

CHAPTER THREE RULES OF ORIGIN

Section A: Rules of Origin

Article 3.1: Definitions

For purposes of this Chapter:

CIF means the value of the good imported, and includes the cost of freight and insurance up to the port or place of entry into the country of importation;

competent authority means the government authority or authorities designated by a Party and notified to the other Party;

exporter means a natural or juridical person located in the territory of a Party from where goods are exported by such a person;

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

Generally Accepted Accounting Principles means those principles recognized by consensus or with substantial authoritative support 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. These principles may encompass broad guidelines for general application as well as detailed standards, practices and procedures;

goods shall include materials or products, which can be wholly obtained or produced, even if they are intended for later use as materials in another production process. For purposes of this Chapter, the terms “goods” and “products” can be used interchangeably and the terms “good” and “product” shall be interpreted accordingly;

Harmonized System shall have the meaning as defined in Article 1.1 (General Definitions);

importer means a natural or juridical person located in the territory of a Party into where goods are imported by such a person;

issuing body means an entity designated or authorized by a Party to issue a Certificate of Origin and notified to the other Party in accordance with this Chapter;

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

materials shall include ingredients, raw materials, parts, components, sub-assemblies used in the production process;

non-originating goods or non-originating materials mean goods or materials which do not qualify as originating in accordance with this Chapter;

originating goods shall have the meaning as defined in Article 1.1 (General Definitions);

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

preferential tariff treatment means tariff concessions granted to originating goods as reflected by the tariff rates applicable under this Agreement;

Product Specific Rules means the rules that specify that the materials have undergone a change in tariff classification or a specific manufacturing or processing operation, or satisfy a regional value content or a combination of any of these criteria;

producer means a person who engages in the production of goods;

production means methods of obtaining a good including growing, mining, harvesting, raising, breeding, extracting, gathering, collecting, capturing, fishing, trapping, hunting, manufacturing, producing, processing or assembling a good; and

third country means a non-Party.

Article 3.2: Origin Criteria

1. For purposes of this Agreement, a good imported into the territory of a Party shall be deemed to be originating and eligible for preferential tariff treatment if it conforms to the origin requirements under any one of the following:

- (a) a good which is wholly obtained or produced in the territory of the exporting Party as set out and defined in Article 3.3;

- (b) a good which is produced in the territory of the exporting Party exclusively from originating materials; or
- (c) a good which is produced in the territory of the exporting Party using non-originating materials, provided that the good satisfies the applicable requirements set out in Annex 3-A.

2. Except as provided for in Article 3.6, the conditions for acquiring originating status set out in this Chapter must be fulfilled without interruption in the territory of the exporting Party.

Article 3.3: Wholly Obtained or Produced Goods

Within the meaning of Article 3.2.1(a), the following shall be considered to be wholly obtained or produced in the territory of a Party:

- (a) plants and plant products harvested, picked or gathered after being grown there;
- (b) live animals born and raised there;
- (c) goods obtained from live animals referred to in subparagraph (b);
- (d) goods obtained from hunting, trapping, fishing, aquaculture, gathering or capturing conducted there;
- (e) minerals and other naturally occurring substances, not included in subparagraphs (a) through (d), extracted or taken from its soil, waters, seabed or beneath its seabed;
- (f) fish, shellfish, and other marine life taken by vessels registered with the Party and entitled to fly its flag, and other products taken by the Party or a person of that Party, from the waters, seabed or beneath the seabed outside the territorial waters of the Party, provided that the Party has the rights to exploit¹ the natural resources of such waters, seabed and beneath the seabed under international law;

¹ For purposes of determining the origin of fish, shellfish, and other marine life, “rights to exploit” in Article 3.3(f) include those rights of access to the fisheries resources of a coastal state, as accruing from any agreements or arrangements between a Party and the coastal state at the level of governments or duly authorized private entities.

- (g) fish, shellfish, and other marine life taken from the high seas by vessels registered with the Party and entitled to fly its flag;
- (h) goods produced or made on board factory ships registered with a Party and entitled to fly its flag, exclusively from products referred to in subparagraph (f) or (g);
- (i) goods taken from outer space provided that they are obtained by the Party or a person of that Party;
- (j) goods which are:
 - (i) waste and scrap derived from production or consumption there, provided that such goods are fit only for disposal, for the recovery of raw materials, or for recycling purposes; or
 - (ii) used goods collected there, provided that such goods are fit only for disposal, for the recovery of raw materials, or for recycling purposes; and
- (k) goods obtained or produced in the territory of the Party solely from goods referred to in subparagraphs (a) through (j).

Article 3.4: Calculation of Regional Value Content

The regional value content (hereinafter referred to as “RVC”) of a good, specified in Annex 3-A, shall be calculated by using either of the following formulas:

- (a) Direct/Build-Up Method

$$RVC = \frac{VOM + \text{Direct labor Cost} + \text{Direct Overhead Cost} + \text{Profit} + \text{Other costs}}{FOB} \times 100\%$$

Where:

- (i) VOM is the value of originating materials, parts or goods that are acquired or self-produced by the producer in the production of the good;

- (ii) direct labour cost includes wages, remuneration and other employee benefits;
- (iii) direct overhead cost is the total overhead expense; and
- (iv) other costs are the costs incurred in placing the good in the ship or other means of transport for export including, but not limited to, domestic transport costs, storage and warehousing, port handling, brokerage fees and service charges.

or

- (b) Indirect/Build-Down Method

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

VNM means value of non-originating materials, which shall be:

- (i) the CIF value at the time of importation of the materials, parts or goods; or
- (ii) the earliest ascertained price paid for the materials, parts or goods of undetermined origin in the territory of the Party where the working or processing has taken place.

Article 3.5: Treatment for Certain Goods

Notwithstanding Article 3.2, certain goods shall be considered to be originating even if the production process or operation has been undertaken in the Gaeseong Industrial Complex located in the Korean Peninsula, on materials exported from a Party and subsequently re-imported to that Party provided that the conditions set out in Annex 3-B are fulfilled.

