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ANNEX 3-A

INTRODUCTORY NOTES TO PRODUCT-SPECIFIC RULES OF ORIGIN

NOTE 1

General principles

1. This Annex sets out the general rules for the applicable requirements of Annex 3-B (Product-specific rules of origin) provided for in point (c) of Article 3.2(1) (General requirements for originating products).
2. For the purposes of this Annex and Annex 3-B (Product-specific rules of origin), the requirements for a product to be originating in accordance with point (c) of Article 3.2(1) (General requirements for originating products) are a change in tariff classification, a production process, a maximum value of non-originating materials, a regional value content, or any other requirement specified in this Annex and Annex 3-B (Product-specific rules of origin).
3. Reference to weight in a product-specific rule of origin means the net weight, which is the weight of a material or a product, not including the weight of packaging.
4. This Annex and Annex 3-B (Product-specific rules of origin) are based on the Harmonized System, as amended on 1 January 2017.

NOTE 2

The structure of Annex 3-B (Product-specific rules of origin)

1. Notes on Sections or Chapters, if applicable, are read in conjunction with the product-specific rules of origin for the relevant Section, Chapter, heading or subheading.
2. The product-specific rules of origin set out in Column 2 of Annex 3-B (Product-specific rules of origin) apply to the corresponding products identified in Column 1 of Annex 3-B (Product-specific rules of origin).
3. If a product is subject to alternative product-specific rules of origin, the product shall be originating if it satisfies one of the alternatives. If a product is subject to a product-specific rule of origin that includes multiple requirements, the product shall be originating only if it satisfies all of the requirements.

NOTE 3

Application of Annex 3-B (Product-specific rules of origin)

1. For the purpose of this Annex and Annex 3-B (Product-specific rules of origin) the following definitions apply:
 - (a) "Chapter" means the first two digits in the tariff classification number under the Harmonized System;
 - (b) "heading" means the first four digits in the tariff classification number under the Harmonized System;
 - (c) "Section" means a section of the Harmonized System; and
 - (d) "subheading" means the first six digits in the tariff classification number under the Harmonized System.

2. For the purposes of product-specific rules of origin based on a change in tariff classification, the following abbreviations apply:⁶
- (a) "CC" means production from non-originating materials of any Chapter except that of the product; this means that all non-originating materials used in the production of the product must undergo a change in tariff classification at the 2-digit level (i.e. a change in Chapter) of the Harmonized System;
 - (b) "CTH" means production from non-originating materials of any heading, except that of the product; this means that all non-originating materials used in the production of the product must undergo a change in tariff classification at the 4-digit level (i.e. a change in heading) of the Harmonized System; and
 - (c) "CTSH" means production from non-originating materials of any subheading, except that of the product; this means that all non-originating materials used in the production of the product must undergo a change in tariff classification at the 6-digit level (i.e. a change in sub-heading) of the Harmonized System.
3. Where a product that has acquired originating status is used in the production of another product, Article 3.2(2) (General requirements for originating products) applies irrespective of whether this status has been acquired inside the same factory in a Party where those products are used.
4. If a product-specific rule of origin provides that non-originating materials of specified Chapters, headings or sub-headings may not be used or that the value or weight of specified non-originating materials cannot exceed a specific threshold, it means that non-originating material of these Chapters, headings or sub-headings may not be used or may not exceed this specific threshold to satisfy the product-specific rule of origin. This does not prevent the use of originating materials, or the use of non-originating materials classified elsewhere in the Harmonized System.

⁶ For greater certainty, if a requirement of a change in tariff classification provides for exception for a change from certain Chapters, headings or subheadings, none of the non-originating materials of those Chapters, headings or subheadings may be used, individually or jointly.

Example: When the rule for tariff heading 1902 requires that "the total weight of non-originating materials of headings 10.06, 11.01 through 11.08 used does not exceed 20 % of the weight of the final product", the use of non-originating cereals of Chapter 10, other than rice of heading 10.06, is not limited.

5. A requirement of a change in tariff classification applies only to non-originating materials that exceed the tolerances set out in Article 3.5 (Tolerances).

6. If a product-specific rule of origin provides that a product shall be produced from a particular material, this does not prevent the use of additional materials which cannot satisfy the requirement.

Example: Nonwoven of filaments of heading 5603 should be produced from directionally or randomly oriented filaments; or substances or polymers of natural or man-made origin, followed by bonding into nonwovens to confer origin. This rule does not prevent the use of non-originating coating materials in the production of these products.

