for obtaining preferential tariff treatment, or to maintain records or documentation in accordance with Article 3.22;
- (c) the importer, exporter or producer fails to provide information that the Party requested in accordance with Article 3.23.2 demonstrating that the good is an originating good; or
- (d) after receipt of a written notification for a verification visit in accordance with Article 3.24.1, the exporter or producer fails to provide its written consent in accordance with Article 3.24.2 or to provide access to records, production processes or facilities referred to in Article 3.23.1(e) demonstrating that the good is an originating good.

2. The importing Party may suspend or deny, in accordance with its laws and regulations, the application of preferential tariff treatment to a good that is the subject of an origin verification action under Article 3.23 for the duration of that action, or any part thereof.

3. When the importing Party determines that a good is not eligible for preferential tariff treatment, the right of suspension or denial shall extend to any subsequent import of goods that are the same in all respects relevant to the particular rule of origin, until it has been demonstrated that those goods comply with the provisions of this Chapter.

#### ARTICLE 3.26: NON-PARTY INVOICES

The customs administration of the importing Party shall not reject a Certificate of Origin only for the reason that the invoice was issued in the territory of a non-Party.

#### ARTICLE 3.27: CONFIDENTIALITY

For greater certainty, Article 4.11 (Confidentiality) shall apply to this Chapter.

#### ARTICLE 3.28: PENALTIES

Each Party shall maintain measures imposing criminal, civil or administrative penalties for violations of its laws and regulations relating to this Chapter.

#### ARTICLE 3.29: APPEAL PROCEDURES

The rights of review and appeal in matters relating to the determination of origin under this Chapter shall be granted, in accordance with Article 4.8 (Appeal Procedures), to an importer, exporter or producer of a good.

#### ARTICLE 3.30: DEFINITIONS

For the purposes of this Chapter:

**adjusted value** means the value of a good calculated in accordance with Article 3.3.1;

**aquaculture** means the farming of aquatic organisms, including fish, molluscs, 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;

**CIF value** means the value of a good at the time of importation, inclusive of freight, insurance, packing, and all other costs incurred in transporting the good to the importation port;

**exporter** means a person located in the territory of a Party from where a good is exported by that person;

**FOB** means the free-on-board value of a good, inclusive of the cost of transport and insurance to the port or site of final shipment abroad;

**fungible goods or materials** means goods or materials that are identical or interchangeable as a result of being of the same kind and commercial quality, possessing essentially the same technical and physical characteristics;

**Generally Accepted Accounting Principles** means recognised consensus or substantial authoritative support given in the territory of a Party with respect to the recording of revenues, expenses, costs, assets and liabilities, the disclosure of information, and the preparation of financial statements. Generally Accepted Accounting Principles may encompass broad guidelines for general application, as well as detailed standards, practices and procedures;

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

**material** means a good that is used or consumed in the production of another good, and physically incorporated into or classified with that good;

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

**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, mining, harvesting, fishing, breeding, raising, trapping, hunting, manufacturing, assembling or disassembling a good; and

**value** means the value of a good or material for the purposes of calculating customs duties or for the purposes of applying this Chapter.



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

**Headnotes to the Schedule**

1. The specific rule, or specific set of rules, that applies to a particular heading (4-digit code) or subheading (6-digit code) is set out immediately adjacent to the heading or subheading.

2. When a heading or subheading is subject to alternative specific rules of origin, the rule will be considered to be met if a good satisfies one of the alternatives.

3. Where a specific rule of origin is defined using the criterion of a change of tariff classification, each of the non-originating materials used in the production of the good shall be required to undergo the applicable change of tariff classification. A requirement of a change in tariff classification shall apply only to non-originating materials.

4. 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.

5. Chapter notes within this Schedule shall apply to all headings or subheadings within the indicated chapter or group of chapters unless there exists a specific exclusion.

6. Each of the non-originating materials used in the production of the good undergoes an applicable change in tariff classification specified in this Annex.

7. For the purposes of this Annex:

**subheading** means the first six digits in the tariff classification number under the Harmonized System;

**heading** means the first four digits in the tariff classification number under the Harmonized System; and

**chapter** means the first two digits in the tariff classification number under the Harmonized System.

8. For the purposes of column 3 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 2-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 4-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 6-digit level;

**WO** means that the good must be wholly obtained in the territory of one or both of the Parties within the meaning of Article 3.2;

**RVC (40)** means that the good must have a regional value content of not less than 40 per cent as calculated under Article 3.3; and

**RVC (30/40)** means that the good must have a regional value content of either not less than 30 per cent using the build-up method or not less than 40 per cent using the build-down method, as calculated under Article 3.3.

**ANNEX 3-B**  
**COMMITTEE ON OUTWARD PROCESSING ZONES ON THE KOREAN**  
**PENINSULA**

1. Recognising the Republic of Korea's constitutional mandate and security interests, and both Parties' commitment to promoting peace and prosperity on the Korean Peninsula, and the importance of intra-Korean economic cooperation toward that global goal, a Committee on Outward Processing Zones on the Korean Peninsula is established in accordance with Article 21.4 (Committees and Working Groups).
2. The Committee shall be comprised of officials of the Parties. The Committee shall meet within six months after the date of entry into force of this Agreement and at least twice a year thereafter, or at any time as mutually agreed.
3. The Committee shall review the conditions on the Korean Peninsula and identify geographic areas<sup>4</sup> that may be designated as outward processing zones. The Committee shall also establish a maximum threshold for the value of the total input of the originating final good that may be added within the geographic area of the outward processing zone.