Article 3.6: Accumulation

1. Unless otherwise provided for in this Chapter, a good originating in the territory of a Party, which is used in the territory of the other Party as material for a finished good eligible for preferential tariff treatment, shall be considered to be originating in the territory of the latter Party where working or processing of the finished good has taken place.

2. The Parties may agree to review this Article with a view to extending the application of the accumulation set out in paragraph 1 for purposes of qualifying goods as originating goods under this Agreement.

Article 3.7: Non-Qualifying Operations

1. Notwithstanding any provisions in this Chapter, a good shall not be considered to be originating in the territory of a Party if the following operations are undertaken exclusively by itself or in combination in the territory of that Party:

- (a) preserving operations to ensure that the good remains in good condition during transport and storage;
- (b) changes of packaging, breaking-up and assembly of packages;
- (c) simple² washing, cleaning, removal of dust, oxide, oil, paint or other coverings;
- (d) ironing or pressing of textiles;
- (e) simple painting and polishing operations;
- (f) husking, partial or total bleaching, polishing and glazing of cereals and rice;
- (g) operations to color sugar or form sugar lumps;
- (h) simple peeling, stoning, or un-shelling;
- (i) sharpening, simple grinding, or simple cutting;
- (j) sifting, screening, sorting, classifying, grading, or matching;
- (k) simple placing in bottles, cans, flasks, bags, cases, boxes, fixing on cards or boards and all other simple packaging operations;
- (l) affixing or printing marks, labels, logos and other like distinguishing signs on products or their packaging;

² For purposes of this Article, “simple” generally describes an activity which does not need special skills, or machines, apparatus, or equipment especially produced or installed for carrying out the activity.

- (m) simple mixing³ of products, whether or not of different kinds;
- (n) simple assembly of parts of articles to constitute a complete article or disassembly of products into parts;
- (o) simple testing or calibrations; or
- (p) slaughtering of animals⁴.

2. A good originating in the territory of a Party shall retain its initial originating status, when exported from the other Party, where operations undertaken have not gone beyond those referred to in paragraph 1.

Article 3.8: Materials Used in Production

If a non-originating material undergoes further production such that it satisfies the requirement of this Chapter, the material shall be treated as originating when determining the originating status of the subsequently produced good, regardless of whether that material was produced by the producer of the good.

Article 3.9: Direct Consignment

1. Preferential tariff treatment shall be applied to a good satisfying the requirements of this Chapter and which is transported directly between the territories of the exporting Party and the importing Party.

2. Notwithstanding paragraph 1, a good of which transport involves transit through one or more intermediate third countries, other than the territories of the exporting Party and the importing Party, shall be considered to be consigned directly, provided that:

- (a) the good remains under the control of the customs administrations in the intermediate countries; and

³ For purposes of this Article, “simple mixing” generally describes an activity which does not need special skills, or machines, apparatus, or equipment especially produced or installed for carrying out the activity. However, simple mixing does not include chemical reaction. Chemical reaction means a process (including a biochemical process) which result in a molecule with a new structure by breaking intramolecular bonds and by forming new intramolecular bonds, or by altering the spatial arrangement of atoms in a molecule.

⁴ “Slaughtering” means the mere killing of animals and subsequent processes such as cutting, chilling, freezing, salting, drying or smoking, for purposes of preservation for storage and transport.

- (b) the good has not undergone any operation other than unloading and reloading, storing, or any operation required to keep it in good condition.

Article 3.10: De Minimis

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

- (a) for a good, other than that provided for in Chapters 50 through 63 of the Harmonized System, the value of all non-originating materials used in its production that do not undergo the required change in tariff classification does not exceed 10 percent of the FOB value of the good;
- (b) for a good provided for in Chapters 50 through 63 of the Harmonized System, the weight of all non-originating materials used in its production that do not undergo the required change in tariff classification does not exceed 10 percent of the total weight of the good;

and the good specified in subparagraphs (a) and (b) meets all other applicable criteria set forth in this Chapter for qualifying as an originating good.

2. The value of non-originating materials referred to in paragraph 1 shall, however, be included in the value of non-originating materials for any applicable RVC requirement for the good.

Article 3.11: Treatment of Packaging and Packing Materials

1. Packing materials and containers for the transportation and shipment of a good shall not be taken into account in determining the originating status of any good.

2. Packing materials and containers in which a good is packaged for retail sale, which are classified together with the good, shall not be taken into account in determining the originating status of the good, provided that:

- (a) the good is wholly obtained or produced in a Party in accordance with Article 3.2.1(a);
- (b) the good is produced in a Party exclusively from originating materials, in accordance with Article 3.2.1(b); or

- (c) the good is subject to a change in tariff classification or a specific manufacturing or processing operation requirement provided in Annex 3-A.

3. If a good is subject to the RVC requirement, the value of the packaging materials and containers in which the good is packaged for retail sale shall be taken into account as originating materials or non-originating materials of the good, as the case may be, in calculating the RVC of the good.

Article 3.12: Accessories, Spare Parts and Tools

1. For purposes of determining the originating status of a good, accessories, spare parts, tools, and instructional or other information materials presented with the good shall be considered as part of the good and shall be disregarded in determining whether all the non-originating materials used in the production of the good have undergone the applicable change in tariff classification or a specific manufacturing or processing operation set out in Annex 3-A, provided that:

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

2. Notwithstanding paragraph 1, if a good is subject to a RVC criterion as set out in Annex 3-A, the value of the accessories, spare parts, tools, and instructional or other information materials presented with the good shall be taken into account as originating or non-originating materials as the case may be, in calculating the RVC of the good, provided that:

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

Article 3.13: 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 good;
- (g) catalysts and solvents; and
- (h) any other goods that are not incorporated into the good but of which use in the production of the good can reasonably be demonstrated to be a part of that production.

