

CHAPTER FOUR

ORIGIN PROCEDURES AND TRADE FACILITATION

Section A Certification of Origin

Article 4.1: Certificate of Origin

1. The Parties shall establish, by the date of entry into force of this Agreement, a Certificate of Origin to certify that a good exported from the territory of a Party into the territory of the other Party qualifies as an originating good. This Certificate of Origin may be modified as agreed by the Parties.
2. Each Party may require that a Certificate of Origin for a good imported into its territory is completed in, or translated into, a language required under its domestic law.¹
3. Each Party shall:
 - (a) require an exporter in its territory to complete and sign a Certificate of Origin for the exportation of a good for which an importer may claim preferential tariff treatment upon importation of the good into the territory of the other Party; and
 - (b) provide that, when an exporter in its territory is not the producer of the good, the exporter may complete and sign a Certificate of Origin on the basis of:
 - (i) the exporter's knowledge of whether the good qualifies as an originating good;
 - (ii) the exporter's reasonable reliance on the producer's written representation that the good qualifies as an originating good; or
 - (iii) a completed and signed Certificate of Origin for the good voluntarily provided to the exporter by the producer.

¹ For Korea, English or Korean; for Canada, English or French.

4. Paragraph 3 is not to be construed to require a producer to provide a Certificate of Origin to an exporter.

5. Each Party shall provide that a Certificate of Origin duly completed and signed by an exporter or a producer in the territory of the other Party is applicable to:

- (d) provide, on the request of that Party's customs administration, a copy of the Certificate of Origin and, if required by that customs administration, any other documentation relating to the importation of the good in accordance with the domestic law of the importing Party; and
- (e) promptly make a corrected declaration in a manner required by the customs administration of the importing Party and pay any duties owing

(b) an importation of a good for which the Party into whose territory the good is imported has waived the requirement for a Certificate of Origin,

provided that the importation is not part of a series of importations that may

Article 4.6: Origin Verifications

1. For the purposes of determining whether a good imported into its territory from the territory of the other Party qualifies as an originating good, a Party may, through its customs administration, conduct a verification by means of:
 - (a) written questionnaires to an exporter or a producer in the territory of the other Party;
 - (b) verification visits to the premises of an exporter or a producer in the territory of the other Party to review the records referred to in Article 4.5(a) and observe the facilities used in the production of the good;
or
 - (c) other procedures as agreed by the Parties.

2. Before conducting a verification visit pursuant to paragraph 1(b), the Party shall, through its customs administration:
 - (a) deliver a written notification of its intention to conduct the visit:
 - (i) to the exporter or producer whose premises are to be visited;
 - (ii) to the customs administration of the other Party; and
 - (iii) if requested by the other Party, to the embassy of the other Party in the territory of the Party proposing to conduct the visit; and
 - (b) obtain the written consent of the exporter or producer whose premises are to be visited.

3. The notification referred to in paragraph 2 must include:
 - (a) the identity of the customs administration issuing the notification;
 - (b) the name of the exporter or producer whose premises are to be visited;
 - (c) the date and place of the proposed verification visit;

- (d) the object and scope of the proposed verification visit, including specific reference to the good that is the subject of the verification;
- (e) the names and titles of the officials performing the verification visit; and
- (f) the legal authority for the verification visit.

4. If an exporter or a producer has not given its written consent to a proposed verification visit within 30 days of receipt of notification under paragraph 2, the customs administration of the notifying Party may deny preferential tariff treatment to the good that would have been the subject of the visit.

5. Each Party shall provide that, on receipt of a notification under paragraph 2, an exporter or a producer may, within 15 days of receiving the notification, have one opportunity to make a request for a postponement of the proposed verification visit, for a period not exceeding 60 days, to the Party conducting the verification.

6. Each Party shall provide that, where its customs administration receives notification under paragraph 2, the customs administration may, within 15 days of receipt of the notification, postpone the proposed verification visit for a period not exceeding 60 days from the date of such receipt, or for such longer period as the Parties may agree.

7. A Party shall not deny preferential tariff treatment to a good based only on the postponement of a verification visit under paragraphs 5 and 6.

8. Each Party shall permit an exporter or a producer of the good that is the subject of a verification visit by the other Party, to designate one or two observers to be present during the visit, provided that:

- (a) the observers do not participate in a manner other than as observers; and
- (b) the failure of the exporter or producer to designate observers shall not result in the postponement of the visit.