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<sup>4</sup> For greater certainty, the Gaesung Industrial Complex located in North Korea shall be identified by the Committee as one of the geographic areas that may be designated as outward processing zones.

**ANNEX 3-C**  
**DATA ELEMENTS FOR A CERTIFICATE OF ORIGIN**

1. Issuing number;
2. Exporter, including contact details;
3. Blanket period for multiple shipments;
4. Producer, including contact details (optional);
5. Importer, including contact details (optional);
6. Description of good(s);
7. Harmonized System code (six digits);
8. Preference criterion;
9. Observations (optional);
10. Declaration; and
11. Name, signature, company or authorised body and contact details of person completing the Certificate of Origin; and date of issue.

**Instructions for completing the Certificate of Origin**

For the purposes of obtaining preferential tariff treatment, a Certificate of Origin must be completed legibly and in full by the exporter or producer or, in the case of Australia by an authorised body, and be in the possession of the importer at the time the declaration is made. Please print or type. If more space is needed, please use additional pages.

- Field 1: Provide a unique number for the Certificate.
- Field 2: State the full legal name and contact details (including address, telephone number and email) of the exporter.
- Field 3: Complete this field if the Certificate covers multiple shipments of the goods described in Field 6 that are to be imported into Korea or Australia during a specified period. "FROM" is the date upon which the Certificate becomes applicable to the goods covered by the blanket Certificate (it may be earlier than the date this Certificate is signed). "TO" is the date upon which the blanket period expires. The importation of a good for which preferential tariff treatment is claimed based on this Certificate must occur between these dates. Dates should be specified in the format DD/MM/YYYY.
- Field 4: State the full legal name and contact details (including address, telephone number and email) of the producer. This is an optional field.
- Field 5: State the full legal name and contact details (including address, telephone number and email) of the importer. This is an optional field.
- Field 6: Provide a full description of each good. The description should contain sufficient detail to relate it to the invoice description and to the Harmonized System (HS) description of the good. If the Certificate covers a single

shipment of a good, it should list the quantity and unit of measurement of each good, including the series number, if possible, as well as the invoice number as shown on the commercial invoice. If not known, indicate another unique reference number, such as the shipping order number, purchase order number, or any other number that can be used to identify the goods.

Field 7: For each good described in Field 6, identify the Harmonized System code to six digits.

Field 8: For each good described in Field 6, state which criterion (WO, PE, PSR or Other) is applicable. The rules of origin are contained in this Chapter and Annex 3-A.

**NOTE:** In order to be entitled to preferential tariff treatment, each good must meet at least one of the criteria below.

#### **Preference criteria**

WO The good is wholly obtained in the territory of one or both of the Parties.

PE The good is produced entirely in the territory of one or both of the Parties, exclusively from originating materials.

PSR The good satisfies all applicable requirements of Annex 3-A, as a result of processes performed entirely in the territory of one or both of the Parties by one or more producers.

Other The good otherwise qualifies as an originating good under this Chapter.

Field 9: This field may be used when there is an observation relating to this Certificate, such as, when the good or goods described in Field 6 have been subject to an advance ruling or when the invoice is issued in the territory of a non-Party. This is an optional field.

Field 10: The declaration must contain and certify the following:

*The information in this document is true and accurate and I assume the responsibility for proving such representations. I understand that I am liable for any false statements or material omissions made on or in connection with this document.*

*I agree to maintain, and present upon request, documentation necessary to support this Certificate, and to inform, in writing, all persons to whom the Certificate was given of any changes that would affect the accuracy or validity of this Certificate.*

*The goods originate in the territory of one or both of the Parties and comply with the origin requirements specified for those goods in the Korea – Australia Free Trade Agreement.*

*This Certificate consists of \_\_\_\_\_ pages, including all attachments.*

Field 11: This field must be completed, signed and dated by the exporter or, when the Certificate is completed by the producer for use by the exporter, by the producer. In the case of Australia, the Certificate may be issued by an authorised body following a written application submitted by the exporter or producer, in which case this field must be completed, signed and dated by the authorised body and bear the official stamp of that authorised body. The date must be the date the Certificate was completed and signed.

**ANNEX 3-D  
MODEL FORMAT**

**KOREA-AUSTRALIA FREE TRADE AGREEMENT  
CERTIFICATE OF ORIGIN**

Please Print or Type

1. Issuing number:

2. Exporter- name and contact details:	3. Blanket period for multiple shipments:  From: (DD/MM/YYYY)                      To: (DD/MM/YYYY)	
4. Producer- name and contact details (optional field):	5. Importer - name and contact details (optional field):	
6. Description of good(s)  (including quantity, invoice number or other unique reference number where appropriate):	7. Harmonized System code (six digits):	8. Preference criterion:
9. Observations (optional field):		
10. Declaration:  I certify that:  - The information in this document is true and accurate and I assume the responsibility for proving such representations. I understand that I am liable for any false statements or material omissions made on or in connection with this document.  - I agree to maintain, and present upon request, documentation necessary to support this Certificate, and to inform, in writing, all persons to whom the Certificate was given of any changes that would affect the accuracy or validity of this Certificate.  - The goods originate in the territory of one or both Parties and comply with the origin requirements specified for those goods in the Korea – Australia Free Trade Agreement.  This Certificate consists of _____ pages, including all attachments.		
11. Signature:	Company or Authorised Body:	
Name:	Title:	
Date:	Contact details:	