Article 3.14: Fungible Goods or Materials

The determination of whether fungible goods or materials are originating shall be made either by physical segregation of each of the fungible goods or materials or, where commingled, by the use of an inventory management method which is recognized in the Generally Accepted Accounting Principles of the exporting Party, and should be used throughout the fiscal year.

Section B: Operational Certification Procedures

Article 3.15: Proof of Origin

1. Any of the following shall be considered as a Proof of Origin:
 - (a) a Certificate of Origin issued by an issuing body in accordance with Article 3.16; or
 - (b) a Declaration of Origin by an approved exporter in accordance with Article 3.17.
2. A Proof of Origin shall:
 - (a) be in writing, or any other medium, including electronic format as notified by an importing Party;
 - (b) specify that the good is originating and meets the requirements of this Chapter; and
 - (c) contain information which meets the minimum information requirements as set out in Annex 3-C.
3. Each Party shall provide that a Proof of Origin remains valid for one year from the date on which it is issued or completed.

Article 3.16: Certificate of Origin

1. A Certificate of Origin shall be issued by the issuing body of an exporting Party upon an application by an exporter, a producer, or their authorized representative.
2. The exporter, producer, or their authorized representative shall apply in writing or by electronic means for a Certificate of Origin, to the issuing body of the exporting Party in accordance with the exporting Party's laws, regulations, and procedures.
3. A Certificate of Origin shall:
 - (a) be in the format set out in Annex 3-D;
 - (b) bear a unique Certificate of Origin number;
 - (c) be in the English language; and

- (d) bear an authorized signature and official seal of the issuing body of the exporting Party. The signature and seal shall be applied manually or electronically.
4. A Certificate of Origin may:
- (a) indicate two or more invoices issued for a single shipment; or
 - (b) contain multiple goods, provided that each good qualifies as an originating good separately in its own right.
5. In circumstances where a Certificate of Origin contains incorrect information, the issuing body of the exporting Party may:
- (a) issue a new Certificate of Origin and invalidate the original Certificate of Origin; or
 - (b) make modifications to the original Certificate of Origin by striking out errors and making any additions or corrections. Any changes shall be certified by the authorized signature and official seal of the issuing body of the exporting Party.
6. Each Party shall provide the names, specimen signatures⁵, addresses, and impressions of official seals of its issuing body to the other Party. Any subsequent changes shall be promptly notified. The Parties shall endeavor to establish a secured website to display such information from the last three years, and such website shall be accessible to the Parties.
7. A Certificate of Origin shall be issued prior to or at the time of shipment, or within seven calendar days⁶ after the date of shipment. In exceptional cases where a Certificate of Origin has not been issued prior to or at the time of shipment, or within seven calendar days after shipment due to involuntary errors, omissions, or other valid causes, or in the circumstances referred to in subparagraph 5(a), a Certificate of Origin may be issued retrospectively but no later than one year after the date of shipment. In that case, the Certificate of Origin shall bear the words “ISSUED RETROACTIVELY”.
8. In the event of theft, loss, or destruction of an original Certificate of

⁵ The requirement to circulate the specimen signatures is not necessary when the issuing authority has established the website containing relevant information of Certificate of Origin that the importing Party can access.

⁶ For greater certainty, “seven calendar days” shall include the date of shipment itself.

Origin, the exporter, producer, or their authorized representative may apply in writing to the issuing body of the exporting Party for a certified true copy of the original Certificate of Origin. The copy shall:

- (a) be issued no later than one year after the date of issuance of the original Certificate of Origin;
- (b) be based on the application for the original Certificate of Origin;
- (c) contain the same Certificate of Origin number and date as the original Certificate of Origin; and
- (d) be endorsed with the words “CERTIFIED TRUE COPY”.

Article 3.17: Declaration of Origin

1. A Declaration of Origin referred to in Article 3.15.1(b) may be completed by an approved exporter within the meaning of Article 3.19.

2. A Declaration of Origin shall:

- (a) be completed in accordance with Annex 3-C;
- (b) be in the English language;
- (c) bear the name and signature of the certifying person; and
- (d) bear the date on which the Declaration of Origin was completed.

Article 3.18: Third-Party Invoicing

An importing Party shall not deny a claim for preferential tariff treatment for the sole reason that an invoice was not issued by the exporter or producer of a good provided that the good meets the requirements in this Chapter.

Article 3.19: Approved Exporter

1. Each Party shall provide for the authorization of an exporter who exports goods under this Agreement as an approved exporter, in accordance with its laws and regulations. An exporter seeking such authorization must apply in writing or electronically and must offer to the satisfaction of the

competent authority of the exporting Party all guarantees necessary to verify the originating status of the good for which a Declaration of Origin is completed. The competent authority of an exporting Party may grant the status of approved exporter subject to any conditions which it considers appropriate, including the following:

- (a) that the exporter is duly registered in accordance with the laws and regulations of the exporting Party;
- (b) that the exporter knows and understands the rules of origin as set out in this Chapter;
- (c) that the exporter has a satisfactory level of experience in export in accordance with the laws and regulations of the exporting Party;
- (d) that the exporter has a record of good compliance, measured by risk management of the competent authority of the exporting Party;
- (e) that the exporter, in the case of a trader, is able to obtain a declaration by the producer confirming the originating status of the good for which the Declaration of Origin is completed by an approved exporter and the readiness of the producer to cooperate in verification in accordance with Article 3.22 and meet all requirements of this Chapter; and
- (f) that the exporter has a well-maintained bookkeeping and record-keeping system, in accordance with the laws and regulations of the exporting Party.

2. The competent authority of an exporting Party shall:

- (a) make its approved exporter procedures and requirements public and easily available;
- (b) grant the approved exporter authorization in writing or electronically;
- (c) provide the approved exporter an authorization code which must be included in the Declaration of Origin; and

- (d) exchange information⁷ of the Parties' approved exporters with the other Party through a secured website or any electronic means in relation to the authorization granted.

3. Notwithstanding subparagraph 2(d), a Party shall not be required to provide the information referred to in that subparagraph to the other Party if it has established its own secured website, containing the above information, that is accessible to the other Party.