7. For the purposes of product-specific rules for products in Chapters 1-24, a product fulfilling the rule "production in which all materials of Chapter [X] are wholly obtained" shall be considered as wholly obtained when used as a material in further production.

NOTE 4

Application of rules based on a maximum value of non-originating materials and of a minimum regional value content

1. For the purposes of Annex 3-B (Product-specific rules of origin), the following definitions apply:

(a) "customs value" means the value as determined in accordance with the Agreement on Implementation of Article VII of GATT 1994;

(b) "EXW" or "ex-works price" means:

- (i) the price of the product paid or payable to the producer in whose undertaking the last working or processing is carried out, provided that the price includes the value of all the materials used and all other costs incurred in the production of the product, minus any internal taxes which are, or may be, repaid when the product obtained is exported; or
 - (ii) if there is no price paid or payable or if the actual price paid does not reflect all costs related to the production of the product which are actually incurred in the production of the product, the value of all the materials used and all other costs incurred in the production of the product in the exporting Party:
 - (A) including selling, general and administrative expenses, as well as profit, that can reasonably be allocated to the product; and
 - (B) excluding the cost of freight, insurance, all other costs incurred in transporting the product and any internal taxes of the exporting Party that are, or may be, repaid when the product obtained is exported;
 - (iii) for the purposes of point (i), if the last production has been contracted to a subcontractor, the term "producer" in point (i) refers to the person who has contracted the subcontractor;
- (c) "FOB" or "free on board price" means:
- (i) the price of the product paid or payable to the seller regardless of the mode of shipment, provided that the price includes the value of all the materials used and all other costs incurred in the production of a product and its transportation to the exportation port in the Party, minus any internal taxes which are, or may be, repaid when the product obtained is exported; or
 - (ii) if there is no price paid or payable or if the actual price paid does not reflect all costs related to the production of the product which are actually incurred in the production of a product, the value of all the materials used and all other costs incurred in the production of a product in the exporting Party, and its transportation to the exportation port in the Party that:

- (A) include selling, general and administrative expenses, as well as profit, that can be reasonably allocated to the product, the costs of freight and insurance; and
 - (B) exclude any internal taxes of the exporting Party that are, or may be, repaid when the product obtained is exported;
- (d) "VNM" means the value of the non-originating materials used in the production of the product which is its customs value at the time of importation including freight, insurance if appropriate, packing and all other costs incurred in transporting the materials to the importation port in the Party where the producer of the product is located; where the value of the non-originating materials is not known and cannot be ascertained, the first ascertainable price paid for the non-originating materials in that Party is used but it may exclude all the costs incurred in the Party in transporting the material to the place where the producer is located such as freight, insurance and packing as well as any other known and ascertainable cost incurred in the Party. The value of the non-originating materials used in the production of the product may be calculated on the basis of the weighted average cost formula or other inventory valuation methods under accounting principles which are generally accepted in the Party;
- (e) "MaxNOM" means the maximum value of non-originating materials that may be used in the production of a product, expressed as a percentage of the ex-works price of the final product; and
- (f) "RVC" means the regional value content of a good, expressed as a percentage.

2. A product satisfies the product-specific rule specified for that product in Annex 3-B (Product-specific rules of origin) if:

- (a) for MaxNOM XX % (EXW), the value of non-originating materials used in the production (VNM), expressed as a percentage of the EXW of the product is less than or equal to the MaxNOM (%), according to the following formula:

$$\frac{VNM}{EXW} * 100 \leq MaxNOM (\%)$$

- (b) for RVC XX % (FOB), the product has a regional value content of not less than XX %, according to the following formula:

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

All costs considered for the calculation of regional value content shall be recorded and maintained in conformity with accounting principles generally accepted in the Party.

NOTE 5

Definitions of processes referred to in Sections V to VII of Annex 3-B (Product-specific rules of origin)

For the purposes of Sections V to VII of Annex 3-B (Product-specific rules of origin), the following definitions apply:

- (a) "biotechnological processing" means:
- (i) biological or biotechnological culturing, including cell culture, hybridisation or genetic modification of micro-organisms (bacteria, viruses, including phages, etc.) or human, animal or plant cells; and
 - (ii) production, isolation or purification of cellular or intercellular structures, such as isolated genes, gene fragments and plasmids, or fermentation;
- (b) "change in particle size" means the deliberate and controlled modification in particle size of a product, other than by merely crushing or pressing, resulting in a product with a defined particle size, defined particle size distribution or defined surface area, which is relevant to the purposes of the resulting product and with physical or chemical characteristics different from those of the input materials;