9. A Party shall, through its customs administration, when conducting a verification of origin involving a value test,

10. The Party conducting the verification shall provide the exporter or producer of the good that is the subject of the verification with a written determination of whether the good qualifies as an originating good, including findings of fact and the legal basis for the determination.

11. If verifications by a Party indicate a pattern of conduct by an exporter or a producer of false or unsupported representations that a good imported into its territory qualifies as an originating good, the Party may withhold preferential tariff treatment to identical goods exported or produced by that person until that person establishes compliance with Chapter Three (Rules of Origin), in ac 0 0 1 0 0 1 345.19 711.43 Tm

3. Notwithstanding paragraph 2, information that is obtained may be used in an administrative, judicial, or quasi-judicial proceedings instituted for failure to comply with customs related laws and regulations implementing Chapter Three (Rules of Origin) and this Chapter. The person or Party that provided the information will be notified in advance of such use.

Article 4.9: Penalties

1. Each Party shall adopt or maintain measures imposing criminal, civil, or

- (c) for the purpose of determining whether a good satisfies a value test under Chapter Three (Rules of Origin), the appropriate basis for value to be applied by an exporter or a producer in the territory of the other Party, in accordance with the principles of the Customs Valuation Agreement, for calculating the transaction value or ex-works price of the good or of the materials used in the production of the good;
 - (d) whether a good qualifies as an originating good under Chapter Three (Rules of Origin);
 - (e) whether a good that re-enters its territory after the good has been exported from its territory to the territory of the other Party for repair or alteration qualifies for duty-free treatment in accordance with Article 2.6 (Goods Re-Entered after Repair or Alteration);
 - (f) tariff classification, applicable rate of customs duty, or any tax applicable on importation; or
 - (g) other matters as agreed by the Parties.
2. Each Party shall adopt or maintain procedures for the issuance of advance rulings, including a detailed description of the information reasonably required to process an application for a ruling.
3. Each Party shall provide that its customs administration:
- (a) during the course of an evaluation of an application for an advance ruling, may request supplemental information from the person requesting the ruling;
 - (b) after it has obtained all necessary information from the person requesting an advance ruling, shall issue the ruling within the amount of time specified in the Uniform Regulations; and
 - (c) if the advance ruling is unfavourable to the person requesting it, shall provide that person with a full explanation of the reasons for the ruling.

4. Each Party may provide that the customs administration may decline or postpone the issuance of the advance ruling, if an application for an advance ruling involves an issue that is the subject of:

- (a) a verification of origin;
- (b) a review by, or appeal to, the customs administration; or
- (c) in accordance with its domestic law, a judicial or quasi-judicial review in its territory.

5. Subject to paragraph 7, each Party shall apply an advance ruling to importations into its territory of the good for which the ruling was requested, beginning on the date of its issuance or a later date as may be specified in the ruling.

6. Each Party shall provide consistent treatment with respect to the application for advance rulings provided that the facts and circumstances are identical in all material respects.

7. The issuing Party may modify or revoke an advance ruling:

- (a) if the ruling is based on an error:
 - (i) of fact;
 - (ii) in the tariff classification of a good or a material that is the subject of the ruling;
 - (iii) in the application of a value test under Chapter Three (Rules of Origin)

11. Each Party shall provide that, if its customs administration determines that a requirement in paragraph 10 has not been satisfied, the Party may modify or revoke the advance ruling if the circumstances warrant.

12. Each Party shall provide that:

- (a) if the person to which an advance ruling was issued demonstrates that it used reasonable care and acted in good faith in presenting the facts and circumstances on which the ruling was based; and
- (b) the customs administration of a Party determines that the ruling was based on incorrect information,

the person to which the ruling was issued shall not be subject to penalties.

13. Each Party shall provide that if it issues an advance ruling to a person that has misrepresented or omitted material facts or circumstances on which the ruling is based, or has failed to act in accordance with the terms and conditions of the ruling, that Party may apply measures that are warranted by the circumstances, in accordance with its domestic law.

14. Each Party shall provide that an advance ruling remains in effect and will be honoured if there is no change in the material facts or circumstances on which it is based, in accordance with its domestic law.

Section D – Review and Appeal of Determinations of Origin and Advance Rulings

Article 4.11: Review and Appeal

1. Each Party shall grant substantially the same rights of review and appeal of determinations of origin and advance rulings by its customs administration, as it provides to importers in its territory, to a person:

- (a) that completes and signs a Certificate of Origin for a good that has been the subject of a determination of origin; or

(b) that has received an advance ruling pursuant to Article 4.10.