4. An approved exporter shall have the following obligations:

- (a) to allow the competent authority of an exporting Party access to records and premises for the purposes of monitoring the use of authorization, in accordance with Article 3.25;
- (b) to complete Declarations of Origin only for goods for which the approved exporter has been allowed to do so by the competent authority of an exporting Party and for which it has all appropriate documents proving the originating status of the goods concerned at the time of completing the declaration;
- (c) to take full responsibility for all Declarations of Origin completed, including any misuse; and
- (d) to promptly inform the competent authority of an exporting Party of any changes related to the information referred to in subparagraph (b).

5. The competent authority of the exporting Party shall monitor the use of the authorization, including verification of the Declarations of Origin by an approved exporter, and withdraw the authorization where the conditions referred to in paragraph 1 are not met.

6. An approved exporter shall be prepared to submit at any time, on request of the customs administration of the importing Party, all appropriate documents proving the originating status of the goods concerned, including statements from the suppliers or producers in accordance with the laws and regulations of the importing Party as well as the fulfillment of the other requirements of this Chapter.

⁷ The information includes the legal name and address of the exporter, the approved exporter authorization code, the issuance date and, if applicable, the expiry date of its approved exporter authorization, and a list of goods subject to the authorization, at least at the HS Chapter level.

Article 3.20: Claims for Preferential Tariff Treatment

1. An importing Party shall grant preferential tariff treatment in accordance with this Agreement to an originating good on the basis of a Proof of Origin.

2. Unless otherwise provided in this Chapter, an importing Party shall provide that, for the purposes of claiming preferential tariff treatment, the importer shall:

- (a) make a declaration in its customs declaration that the good qualifies as an originating good;
- (b) have a valid Proof of Origin in its possession at the time the declaration referred to in subparagraph (a) is made; and
- (c) provide an original or a certified true copy of the Proof of Origin to the importing Party if required by the importing Party.

3. Notwithstanding paragraphs 1 and 2, the importing Party shall not require a Proof of Origin if:

- (a) the customs value of the importation does not exceed US\$ 200 or the equivalent amount in the importing Party's currency or any higher amount as the importing Party may establish; or
- (b) it is a good for which the importing Party has waived the requirement,

provided that the importation does not form part of a series of importations carried out or planned for the purpose of evading compliance with the importing Party's laws and regulations governing claims for preferential tariff treatment under this Agreement.

4. The customs administration of the importing Party may require, where appropriate, the importer to submit supporting evidence that a good qualifies as an originating good, in accordance with the requirements of this Chapter.

5. The importer shall demonstrate that the requirements referred to in Article 3.9 have been met and provide such evidence on request of the customs administration of the importing Party.

6. Where a Proof of Origin is submitted to the customs administration of an importing Party after the expiration of the period of time for its submission, such Proof of Origin may still be accepted, subject to the importing Party's laws, regulations, or administrative practices, when failure to observe the period of time results from *force majeure* or other valid causes beyond the control of the importer or exporter.

Article 3.21: Post-Importation Claims for Preferential Tariff Treatment

1. Each Party, subject to its laws and regulations, shall provide that where a good would have qualified as an originating good when it was imported into that Party, the importer of the good may, within a period specified by its laws and regulations, and after the date on which the good was imported, apply for a refund of any excess duties, deposit, or guarantee paid as the result of the good not having been granted preferential tariff treatment, on presentation of the following to the customs administration of that Party:

- (a) a Proof of Origin and 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 preferential tariff treatment claimed.

2. Notwithstanding paragraph 1, each Party may require, in accordance with its laws and regulations, that the importer notify the customs administration of that Party of its intention to claim preferential tariff treatment at the time of importation.

Article 3.22: Verification

1. For purposes of determining whether a good imported into a Party from the other Party qualifies as an originating good under this Chapter, the competent authority of the importing Party may conduct a verification process by means of:

- (a) a written request for additional information from the importer;
- (b) a written request for additional information from the exporter or producer;
- (c) a written request that the competent authority of the exporting Party assists in verifying the origin of the good

within the competence and available resources of the exporting Party;

- (d) a verification visit to the premises of the exporter or producer in the exporting Party to observe the facilities and the production processes of the good and to review the records referring to the origin, including accounting files;⁸ or
- (e) any other procedures to which the Parties may agree.

2. The importing Party shall:

- (a) for purposes of subparagraph 1(b), send a written request with a copy of the Proof of Origin and the reasons for the request to the exporter or producer of the good;
- (b) for purposes of subparagraph 1(c), send a written request with a copy of the Proof of Origin and the reasons for the request to the competent authority of the exporting Party; and
- (c) for purposes of subparagraph 1(d), request the written consent of the exporter or producer whose premises are going to be visited, and the competent authority of the exporting Party and state the proposed date and location for the visit and its specific purpose.

3. On request of the importing Party, a verification visit to the premises of the exporter or producer may be conducted with the consent and assistance of the exporting Party, according to the procedures agreed between the importing Party and exporting Party.

4. For a verification under subparagraphs 1(a) through (d), the importing Party shall:

- (a) allow the importer, exporter, producer, or the issuing body or competent authority of the exporting Party between 30 and 90 days from the date of receipt of the written request for information under subparagraphs 1(a) through (c) to respond;
- (b) allow the exporter, producer, or the competent authority to consent or refuse the request within 30 days from the date of its receipt of the written request for a verification visit under subparagraph 1(d); and

⁸ A verification visit under this subparagraph shall only be undertaken after a verification process in accordance with subparagraph (c) has been conducted.

- (c) make a determination following a verification within 90 days from the date of its receipt of the information necessary to make the determination.

5. For purposes of paragraph 1, the importing Party shall provide a written notification of the result of verification with the reasons for that result to the importer, exporter, or producer of the good, or the competent authority of the exporting Party that received the verification request.