- (c) "chemical reaction" means a process (including a biochemical processing) which results 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, with the exception of the following which are not considered to be chemical reactions for the purpose of this definition:
- (i) dissolving in water or other solvents;
 - (ii) the elimination of solvents including solvent water; or
 - (iii) the addition or elimination of water of crystallisation;
- (d) "distillation" means:
- (i) atmospheric distillation, a separation process in which petroleum oils are converted, in a distillation tower, into fractions according to boiling point and the vapour then condensed into different liquefied fractions; products produced from petroleum distillation may include liquefied petroleum gas, naphtha, gasoline, kerosene, diesel or heating oil, light gas oils and lubricating oil; and
 - (ii) vacuum distillation, distillation at a pressure below atmospheric but not so low that it would be classed as molecular distillation; vacuum distillation is used for distilling high-boiling and heat-sensitive materials such as heavy distillates in petroleum oils to produce light to heavy vacuum gas oils and residuum;⁷
- (e) "isomer separation" means the isolation or separation of isomers from a mixture of isomers;
- (f) "mixing and blending" means the deliberate and proportionally controlled mixing or blending, including dispersing of materials, other than the addition of diluents, only to conform to predetermined specifications which results in the production of a product

⁷ In some refineries, gas oils may be further processed into lubricating oils.

having physical or chemical characteristics that are relevant to the purposes or uses of the product and are different from the input materials;

- (g) "production of standard materials" (including standard solutions) means a production of a preparation suitable for analytical, calibrating or referencing uses with precise degrees of purity or proportions certified by the producer; and
- (h) "purification" means a process which results in:
 - (i) the elimination of at least 80 % of the content of existing impurities; or
 - (ii) the reduction or elimination of impurities resulting in a good suitable for one or more of the following applications:
 - (A) pharmaceutical, medicinal, cosmetic, veterinary, or food grade substances;
 - (B) chemical products and reagents for analytical, diagnostic or laboratory uses;
 - (D) elements and components for use in micro-elements;
 - (E) specialised optical uses;
 - (F) non-toxic uses for health and safety;
 - (G) biotechnical use;
 - (H) carriers used in a separation process; or
 - (I) nuclear grade uses.

NOTE 6

Definitions used in Section XI of Annex 3-B (Product-specific rules of origin)

For the purposes of Section XI of Annex 3-B (Product-specific rules of origin), the following definitions apply:

- (a) "man-made staple fibres" means synthetic or artificial filament tow, staple fibres or waste, of headings 55.01 to 55.07;
- (b) "natural fibres" means fibres other than synthetic or artificial fibres. Their use is restricted to the stages before spinning takes place, including waste, and, unless otherwise specified, includes fibres which have been carded, combed or otherwise processed, but not spun; 'natural fibres' includes horsehair of heading 05.11, silk of headings 50.02 and 50.03, wool-fibres and fine or coarse animal hair of headings 51.01 to 51.05, cotton fibres of headings 52.01 to 52.03, and other vegetable fibres of headings 53.01 to 53.05;
- (c) "printing" means a technique by which an objectively assessed function, such as colour, design, or technical performance, is given to a textile substrate with a permanent character, using screen, roller, digital or transfer techniques; and
- (d) "printing (as standalone operation)" means a technique by which an objectively assessed function, such as colour, design, or technical performance, is given to a textile substrate with a permanent character, using screen, roller, digital or transfer techniques combined with at least two preparatory or finishing operations (such as scouring, bleaching, mercerizing, heat setting, raising, calendaring, shrink resistance processing, permanent finishing, decatizing, impregnating, mending and burling, shearing, singeing, process of air-tumbler, process of stenter, milling, steam and shrinking, and wet decatizing), provided that the value of all the non-originating materials used does not exceed 50 % of the EXW or 45 % of the FOB of the product.
- (e) "mechanical operations" means substantial processes that physically change the characteristics of the yarn to improve its look, performance, feel and properties. Mechanical operations include spinning, twisting, gimping and texturizing but are not limited to these processes. Chemical treatments as well as beaming are not assumed as "any mechanical operation".