2. Further to Articles 19.3 (Administrative Proceedings) and 19.4 (Review and Appeal) , each Party shall provide that the rights of review and appeal referred to in

- (b) a determination of origin that the Party is aware is contrary to a ruling issued by the customs administration of the other Party with respect to the tariff classification or value of a good, or of materials used in the production of a good, or the reasonable allocation of costs where calculating the net cost of a good that is the subject of a determination of origin;
- (c) a measure establishing or significantly modifying an administrative policy that is likely to affect future determinations of origin; and
- (d) an advance ruling, or a ruling modifying or revoking an advance ruling, pursuant to Article 4.10.

2. The Parties recognise that technical cooperation between the Parties is fundamental to facilitating compliance with the obligations set forth in this Agreement and for reaching a greater degree of trade facilitation.

3. The Parties, through their customs administrations, agree to develop a technical cooperation program under such mutually agreed terms as to the scop(v212t1n a)4(d1ti)-3nd

- (d) to the extent practicable, in jointly organising training programs on customs-related issues, such as simulated audit environment exercises, for the officials and users who participate directly in customs procedures;
- (e) in the development of effective mechanisms for communicating with the trade and business communities;
- (f) to the extent practicable, in developing verification standards and a framework to ensure that both Parties act consistently in determining that goods imported into their territories meet the rules of origin set out in Chapter Three (Rules of Origin);
- (g) to the extent practicable, in the exchange of information to assist each other in the tariff classification, valuation, and determination of origin of imported and exported goods, for preferential tariff treatment and country of origin marking purposes; and
- (h) to the extent practicable, in such international fora as the World Customs

- (b) preparing, in a timely manner, amendments to the Harmonized System with a view to reflecting these amendments in Annex 3-A (Product Specific Rules);
- (c) reviewing the amendments to the Harmonized System to ensure that each Party's obligations under this Agreement are not altered, and consulting to resolve conflicts between:
 - (i) amendments to the Harmonized System and Annex 2-D (Tariff Elimination); or
 - (ii) Annex 2-D (Tariff Elimination) and national nomenclature;
- (d) consulting on and endeavouring to resolve a difference that may arise among the Parties on matters related to the classification and valuation of goods under the Harmonized System;
- (e) notifying the Commission of any agreed modification of, or addition to, Chapter Three (Rules of Origin), this Chapter or the Uniform Regulations under subparagraphs (a) and (b); and
- (f) endeavouring to agree on:
 - (i) the uniform interpretation, application, and administration of

Section G – Trade Facilitation

Article 4.15: Objectives and Principles

1. With the objectives of facilitating trade under this Agreement and of cooperating in pursuing trade facilitation initiatives on a multilateral basis, each Party agrees to administer their import and export processes for goods traded under this Agreement on the basis that:

- (a) procedures be efficient in order to reduce costs for importers and exporters and simplified where appropriate in order to achieve such efficiencies;
- (b) procedures be based on international trade instruments or international standards agreed upon by the Parties;
- (c) entry procedures be transparent in order to ensure predictability for importers and exporters;
- (d) measures to facilitate trade also support mechanisms to protect persons through effective enforcement of, and compliance with, national requirements;
- (e) the personnel and procedures involved in those processes reflect high standards of integrity;
- (f) the development of significant modifications to procedures of a Party include, in advance of implementation, consultations with the representatives of the trading community of that Party;
- (g) procedures be based on risk assessment principles to focus compliance efforts on transactions that merit attention, thereby promoting effective use of resources and providing incentives for voluntary compliance with the obligations to importers and exporters; and
- (h) the Parties encourage cooperation, technical assistance, and the exchange of information, including information on best practices, for the purpose of promoting the application of, and compliance with, the trade facilitation measures agreed upon under this Agreement.

5. The Parties shall ensure that the requirements of their respective agencies related to the import and export of goods are coordinated to facilitate trade, regardless of whether these requirements are administered by an agency or on behalf of that agency by the customs administration. To further this objective, each Party shall take steps to harmonise the data requirements of its respective agencies with the objective of allowing importers and exporters to present all required data to one agency.

6. The Parties, through their customs administrations, shall establish means of consultation with their trade and business communities to promote greater cooperation and the exchange of electronic information.

Article 4.17: Automation

Each Party shall use information technology that expedites procedures for the release of goods and shall:

- (a) establish a means of providing for the electronic exchange of information between that Party's customs administration and the trading community for the purpose of encouraging rapid release procedures;
- (b) endeavour to exchange