6. The customs administration of the importing Party may suspend the application of preferential tariff treatment while waiting for the result of verification. The importing Party shall permit the release of the good, but may require that such release be subject to lodgment of a security in accordance with its laws and regulations.

Article 3.23: Denial of Preferential Tariff Treatment

1. The customs administration of the importing Party may deny preferential tariff treatment where:

- (a) the good does not meet the requirements of this Chapter; or
- (b) the importer, exporter, or producer of the good fails or has failed to comply with any of the relevant requirements of this Chapter for obtaining preferential tariff treatment.

2. If the customs administration of the importing Party denies a claim for preferential tariff treatment, it shall provide the decision in writing to the importer that includes the reasons for the decision.

3. The customs administration of the importing Party may determine that a good does not qualify as an originating good and may deny preferential tariff treatment where:

- (a) the customs administration of the importing Party has not received sufficient information to determine that the good is originating;
- (b) the exporter, producer, or the competent authority of the exporting Party fails to respond to a written request for information in accordance with Article 3.22; or
- (c) the request for a verification visit in accordance with Article 3.22 is refused.

Article 3.24: Minor Discrepancies or Errors

The customs administration of an importing Party shall disregard minor discrepancies or errors, such as slight discrepancies between documents, omissions of information, typing errors, or protrusions from the designated field, provided that these minor discrepancies or errors do not create doubt as to the originating status of the good.

Article 3.25: Record-Keeping Requirement

1. Each Party shall require that:
 - (a) its exporters, producers, issuing bodies, or competent authorities retain, for at least a period of five years from the date of issuance of the Proof of Origin, or a longer period in accordance with its relevant laws and regulations, all records necessary to prove that the good for which the Proof of Origin was issued was originating; and
 - (b) its importers retain, for at least a period of five years from the date of importation of the good, or a longer period in accordance with its relevant laws and regulations, all records necessary to prove that the good for which preferential tariff treatment was claimed was originating.
2. The records referred to in paragraph 1 may be maintained in any medium that allows for prompt retrieval, including in digital, electronic, optical, magnetic, or written form, in accordance with the Party's laws and regulations.

Article 3.26: Consultations

The Parties shall consult when necessary to ensure that this Chapter is administered effectively, uniformly, and consistently in order to achieve the spirit and objectives of this Agreement.

Article 3.27: Electronic Origin Data Exchange System

The Parties may develop an Electronic Origin Data Exchange System to ensure the effective and efficient implementation of this Chapter in a manner jointly determined by the Parties.

Article 3.28: Transitional Provisions for Goods in Transit

A Party shall grant preferential tariff treatment to an originating good that, on the date of entry into force of this Agreement for that Party:

- (a) was being transported to that Party in accordance with Article 3.9; or
- (b) had not been imported into that Party,

if a valid claim under Article 3.20 for preferential tariff treatment is made within 180 days of the date of entry into force of this Agreement for that Party, subject to the submission to the customs administration of the importing Party of a Proof of Origin made out retrospectively, together with the documents showing that the goods have been transported directly in accordance with Article 3.9.

Article 3.29: Penalties

Each Party shall adopt or maintain appropriate penalties or other measures against violations of its laws and regulations relating to this Chapter.

Article 3.30: Communication Language

Communications between the importing Party and the exporting Party shall be conducted in the English language.

Article 3.31: Contact Points

Each Party shall, within 30 days from the date of entry into force of this Agreement, designate one or more contact points for the implementation of this Chapter and notify the other Party of the contact details of that contact point or those contact points. Each Party shall promptly notify the other Party of any change to those contact details.

Article 3.32: Supporting Documents of Direct Consignment

For purposes of implementing Article 3.9, where transportation is effected through the territory of one or more intermediate countries, other than that of both Parties, the following shall be produced to the relevant government authorities of the importing Party:

- (a) a through Bill of Lading issued in the territory of the exporting Party, which includes a combination of any transport documents covering the entire transport route of a good from the exporting Party to the importing Party; or
- (b) other relevant supporting documents, if any, as evidence that the requirements of Article 3.9 are being complied with.

Annex 3-B
Treatment for Certain Goods

1. Origin Conferring
 - (a) “certain goods” referred to in Article 3.5 as reflected in the lists referred to in paragraph 7 and any subsequent amendments, which are reimported as the goods that do not undergo any process beyond operations within the territory of the reimporting Party for export as set out in Article 3.7 shall be deemed to be originating in the territory of the Party, provided that the total value of non-originating input¹ does not exceed 40 percent of the FOB price of the final good for which originating status is claimed.
 - (b) except as otherwise provided for in this Annex, relevant rules in this Chapter shall be applied *mutatis mutandis* to the origin conferring of the goods to which Article 3.5 applies.
2. Specific Procedures for the Implementation of Article 3.5
 - (a) a Certificate of Origin for goods covered by Article 3.5 shall be issued by the issuing authority² of the exporting Party in accordance with Section B of this Chapter.
 - (b) the issuing authority of the exporting Party shall indicate in the Certificate of Origin that the good is covered by Article 3.5
 - (c) except as otherwise provided for in this Annex, the relevant Articles in Section B of this Chapter shall be applied *mutatis mutandis* to the goods to which Article 3.5 applies.
 - (d) Korea shall assist the customs administration of Cambodia to conduct verification on goods covered by Article 3.5 in accordance with the relevant Articles in Section B of this Chapter.

¹ "Total value of non-originating input" shall mean the value of any non-originating materials added inside as well as any materials added and all other cost accumulated outside Cambodia and Korea, including transport costs.

² For Korea, for purposes of this Annex, “issuing authority” means the Korean Customs Administration.

