

## **CHAPTER FOUR ORIGIN PROCEDURES**

### ARTICLE 4.1: CERTIFICATE OF ORIGIN

1. Each Party shall grant preferential tariff treatment in accordance with this Agreement to an originating good imported from the territory of the other Party on the basis of a Certificate of Origin.
2. In order to obtain preferential tariff treatment, an importer shall, in accordance with the procedures applicable in the importing Party, request preferential tariff treatment at the time of importation of an originating good.
3. A Certificate of Origin which certifies that a good being exported from the territory of a Party into the territory of the other Party qualifies as originating shall:
  - (a) be in a printed or electronic format; and
  - (b) be completed in English in conformity with the specimen and the instructions contained therein as set out in Annex 4B, which may be amended by agreement between the Parties.
4. Each Party shall:
  - (a) require an exporter in its territory to complete and sign a Certificate of Origin for any 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 where 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) its knowledge that the good qualifies as originating;
    - (ii) its reasonable reliance on the producer's written representation that the good qualifies as originating; or
    - (iii) a completed and signed Certificate of Origin for the good voluntarily provided to the exporter by the producer.
5. A Certificate of Origin, duly completed and signed by an exporter or producer in a Party, may apply to:
  - (a) a single shipment of one or more goods into the territory of the other Party; or

- (b) multiple shipments of identical goods to the same importer within any period specified in the Certificate of Origin, not exceeding 12 months from its date of issuance.

#### ARTICLE 4.2: WAIVER OF CERTIFICATE OF ORIGIN

A Certificate of Origin shall not be required where:

- (a) the customs value of the importation does not exceed 1,000 US dollars or the equivalent amount in the currency of the importing Party, or such higher amount as may be established by the importing Party, unless the importing Party considers the importation to be carried out or planned for purposes of evading compliance with the Party's laws governing claims for preferential tariff treatment under this Agreement; or
- (b) it is a good for which the importing Party does not require the importer to present a Certificate of Origin demonstrating origin.

#### ARTICLE 4.3: VALIDITY OF CERTIFICATE OF ORIGIN

1. A Certificate of Origin shall be valid for one year from its date of issuance in the exporting Party and be submitted within the same period to the customs authority of the importing Party in accordance with applicable procedures of the importing Party.

2. Notwithstanding paragraph 1:

- (a) in the event that the good referred to in the Certificate of Origin is temporarily admitted or stored under control of the customs authority of a non-Party, the term of validity of the Certificate of Origin may be extended for one additional year; and
- (b) in the event that the good referred to in the Certificate of Origin is temporarily admitted or stored under control of the customs authority of the importing Party, the term of validity of the Certificate of Origin shall be suspended for the amount of time the customs authority has authorized such operations.

#### ARTICLE 4.4: CLAIMS FOR PREFERENTIAL TARIFF TREATMENT

1. Except as otherwise provided for in this Chapter, each Party shall require an importer in its territory that claims preferential tariff treatment to:

- (a) make a written statement in the customs declaration, based on a valid Certificate of Origin, indicating that the good qualifies as originating;

- (b) have in its possession the Certificate of Origin at the time the statement referred to in subparagraph (a) is made;
- (c) have in its possession the documents which certify that the requirements established in Article 3.14 (Direct Transport) have been met, where applicable; and
- (d) submit the valid Certificate of Origin, as well as the documents referred to in subparagraph (c) to the customs authority, where it is required.

2. Where an importer has a reason to believe that a Certificate of Origin on which a statement was based contains incorrect information, the importer shall make a corrected statement and pay any customs duty owed.

3. Where an importer does not comply with any requirements under this Chapter or Chapter Three (Rules of Origin), preferential tariff treatment shall be denied to the goods imported from the territory of the exporting Party.

#### ARTICLE 4.5: POST-IMPORTATION CLAIMS FOR PREFERENTIAL TARIFF TREATMENT

Where a good was originating when it was imported into the territory of the importing Party, but the importer of the good did not claim preferential tariff treatment at the time of importation, that importer may, within the period specified in the Party's legislation or within one year following the date of importation, claim preferential tariff treatment and apply for a refund of any excess duties paid as a result of the good not having been accorded preferential tariff treatment, upon presentation to the importing Party of:

- (a) a written or electronic declaration or statement, in accordance with the legislation of the importing Party, that the good was originating at the time of importation;
- (b) a copy of a Certificate of Origin demonstrating that the good was originating; and
- (c) such other documents related to the importation of the good as the importing Party may require.

