

Chapter IV: Rules of Origin

Article IV.01 Definitions

For the purposes of this Chapter:

F.O.B. means free on board regardless of the mode of transportation, at the point of direct shipment by the seller to the buyer;

generally accepted accounting principles means the principles used in the territory of each Party, which provide substantial authoritative support with regard to the recording of income, costs, expenses, assets and liabilities involved in the disclosure of information and preparation of financial statements. These indicators may be broad guidelines of general application, as well as those standards, practices and procedures usually employed in accounting;

good means any merchandise, product, article or material;

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

- (a) minerals and other natural resources extracted or taken from the territory of one or both Parties;
- (b) plants and plant products harvested in the territory of one or both Parties;
- (c) live animals born and raised in the territory of one or both Parties;
- (d) goods obtained from live animals in the territory of one or both of the Parties;
- (e) goods obtained from hunting, trapping, fishing, gathering or capturing in the territory of one or both Parties;
- (f) goods (fish, shellfish and other marine life) taken from the sea, seabed or subsoil outside the territory of one or both of the Parties by a vessel registered, recorded or listed with a Party, or leased by a company established in the territory of a Party, and entitled to fly its flag;
- (g) goods produced on board a factory ship from the goods referred to in subparagraph (f), provided such factory ship is registered, recorded or listed with a Party, or leased by a company established in the territory of a Party, and entitled to fly its flag;
- (h) goods, other than fish, shellfish and other marine life, taken or extracted from the seabed or the subsoil, in the area outside the continental shelf and the exclusive economic zone of either of the Parties or of any other State as defined in the United Nations Convention on the Law of the Sea, by a vessel registered, recorded or listed with a Party and entitled to fly its flag, or by a Party or person from a Party;
- (i) waste and scrap derived from:

- i) production in the territory of one or both Parties; or
- ii) used goods collected in the territory of one or both Parties, provided such goods are fit only for the recovery of raw materials; and
- iii) goods produced in the territory of one or both Parties exclusively from goods referred to in subparagraphs (a) through (i), or from their derivatives, at any stage of production;

indirect material means a good used in the production, testing or inspection of a good, but that is not physically incorporated in that good; or a good that is used in the maintenance of buildings or the operation of equipment related to the production of a good, including:

- (a) fuel and energy;
- (b) tools, dies and molds;
- (c) spare parts and materials used in the maintenance of equipment and buildings;
- (d) lubricants, greases, compounding materials and other materials used in production process, equipment operation or maintenance of buildings;
- (e) gloves, glasses, footwear, clothing, safety equipment and supplies;
- (f) equipment, apparatus and accessories used for the verification or inspection of goods;
- (g) catalysts and solvents; and
- (h) any other goods that are not incorporated in the good, but the use of which, in the production of the good, can reasonably be demonstrated to be a part of that production;

material means a good that is used in the production of another good;

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

production means growing, mining, extracting, harvesting, fishing, trapping, gathering, collecting, capturing, hunting, manufacturing or processing of a good;

producer means a person who grows, mines, extracts, harvests, fishes, traps, gathers, collects, captures, hunts, manufactures or processes a good;

related person means a related person as defined in the Customs Valuation Agreement and in accordance with the domestic law of each Party;

transaction value means:

- (a) the price actually paid or payable for a good or material with respect to a transaction by the producer of the good according to the principles of Article 1 of the Customs Valuation Agreement,

adjusted in accordance with the principles of Article 8.1, 8.3 and 8.4 of said Agreement, where the good or material is sold for export; or

- (b) where there is no transaction value or the transaction value is unacceptable under Article 1 of the Customs Valuation Agreement, the value determined in accordance with Articles 2 through 7 of the Customs Valuation Agreement; and

used means employed, used or consumed in the production of goods.

Article IV.02 Application Instruments

For the purposes of this Chapter:

- (a) the basis for tariff classification is the Harmonized System; and
- (b) all costs referred to in this Chapter shall be recorded and maintained in accordance with the generally accepted accounting principles applicable in the territory of the Party in which the good is produced.

Article IV.03 Originating Goods

1. Except as otherwise provided in this Chapter, a good shall be deemed to originate in the territory of a Party where:

- (a) it is wholly obtained or produced entirely in the territory of one or both Parties as defined in Article IV.01;
- (b) it is produced entirely in the territory of one or both Parties exclusively from originating materials under this Chapter; or
- (c) each of the non-originating materials used in the production of the good undergoes an applicable change in tariff classification as set out in Annex IV.03 as a result of production occurring entirely in the territory of one or both of the Parties, or the good otherwise satisfies the applicable requirements of that Annex where no change in tariff classification is required, and the good satisfies all other applicable requirements of this Chapter.

2. For the purpose of this Chapter, the production of a good from non-originating materials that comply with a change of tariff classification and other requirements, according to the provisions of Annex IV.03, shall be done entirely in the territory of one or both Parties.

Article IV.04 Value of non-originating materials

The value of a material used in the production of a good shall:

- (a) be the transaction value of the material determined in accordance with Article 1 of the Customs Valuation Agreement;

- (b) in the event that there is no transaction value or the transaction value of the material is unacceptable under Article 1 of the Customs Valuation Agreement, be determined in accordance with Articles 2 through 7 of the Customs Valuation Agreement;
- (c) where not covered under subparagraph (a) or (b), include freight, insurance, packing and all other costs incurred in transporting the material to the place of importation; or
- (d) in the case of a domestic transaction, be determined in accordance with the principles of the Customs Valuation Agreement in the same manner as an international transaction, with such adjustments as may be required by the circumstances.