3. Special Safeguard

- (a) when a Party determines that there is an increase of importation of a good covered by Article 3.5 into the territory of that Party in such quantities and under such conditions as to cause, or threaten to cause, serious injury to its domestic industry, that Party shall be free to suspend the application of Article 3.5 to such a good for such a period of time as it may consider necessary to prevent or remedy such injury or threat to cause injury to the domestic industry of the Party.
- (b) a Party that intends to suspend the application of Article 3.5 pursuant to subparagraph (a) shall notify the other Party two months in advance of the start of the suspension period and afford the other Party an opportunity to exchange views with it in respect of the proposed suspension.
- (c) the period mentioned in subparagraph (a) may be extended provided that the Party that has taken the action of suspension has determined that the suspension continues to be necessary to prevent or remedy injury.
- (d) in critical circumstances, where delay would cause damage which would be difficult to repair, the suspension of the application of Article 3.5 under subparagraph (a) may be taken provisionally without two-month advance notification to the other Party, on the condition that the notification shall be made before such suspension takes effect.
- (e) when a Party has made a determination mentioned in subparagraph (a) and the requirements set out in subparagraph (b) are fulfilled, the Party concerned may suspend the application of Article 3.5 unilaterally and unconditionally, including as follows:
 - (i) there shall be no obligation to prove that there is serious injury;
 - (ii) there shall be no obligation for advance consultation;
 - (iii) there shall be no limit to the duration or frequency of suspension; and
 - (iv) there shall be no obligation for compensation.

4. Annual Review

- (a) the Parties shall review the implementation and operation of Article 3.5 in the Joint Committee. For this purpose:
 - (i) the exporting Party shall provide the Joint Committee with a brief factual report on the operation of Article 3.5, including export statistics of each good listed in paragraph 7 to the importing Party during the previous one year period; and
 - (ii) the importing Party shall provide upon request of the Joint Committee information pertaining to the denial of claims for preferential tariff treatment, if any, including the number of Certificates of Origin not accepted, and reasons for the denial.
- (b) the Joint Committee may request such additional information as it may consider necessary for its review of the implementation and operation of Article 3.5 from the exporting Party.
- (c) taking into account the result of the review provided for in subparagraph (a), the Joint Committee may make recommendations as it may consider necessary.

5. Dispute Settlement

Any dispute concerning the interpretation, implementation or application of this Annex shall not be subject to the procedures and mechanism as set out in Chapter Eight (Dispute Settlement).

6. Relations to other Provisions of this Agreement

Nothing in this Annex shall affect the rights and obligations of the Parties under this Agreement, including Article 5.2 (Application of a Safeguard Measure).

7. List of Goods

The following shall be the list of goods covered by this Annex. A Party may request amendment of the list referred to in this paragraph, which the other Party shall consider in good faith. Such amendment shall be adopted when mutually agreed by both Parties.

No	HS 2002	Description of Goods
1	2923.90	- Other

2	3907.10	- Polyacetals
3	3907.20	- Other polyethers
4	3908.10	- Polyamide -6, -11, -12, -6,6, -6,9, -6,10 or -6,12
5	3910.00	Silicones in primary forms
6	3923.10	- Boxes, cases, crates and similar articles
7	3923.30	- Carboys, bottles, flasks and similar articles
8	3923.50	- Stoppers, lids, caps and other closures
9	3923.90	- Other
10	3926.90	- Other
11	6107.11	- - Of cotton
12	6107.12	- - Of man-made fibres
13	6107.19	- - Of other textile materials
14	6107.91	- - Of cotton
15	6107.92	- - Of man-made fibres
16	6107.99	- - Of other textile materials
17	6108.21	- - Of cotton
18	6108.22	- - Of man-made fibres
19	6108.29	- - Of other textile materials
20	6108.91	- - Of cotton
21	6108.92	- - Of man-made fibres
22	6108.99	- - Of other textile materials
23	6111.20	- Of cotton
24	6114.20	- Of cotton
25	6115.19	- - Of other textile materials
26	6115.20	- Women's full-length or knee-length hosiery, measuring per single yarn less than 67 decitex
27	6115.92	- - Of cotton
28	6115.93	- - Of synthetic fibres
29	6115.99	- - Of other textile materials
30	6117.10	- Shawls, scarves, mufflers, mantillas, veils and the like
31	6117.20	- Ties, bow ties and cravats
32	6117.90	- Parts
33	6201.11	- - Of wool of fine animal hair
34	6201.12	- - Of cotton
35	6201.13	- - Of man-made fibres
36	6201.92	- - Of cotton
37	6201.93	- - Of man-made fibres
38	6202.12	- - Of cotton
39	6202.13	- - Of man-made fibres
40	6202.92	- - Of cotton
41	6202.93	- - Of man-made fibres
42	6203.12	- - Of synthetic fibres
43	6203.19	- - Of other textile materials
44	6203.21	- - Of wool or fine animal hair
45	6203.31	- - Of wool or fine animal hair
46	6203.32	- - Of cotton
47	6203.33	- - Of synthetic fibres
48	6203.42	- - Of cotton
49	6203.43	- - Of synthetic fibres
50	6203.49	- - Of other textile materials
51	6204.11	- - Of wool or fine animal hair
52	6204.12	- - Of cotton