#### ARTICLE 4.6: RECORD KEEPING REQUIREMENTS

1. The records that may be used to prove that a good covered by a Certificate of Origin is originating and has fulfilled other requirements under this Chapter and Chapter Three (Rules of Origin) include, but are not limited to:

- (a) documents related to the purchase of, cost of, value of, and payment for, the exported good;
- (b) documents related to the purchase of, cost of, value of, and payment for,

all materials, including indirect materials, used in the production of the exported good;

- (c) documents related to the production of the good in the form in which it was exported; and
- (d) such other documents as the Parties may agree.

2. An exporter or producer in the territory of the exporting Party that completes and signs a Certificate of Origin shall keep, at least for five years from the date of issuance of the Certificate of Origin, the records referred to in paragraph 1.

3. An importer claiming preferential tariff treatment for a good imported into the territory of a Party shall keep, at least for five years from the date of importation of the good, the records related to the importation, including a copy of the Certificate of Origin.

4. An importer, exporter, or producer may choose to keep the records referred to in paragraph 1 in any medium that allows for prompt retrieval, including, but not limited to, digital, electronic, optical, magnetic, or written form.

#### ARTICLE 4.7: FORMAL ERRORS

1. Upon discovering formal errors in a Certificate of Origin, namely those that do not affect the originating status of the goods, the customs authority of the importing Party shall notify the importer of the errors that make the Certificate of Origin unacceptable.

2. The importer shall submit the appropriate correction of the Certificate of Origin within 30 days following the date of the receipt of the notification.

3. The correction shall contain the amendment, the date of the amendment, and, where applicable, the number of the Certificate of Origin and shall be signed by the person who issued the original Certificate of Origin.

4. If the importer fails to submit the correction within the period referred to in paragraph 2, the competent authority of the importing Party may proceed to conduct a verification under Article 4.8.

#### ARTICLE 4.8: VERIFICATION

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

- (a) written requests for additional information from the importer;
- (b) written requests for additional information from the exporter or producer through the competent authority of the exporting Party;

- (c) requests that the competent authority of the exporting Party assists in verifying the origin of the good; or
- (d) verification visits to the premises of an exporter or producer in the territory of the other Party, along with officials of the competent authority of the exporting Party, to observe the facilities and the production processes of the good and to review the records referred to in Article 4.6.1, including accounting files.

2. Requests made under paragraph 1(b) or 1(c) by the competent authority of the importing Party and all the information provided in response by the competent authority of the exporting Party shall be in English.

3. Where the importer, exporter, or producer fails to answer the written request for additional information that the importing Party made under paragraph 1(a) or 1(b) within 90 days following the date of the receipt of the request, the importing Party may deny preferential tariff treatment to the relevant good.

4. Where the competent authority of the importing Party requests assistance under paragraph 1(c):

- (a) it shall provide the competent authority of the exporting Party with:
  - (i) the reasons why such assistance for verification is requested;
  - (ii) the Certificate of Origin of the good or a copy thereof; and
  - (iii) any information and documents as may be necessary for purposes of such request;
- (b) the competent authority of the exporting Party shall provide the competent authority of the importing Party with a written statement in English, including facts and findings, and any supporting documents made available by the exporter or producer. This statement shall indicate clearly whether the documents are authentic and whether the good concerned is originating and has fulfilled other requirements under this Chapter and Chapter Three (Rules of Origin). If the good can be considered to be originating, the statement shall include a detailed explanation of how the good obtained the originating status; and
- (c) in case where the competent authority of the exporting Party fails to provide the written statement within 150 days following the date of the receipt of the request or where the written statement provided does not contain sufficient information, the importing Party may deny preferential tariff treatment to the relevant good.

5. Where the competent authority of the importing Party intends to conduct a verification under paragraph 1(d), it shall notify in writing, 30 days prior to the verification visit, the

competent authority of the exporting Party of such a request. In case where the competent authority of the exporting Party does not give its written consent to such a request within 30 days following the date of the receipt of the notification, the importing Party may deny preferential tariff treatment to the relevant good.