Article IV.05 *De Minimis*

1. Except as provided in paragraphs 2 and 3 a good shall be considered to be an originating good if the value of all non-originating materials used in the production of the good that do not undergo an applicable change in tariff classification set out in Annex IV.03 does not exceed seven percent (7%) of the transaction value of the good adjusted on an F.O.B. basis, provided that the good satisfies all other applicable requirements of this Chapter.

2. Except as specified in a product-specific rule of origin of Annex IV.03 applicable to a good, paragraph 1 does not apply to a non-originating material used in the production of a good included in Chapters 1 through 24 of the Harmonized System, unless the non-originating material is provided for in a different subheading from the good for which origin is being determined under this Article.

3. A good provided for in Chapters 50 through 63 of the Harmonized System, that is a non-originating good because certain fibres or yarns used in the production of the component of the good that determines the tariff classification of the good do not undergo an applicable change in tariff classification set out in Annex IV.03, shall nonetheless be considered an originating good if the total weight of all such fibres or yarns in that material does not exceed ten percent (10%) of the total weight of that material.

Article IV.06 *Accumulation*

For purposes of determining whether a good is an originating good, the production of the good in the territory of one or both of the Parties by one or more producers, at the choice of the exporter or producer of the good for which preferential tariff treatment is claimed, shall be considered to have been performed in the territory of either of the Parties by that exporter or producer, provided that:

- (a) all non-originating materials used in the production of the good undergo an applicable tariff classification change set out in Annex IV.03, in the territory of one or both of the Parties; and
- (b) the good satisfies all other applicable requirements of this Chapter.

Article IV.07 Sets or Assortments of Goods

Sets, as defined in general rule 3 of the Harmonized System, shall be regarded as originating when all goods contained in the set qualify as originating goods. Nevertheless, when a set is composed of originating and non originating goods, the set as a whole shall be regarded as originating provided that the value of the non originating goods does not exceed seven per cent (7%) of the FOB value of the set.

Article IV.08 Indirect Material

The indirect materials shall be considered originating goods, regardless of where they are produced.

Article IV.09 Accessories, Spare or Replacement Parts and Tools

Accessories, spare or replacement parts and tools delivered with the good as part of the standard accessories, spare parts, or tools of the good shall not be considered to determine whether all the non-originating materials used in the production of the good undergo the applicable change in tariff classification set out in Annex IV.03 provided that:

- (a) the accessories, spare or replacement parts and tools are not invoiced separately from the good regardless of whether they are broken down or detailed separately in the same invoice; and
- (b) the quantity and value of the accessories, spare or replacement parts or tools are customary for the good.

Article IV.10 Packaging Materials and Containers for Retail Sale

Packaging materials and containers in which a good is packaged for retail sale shall, if classified with the good they contain, 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 the Annex IV.03.

Article IV.11 Packaging Materials and Containers for Shipment

Packaging materials and containers in which the good is packed for shipment shall be disregarded in determining whether all the non-originating materials used in the production of the good undergo the applicable change in tariff classification set out in the Annex IV.03.

Article IV.12 Operations and Practices that Do Not Confer Origin

1. Except for sets referred to in Article IV.07 or as specified in a product-specific rule of origin of Annex IV.03 applicable to the good, a good shall not be considered to be an originating good merely by reason of :

- (a) disassembly of the good into its parts;

- (b) a change in the end use of the good;
- (c) the mere separation of one or more individual materials or components from an artificial mixture;
- (d) mere dilution with water or another substance that does not materially alter the characteristics of the good;
- (e) removal of dust or damaged parts from, oiling of, or applying anti-rust paint or protective coatings to, the good;
- (f) testing or calibration, division of loose shipments, grouping into packages, or attaching identifying labels, markings or signs to the good or its packaging;
- (g) simple operations destined to assure the preservation of the goods during transportation or storage, such as ventilation, cooling, extraction of damaged parts, drying or addition of substances;
- (h) dusting , sifting, classifying, selecting, washing, cutting;
- (i) placing marks, labels or similar distinctive signs;
- (j) cleaning, including removal of oxide, grease, paint or other coatings;
- (k) packaging or repackaging of the good;
- (l) the slaughtering of animals; or
- (m) operations which consist solely of welding, soldering, fastening, riveting, bolting and like operations, or otherwise putting together of all finished parts or components to constitute a finished product.

2. Origin shall not be conferred upon a good by any price setting practice or activity in respect of which it may be demonstrated, on the basis of a preponderance of evidence, that the object was to circumvent the provisions under this Chapter.

Article IV.13 Direct Transport

1. In order for goods to benefit from the preferential tariff treatment provided under this Agreement, they shall be subject to direct expedition from the exporting Party to the importing Party.

2. For the purpose of paragraph 1, goods may:

- (a) be transported directly from the exporting Party to the importing Party; or
- (b) be transported in transit through one or more countries, either Party or non Party of this Agreement, with or without transshipment or temporary storage under surveillance of customs authorities of such countries, provided that:

- i) the transit is justified by geographical reasons or by considerations related to international transport requirements;
- ii) they do not enter into domestic trade or consumption in such countries; and
- iii) they do not undergo further production or be subject to any other operation outside the territory of the Parties, other than unloading, reloading or any other operation necessary to preserve the good in good condition or to transport it to the territory of a Party.