53	6204.13	- - Of synthetic fibres
54	6204.31	- - Of wool or fine animal hair
55	6204.32	- - Of cotton
56	6204.33	- - Of synthetic fibres
57	6204.39	- - Of other textile materials
58	6204.41	- - Of wool or fine animal hair
59	6204.42	- - Of cotton
60	6204.43	- - Of synthetic fibres
61	6204.44	- - Of artificial fibres
62	6204.49	- - Of other textile materials
63	6204.51	- - Of wool or fine animal hair
64	6207.21	- - Of cotton
65	6212.10	- Brassières
66	6212.20	- Girdles and panty-girdles
67	6212.90	- Other
68	6213.10	- Of silk or silk waste
69	6213.20	- Of cotton
70	6401.10	- Footwear incorporating a protective metal toe-cap
71	6401.91	- - Covering the knee
72	6401.92	- - Covering the ankle but not covering the knee
73	6401.99	- - Other
74	6402.12	- - Ski-boots, cross-country ski footwear and snowboard boots
75	6402.19	- - Other
76	6402.20	- Footwear with upper straps or thongs assembled to the sole by means of plugs
77	6402.30	- Other footwear, incorporating a protective metal toe-cap
78	6402.91	- - Covering the ankle
79	6402.99	- - Other
80	6403.12	- - Ski-boots, cross-country ski footwear and snowboard boots
81	6403.19	- - Other
82	6403.20	- Footwear with outer soles of leather, and uppers which consist of leather straps across the instep and around the big toe
83	6403.30	- Footwear made on a base or platform of wood, not having an inner sole or a protective metal toe-cap
84	6403.40	- Other footwear, incorporating a protective metal toe-cap
85	6403.51	- - Covering the ankle
86	6403.59	- - Other
87	6403.91	- - Covering the ankle
88	6403.99	- - Other
89	6404.11	- - Sports footwear; tennis shoes, basketball shoes, gym shoes, training shoes and the like
90	6404.19	- - Other
91	6404.20	- Footwear with outer soles of leather or composition leather
92	6405.10	- With uppers of leather or composition leather
93	6405.20	- With uppers of textile materials
94	6405.90	- Other
95	6406.10	- Uppers and parts thereof, other than stiffeners
96	6406.20	- Outer soles and heels, of rubber or plastics
97	6406.91	- - Of wood
98	6406.99	- - Of other materials
99	7015.10	- Glasses for corrective spectacles
100	8413.30	- Fuel, lubricating or cooling medium pumps for internal combustion piston engines

Annex 3-C
Minimum Information Requirements

1. Certificate of Origin
 - (a) exporter's name and address;
 - (b) producer's name and address, if known;
 - (c) importer's or consignee's name and address;
 - (d) description of the goods and the HS Code of the goods (six-digit level);
 - (e) Certificate of Origin number;
 - (f) origin conferring criterion;
 - (g) declaration by the exporter or producer;
 - (h) certification by the issuing body that the goods specified in the Certificate of Origin meet all the relevant requirements of Chapter Three (Rules of Origin) based on the evidence provided with the authorized signature and official seal of the issuing body;
 - (i) country of origin;
 - (j) details to identify the consignment such as invoice number, departure date, vessel name or aircraft flight number, and port of discharge;
 - (k) "FOB value", if the regional value content origin conferring criterion is used; and
 - (l) quantity of the goods.

2. Declaration of Origin
 - (a) exporter's name and address;
 - (b) producer's name and address, if known;
 - (c) importer's or consignee's name and address;

- (d) description of the goods and the HS Code of the goods (six-digit level);
- (e) in the case of an approved exporter, authorization code;
- (f) unique reference number;
- (g) origin conferring criterion;
- (h) certification by an authorized signatory that the goods specified in the Declaration of Origin meet all the relevant requirements of Chapter Three (Rules of Origin);
- (i) country of origin;
- (j) “FOB value”, if the regional value content origin conferring criterion is used; and
- (k) quantity of the goods.

**Annex 3-D
Certificate of Origin**

ORIGINAL (DUPLICATE/TRIPPLICATE)

1. Exporter's name and address: 			Certificate of Origin No. CAMBODIA-KOREA FREE TRADE AGREEMENT CERTIFICATE OF ORIGIN (Combined Declaration and Certificate) FORM CK Issued in (Country) See Overleaf Notes		
2. Producer's name and address, if known 					
3. Importer's or Consignee's name and address 					
4. Means of transport and route (as far as known) Departure date Vessel's name/Aircraft etc. Port of Discharge			5. For Official Use <input type="checkbox"/> Preferential Tariff Treatment Given Under Cambodia-Korea Free Trade Agreement <input type="checkbox"/> Preferential Tariff Treatment Not Given (Please state reason/s) Signature of Authorized Signatory of the Importing country		
6. Item number	7. Marks and numbers on packages	8. Number and type of packages, description of goods (including quantity where appropriate and HS number of the importing country)	9. Origin criterion (see Overleaf Notes)	10. Gross weight or other quantity and Value (FOB only when RVC criterion is used)	11. Number and date of Invoices
12. Declaration by the exporter The undersigned hereby declares that the above details and statement are correct; that all the goods were produced in (Country) and that they comply with the origin requirements specified for these goods in the Cambodia-Korea Free Trade Agreement for the goods exported to (Importing Country) Place and date, signature of authorized signatory			13. Certification It is hereby certified, on the basis of control carried out, that the declaration by the exporter is correct. Place and date, signature and stamp of certifying authority		
14. <input type="checkbox"/> Third Party Invoicing					

OVERLEAF NOTES

1. The Parties which accept this form for purpose of preferential tariff under the Cambodia-Korea Free Trade Agreement (CKFTA) are KINGDOM OF CAMBODIA and REPUBLIC OF KOREA.

2. **CONDITIONS:** To enjoy preferential tariff under the CKFTA, goods sent to any Parties listed above:

- (i) must fall within a description of goods eligible for concessions in the country of destination;
- (ii) must comply with the consignment conditions in accordance with Article 3.9 of Chapter Three (Rules of Origin) of the CKFTA; and
- (iii) must comply with the origin criteria in Chapter Three (Rules of Origin) of the CKFTA.

