

## 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 provided for in subparagraph 1(c) of Article 3.2.
2. For the purposes of this Annex and Annex 3-B, the requirements for a product to be originating in accordance with subparagraph 1(c) of Article 3.2 are a change in tariff classification, a production process, a maximum value of non-originating materials, a minimum regional value content, or any other requirement specified in this Annex and Annex 3-B.
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, Annex 3-B and Annex 3-E are based on the Harmonized System, as amended on 1 January 2017.

## Note 2

## The structure of Annex 3-B

1. Notes on Sections or Chapters, where applicable, are read in conjunction with the product specific rules of origin for the relevant Section, Chapter, heading or subheading.
2. Each product specific rule of origin set out in Column 2 of Annex 3-B applies to the corresponding product identified in Column 1 of Annex 3-B.
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.
4. For the purpose of this Annex and Annex 3-B,
  - (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.
5. For the purposes of product specific rules of origin, the following abbreviations apply <sup>(1)</sup>:
  - 'CC' means production from non-originating materials of any Chapter, except that of the product, or a change to the Chapter, heading or subheading from any other Chapter; 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.
  - 'CTH' means production from non-originating materials of any heading, except that of the product, or a change to the Chapter, heading or subheading from any other heading; 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.
  - 'CTSH' means production from non-originating materials of any subheading, except that of the product, or a change to the Chapter, heading or subheading from any other subheading; 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.

<sup>(1)</sup> 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.

## Note 3

## Application of Annex 3-B

1. Paragraph 3 of Article 3.2, concerning products having acquired originating status which are used in the production of other products, applies irrespective of whether or not this status has been acquired inside the same factory in a Party where those products are used.
2. If a product specific rule of origin provides that a specified non-originating material may not be used or that the value or weight of a specified non-originating material cannot exceed a specific threshold, those requirements do not apply to non-originating materials classified elsewhere in the Harmonized System.
3. 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 other materials which cannot satisfy the requirement because of their inherent nature.

## Note 4

Calculation of a maximum value of non-originating materials and of a minimum regional value content

Definitions:

1. For the purposes of product specific rules of origin:
  - (a) 'customs value' means the value as determined in accordance with the Agreement on Implementation of Article VII of the General Agreement on Tariffs and Trade 1994;
  - (b) 'EXW' means:
    - (i) the ex-works price of the product paid or payable to the manufacturer 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 a 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 a product, the value of all the materials used and all other costs incurred in the production of the product in the exporting Party which:
      - (A) include selling, general and administrative expenses, as well as profit, that can be reasonably allocated to the product; and
      - (B) exclude the costs of freight, insurance, all other costs incurred in transporting the product and any internal taxes of the exporting Party which are, or may be, repaid when the product obtained is exported;
  - (c) 'FOB' means:
    - (i) the free on board 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 the product in the exporting Party, and its transportation to the exportation port in the Party which:
      - (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 which are, or may be, repaid when the product obtained is exported;
  - (d) 'MaxNOM' means the maximum value of non-originating materials expressed as a percentage;
  - (e) 'RVC' means the minimum regional value content of a product, expressed as a percentage; and
  - (f) 'VNM' means the value of non-originating materials used in the production of the product which is its customs value at the time of importation including freight, insurance where appropriate, packing and all the other costs incurred in transporting the materials to the importation port in the Party where the producer of the product is located. Where it is not known and cannot be ascertained, the first ascertainable price paid for the non-originating materials in either Party is used.

2. For the calculation of MaxNOM and RVC, the following formulas apply:

$$\text{MaxNOM}(\%) = \frac{\text{VNM}}{\text{EXW}} \times 100$$

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

#### Note 5

##### Definitions of processes referred to in Sections V to VII in Annex 3-B

For the purposes of product specific rules of origin:

- (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;
- (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 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 manufacturer; and
- (h) 'purification' means a process which results in the elimination of at least 80 per cent of the content of existing impurities.

#### Note 6

##### Definitions of terms used in Section XI of Annex 3-B

For the purposes of product specific rules of origin:

- (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 per cent of the EXW or 45 per cent of the FOB of the product.

#### 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) silk;
- (b) wool;
- (c) coarse animal hair;
- (d) fine animal hair;
- (e) horsehair;
- (f) cotton;
- (g) paper-making materials and paper;
- (h) flax;
- (i) true hemp;
- (j) jute and other textile bast fibres;
- (k) sisal and other textile fibres of the genus *Agave*;
- (l) coconut, abaca, ramie and other vegetable textile fibres;
- (m) synthetic man-made filaments;
- (n) artificial man-made filaments;
- (o) current-conducting filaments;
- (p) synthetic man-made staple fibres of polypropylene;
- (q) synthetic man-made staple fibres of polyester;
- (r) synthetic man-made staple fibres of polyamide;
- (s) synthetic man-made staple fibres of polyacrylonitrile;
- (t) synthetic man-made staple fibres of polyimide;
- (u) synthetic man-made staple fibres of polytetrafluoroethylene;
- (v) synthetic man-made staple fibres of poly (phenylene sulphide);
- (w) synthetic man-made staple fibres of poly (vinyl chloride);
- (x) other synthetic man-made staple fibres;
- (y) artificial man-made staple fibres of viscose;
- (z) other artificial man-made staple fibres;
- (aa) yarn made of polyurethane segmented with flexible segments of polyether, whether or not gimped;
- (bb) yarn made of polyurethane segmented with flexible segments of polyester whether or not gimped;

- (cc) 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;
  - (dd) other products of heading 56.05;
  - (ee) glass fibres; and
  - (ff) metal fibres.
2. Where reference to this Note is made in Annex 3-B, 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 per cent of the total weight of all the basic textile materials used.

For 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, or non-originating synthetic yarn which does not satisfy the requirement set out in Annex 3-B, or a combination of both, may be used, provided that their total weight does not exceed 10 per cent of the weight of all the basic textile materials.

3. Notwithstanding Note 7.2 (b), for products containing 'yarn made of polyurethane segmented with flexible segments of polyether, whether or not gimped', the maximum tolerance is 20 per cent. However, the percentage of the other non-originating basic textile materials shall not exceed 10 per cent.
4. Notwithstanding Note 7.2 (b), 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 per cent. However, the percentage of the other non-originating basic textile materials shall not exceed 10 per cent.
5. For a product of headings 51.06 to 51.10 and headings 52.04 to 52.07, non-originating man-made fibres may be used in the process of spinning of natural fibres, provided that their total weight does not exceed 40 per cent of the weight of the product.

#### Note 8

##### Other tolerances applicable to certain textile products

1. Where reference to this Note is made in Annex 3-B, non-originating textile materials (with the exception of linings and interlinings) which do not satisfy the requirements set out in its Column 2 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 per cent 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 61 to 63, whether or not they contain textiles.

For example:

If a requirement set out in Annex 3-B 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. Where a requirement set out in Annex 3-B 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.
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