NOTE 7

Tolerances applicable to products containing two or more basic textile materials

1. For the purposes of this Note, basic textile materials are the following:
 - (a) artificial man-made filaments;
 - (b) artificial man-made staple fibres of viscose;
 - (c) coarse animal hair;
 - (d) coconut, abaca, ramie and other vegetable textile fibres;
 - (e) cotton;
 - (f) current-conducting filaments;
 - (g) fine animal hair;
 - (h) flax;
 - (i) glass fibres;
 - (j) horsehair;
 - (k) jute and other textile bast fibres;
 - (l) metal fibres;
 - (m) other artificial man-made staple fibres;
 - (n) other products of heading 56.05;
 - (o) other synthetic man-made staple fibres;

- (p) paper-making materials and paper;
- (q) products of heading 56.05 (metallised yarn) incorporating strip consisting of a core of aluminium foil or of a core of plastic film irrespective of whether or not coated with aluminium powder, of a width not exceeding 5 mm, sandwiched by means of a transparent or coloured adhesive between two layers of plastic film;
- (r) silk;
- (s) sisal and other textile fibres of the genus *Agave*;
- (t) synthetic man-made filaments;
- (u) synthetic man-made staple fibres of poly (phenylene sulphide);
- (v) synthetic man-made staple fibres of poly (vinyl chloride);
- (w) synthetic man-made staple fibres of polyacrylonitrile;
- (x) synthetic man-made staple fibres of polyamide;
- (y) synthetic man-made staple fibres of polyester
- (z) synthetic man-made staple fibres of polyimide;
- (aa) synthetic man-made staple fibres of polypropylene;
- (bb) synthetic man-made staple fibres of polytetrafluoroethylene;
- (cc) hemp;
- (dd) wool;

- (ee) yarn made of polyurethane segmented with flexible segments of polyester, whether or not gimped; and
- (ff) yarn made of polyurethane segmented with flexible segments of polyether, whether or not gimped.

2. Where reference to this Note is made in Annex 3-B (Product-specific rules of origin), the requirements set out in its Column 2 shall not apply, as a tolerance, to non-originating basic textile materials which are used in the production of a product, provided that:

- (a) the product contains two or more basic textile materials; and
- (b) the weight of the non-originating basic textile materials, taken together, does not exceed 10 % of the total weight of all the basic textile materials used.

Example: For a woollen fabric of heading 51.12 containing woollen yarn of heading 51.07, synthetic yarn of staple fibres of heading 55.09 and materials other than basic textile materials, non-originating woollen yarn which does not satisfy the requirement set out in Annex 3-B (Product-specific rules of origin), or non-originating synthetic yarn which does not satisfy the requirement set out in Annex 3-B (Product-specific rules of origin), or a combination of both, may be used, provided that their total weight does not exceed 10 % of the weight of all the basic textile materials.

3. Notwithstanding point (b) of paragraph 2, for products containing "yarn made of polyurethane segmented with flexible segments of polyether, whether or not gimped", the maximum tolerance is 20 %. However, the percentage of the other non-originating basic textile materials shall not exceed 10 %.

4. Notwithstanding point (b) of paragraph 2, for products containing "strip consisting of a core of aluminium foil or of a core of plastic film irrespective of whether or not coated with aluminium powder, of a width not exceeding 5 mm, sandwiched by means of a transparent or coloured adhesive between two layers of plastic film", the maximum tolerance is 30 %. However, the percentage of the other non-originating basic textile materials shall not exceed 10 %.

NOTE 8

Other tolerances applicable to certain textile products

1. Where reference to this Note is made in Annex 3-B (Product-specific rules of origin), non-originating textile materials, with the exception of linings and interlinings, that do not satisfy the requirements set out in Column 2 of that Annex for a made-up textile product may be used, provided that they are classified in a heading other than that of the product and that their value does not exceed 8 % of the EXW or FOB of the product.

2. Non-originating materials which are not classified in Chapters 50 to 63 may be used without restriction in the production of textile products classified in Chapters 50 to 63, whether or not they contain textiles.

Example: If a requirement set out in Annex 3-B (Product-specific rules of origin) provides that yarn shall be used for a certain textile item (such as trousers), this does not prevent the use of non-originating metal items, such as buttons, because metal items are not classified in Chapters 50 to 63. For the same reasons, it does not prevent the use of non-originating slide fasteners, even though slide-fasteners normally contain textiles.

3. If a requirement set out in Annex 3-B (Product-specific rules of origin) consists in a maximum value of non-originating materials, the value of the non-originating materials which are not classified in Chapters 50 to 63 shall be taken into account in the calculation of the value of the non-originating materials.

NOTE 9

Agricultural products

Agricultural products falling within Chapters 6, 7, 8, 9, 10 and 12, and heading 2401 that are grown or harvested in the territory of a Party shall be treated as originating in that Party, even if grown or harvested from seeds, bulbs, rootstock, cuttings, grafts, shoots, buds or other live parts of plants imported from a third country.