3. **ORIGIN CRITERIA:** For goods that meet the origin criteria, the exporter or producer must indicate in box 9 of this Form, the origin criteria met, in the manner shown in the following table:

Circumstances of production or manufacture in the first country named in box 12 of this form	Insert in box 9
(a) Goods which are wholly obtained or produced in the territory of the exporting Party as set out and defined in Article 3.3 of this Chapter	“WO”
(b) Goods which are produced in the territory of the exporting Party exclusively from originating materials	“PE”
(c) Goods satisfying the Product Specific Rules <ul style="list-style-type: none"> - Change in Tariff Classification - Regional Value Content - Change in Tariff Classification + Regional Value Content - Specific Processes 	<ul style="list-style-type: none"> - “CTC” - “RVC” that needs to be met for the good to qualify as originating; e.g. “RVC 45%” - The combination rule that needs to be met for good to qualify as originating; e.g. “CTH + RVC 40%” - “Specific Processes”
(d) Goods satisfying Article 3.5 of Chapter Three (Rules of Origin)	“Article 3.5”

4. EACH ARTICLE MUST QUALIFY: It should be noted that all the goods in a consignment must qualify separately in their own right. This is of particular relevance when similar articles of different sizes or spare parts are sent.
5. DESCRIPTION OF GOODS: The description of goods must be sufficiently detailed to enable the goods to be identified by the Customs Officers examining them. Any trade mark shall also be specified.
6. FREE-ON-BOARD (FOB) VALUE: The FOB value in box 10 shall be reflected only when the Regional Value Content criterion is applied in determining the origin of goods.
7. HARMONIZED SYSTEM NUMBER: The Harmonized System number (six-digit level) shall be that of the importing Party.
8. EXPORTER: The term “Exporter” in box 12 may include the manufacturer or the producer.
9. FOR OFFICIAL USE: The Customs Administration of the importing Party must indicate (√) in the relevant boxes in box 5 whether or not preferential tariff is accorded.
10. THIRD PARTY INVOICING: In cases where invoices are issued by a third party, the “Third Party Invoicing” box should be ticked (√) and such information as the name and country of the company issuing the invoice shall be indicated in box 14.

Annex 3-E

Example Format for Declaration of Origin

**Declaration of Origin
Cambodia-Korea Free Trade Agreement**

1. Exporter's Name and Address:					
Telephone:		Fax:		E-Mail:	
Approved exporter authorization code:				Reference No.:	
2. Producer's Name and Address (if known):					
Telephone:		Fax:		E-Mail:	
3. Importer's or Consignee's Name and Address:					
Telephone:		Fax:		E-Mail:	
4. Description of Goods (including invoice number, quantity)	5. HS Tariff Classification #	6. Origin Criterion	7. Producer	8. FOB value only when the RVC criterion is used	9. Country of Origin
10. Observations/Findings:					
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 declaration, and to inform, in writing, all persons to whom the declaration was given of any changes that would affect the accuracy or validity of this Declaration.					
- The goods originate in the territory of the exporting Party and comply with the origin requirements specified for those goods in the Cambodia-Korea Free Trade Agreement.					
This Declaration consists of _____ pages, including all attachments.					
11. Authorized signature:			Company:		
Name:			Title:		
Date: YYYYY MM DD / /			Telephone: Fax :		

Guidelines for Completing the Declaration of Origin

Where the exporter elects the option of using a declaration approach to a Proof of Origin, the following guidelines will assist in completing the form.

For purposes of obtaining preferential tariff treatment, this document shall be fully and legibly completed in written or typewritten form by the exporter and in the possession of the importer at the time the declaration, in accordance with Article 3.20.2(b), is made. If more space is needed, additional pages shall be used.

Box 1: State the full legal name, address (including city and country), telephone number, fax number, e-mail address, approved exporter authorization code of the exporter. Also, state a unique reference number of the Declaration of Origin.

Box 2 (Optional): If there is only one producer, state the full legal name, address (including city and country), telephone number, fax number, and e-mail address of said producer. If more than one producer is included in the declaration, state "VARIOUS" and attach a list of all producers, including their legal names, addresses (including city and country), telephone numbers, fax numbers, and e-mail addresses, cross-referenced to the goods described in Box 4. If the information provided is confidential, the words "AVAILABLE UPON REQUEST" shall be indicated.

Box 3: State the full legal name, address (including city and country), telephone number, fax number, and e-mail address of the importer.

Box 4: Provide a full description of the goods. The description shall contain sufficient details related to the invoice's description and the Harmonized System (HS)'s description of the goods. The invoice number as shown in the commercial invoice, including quantity of the goods, shall be indicated. The exporter can only issue a Declaration of Origin for goods which are authorized by competent authority.

Box 5: For goods described in Box 4, the HS tariff classification to six digits shall be identified.

Box 6: For goods described in Box 4, the applicable criterion set out below shall be stated. The rules of origin are contained in Chapter Three (Rules of Origin) and Annex 3-A (Product Specific Rules).

Circumstances of production or manufacture in the first country named in box 1.	Insert in box 6
---	-----------------

(a) Goods which are wholly obtained or produced in the territory of the exporting Party as set out and defined in Article 3.3 of this Chapter	“WO”
(b) Goods which are produced in the territory of the exporting Party exclusively from originating materials	“PE”
(c) Goods satisfying the Product Specific Rules - Change in Tariff Classification - Regional Value Content - Change in Tariff Classification + Regional Value Content - Specific Processes	- “CTC” - “RVC” that needs to be met for the good to qualify as originating; e.g. “RVC 45%” - The combination rule that needs to be met for good to qualify as originating; e.g. “CTH + RVC 40%” - “Specific Processes”
(d) Goods satisfying Article 3.5 of Chapter Three (Rules of Origin)	“Article 3.5”

Box 7: For goods described in Box 4, the word “YES” shall be stated if the exporter is the producer of the goods. If the exporter is not the producer of the goods, the word “NO” shall be stated followed by (1) or (2), depending on whether this declaration was based upon: (1) the exporter’s full knowledge of whether the goods qualify as an originating good; (2) exporter’s reliance on the producer’s written representation that the goods qualify as originating goods.

Box 8: The FOB (Free On Board) value shall be reflected only when the Regional Value Content criterion is applied in determining the origin of goods.

Box 9: The name of the country of origin shall be identified for all originating goods, for: Cambodia (CA); Korea (KR).

Box 10: This Box may be used when there are observations/findings relating to this declaration, such as, when the goods described in Box 4 have been subject to an advance ruling or a ruling on the classification or value of materials. The issuing authority, reference number, and date of issuance shall be indicated.

Box 11: This Box shall be completed, signed, and dated by the authorized signatory of the exporter. The date to be indicated shall be the date the declaration was completed and signed.