6. The importing Party shall, within one year following the initiation of the verification, notify the importer and the exporting Party, including the exporter or producer through the competent authority of the exporting Party, in writing, of the determination whether the good is originating, as well as factual findings and the legal basis for the determination.

7. Where, at the time of importation, the customs authority of the importing Party has a reasonable doubt on the origin of a good, the good may be released upon a deposit or the payment of duties, pending the outcome of the verification. The deposit or duties paid shall be refunded once the outcome of the verification confirms that the good qualifies as originating.

8. A Party may suspend preferential tariff treatment to an importer on any subsequent import of a good when the competent authority of the Party had already determined that an identical good was not eligible for such treatment, until it is demonstrated that the good complies with the requirements under this Chapter and Chapter Three (Rules of Origin).

9. A Party may provide all the information requested under this Article, supporting documents, and all other related information electronically to the other Party.

#### ARTICLE 4.9: PENALTIES

Penalties shall be imposed on any person who does not comply with this Chapter or Chapter Three (Rules of Origin).

#### ARTICLE 4.10: CONFIDENTIALITY

1. A Party shall maintain the confidentiality of the information provided by the other Party in accordance with this Chapter, when requested by the other Party, and protect it from disclosure that could prejudice the competitive position of the person providing the information. Any violation of the confidentiality shall be treated in accordance with the domestic legislation of each Party.

2. The information provided in accordance with this Chapter shall not be disclosed without specific permission of the person or authority providing such information, except to the extent that it may be required to be disclosed in the context of judicial proceedings.

#### ARTICLE 4.11: DENIAL OF PREFERENTIAL TARIFF TREATMENT

Except as otherwise provided in this Chapter, the importing Party may deny a claim for preferential tariff treatment or recover unpaid duties, where the good does not meet the requirements under this Chapter or Chapter Three (Rules of Origin).

#### ARTICLE 4.12: MODIFICATIONS

1. If a Party considers that this Chapter or Chapter Three (Rules of Origin) needs to be modified, that Party may submit a modification proposal to the other Party, along with supporting rationale and studies.
2. A Party shall respond to the proposal made by the other Party within 180 days following the submission of the proposal.
3. In case where the Parties do not reach an agreement, either Party may refer the matter to the Committee on Customs, Origin, and Trade Facilitation established under Article 5.25 (Committee on Customs, Origin, and Trade Facilitation) for consideration.

#### ARTICLE 4.13: IMPLEMENTATION

1. During the period of five years following the date of entry into force of this Agreement, Annex 4A shall apply in lieu of Articles 4.1 and 4.6.<sup>1</sup>
2. After the period referred to in paragraph 1, Article 4.1 and 4.6 shall apply in lieu of Annex 4A.
3. During the period referred to in paragraph 1, the term **Certificate of Origin** used in Articles 4.2, 4.3, 4.4, 4.5, 4.7, 4.8, and 4.13 and Chapter Three (Rules of Origin) shall have the meaning of **Proof of Origin** referred to in Rule 1 of Annex 4A.
4. For purposes of accepting Certificates of Origin in an electronic format, the Parties shall, after one year following the date of entry into force of this Agreement, initiate the discussion on developing an electronic certification system to ensure the effective and efficient implementation of this Chapter, in a manner to be jointly determined by the competent authorities of the Parties.

#### ARTICLE 4.14: UNIFORM REGULATIONS

1. The Parties may establish and implement, through their respective laws, regulations, or administrative policies, Uniform Regulations regarding the interpretation, application, and administration of this Chapter and Chapter Three (Rules of Origin).
2. Each Party shall implement any modification of, or addition to, the Uniform Regulations within such period as the Parties may agree.

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<sup>1</sup> Proofs of Origin issued in accordance with Annex 4A, until the last day of the calendar year in which Articles 4.1 and 4.6 start to apply, shall be accepted by the Parties. Persons and authorized bodies referred to in Rule 6 of Annex 4A shall keep the documents referred therein even if Annex 4A ceases to apply.

ARTICLE 4.15: DEFINITIONS

For purposes of this Chapter:

**competent authority** means:

- (a) for Korea, the *Korea Customs Service*, or its successor; and
- (b) for Peru, the *Ministry of Foreign Trade and Tourism*, or its successor; and

**identical goods** means goods that are the same in all respects relevant to the particular rule of origin that qualify the goods as originating.