

INTRODUCTORY NOTES TO PRODUCT-SPECIFIC RULES

Note 1

General principles

1. This Annex sets out the general rules for the applicable requirements of Annex 3-B provided for in point (c) of Article 3.2(1) and point (c) of Article 3.2(2).
2. For the purposes of this Annex and Annex 3-B, the requirements for a product to be originating in accordance with point (c) of Article 3.2(1) and point (c) of Article 3.2(2) are a change in tariff classification, a production process, a maximum value of non-originating materials or any other requirement specified in this Annex and Annex 3-B.
3. References 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 are based on the Harmonized System, as amended on 1 January 2017.

Note 2

Structure of Annex 3-B

1. Notes on sections, chapters, headings or subheadings shall be 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 considered originating if it satisfies one of the alternatives set out for that product. If a product is subject to a product-specific rule of origin that includes multiple requirements, the product shall be considered originating only if it satisfies all of the requirements.
4. For the purposes of this Annex and Annex 3-B, 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.
5. For the purposes of product-specific rules of origin, the following abbreviations apply¹:
- (a) "CC" means manufacture 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, meaning that all non-originating materials used in the manufacture of the product must undergo a change in tariff classification at the 2-digit level, namely a change in chapter of the Harmonized System;
 - (b) "CTH" means manufacture 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, meaning that all non-originating materials used in the manufacture of the product must undergo a change in tariff classification at the 4-digit level, namely a change in heading of the Harmonized System; and

¹ For greater certainty, if a requirement of a change in tariff classification provides as an 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.

- (c) "CTSH" means manufacture 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, meaning that all non-originating materials used in the manufacture of the product must undergo a change in tariff classification at the 6-digit level, namely a change in subheading of the Harmonized System.

Note 3

Application of Annex 3-B

1. Point (c) of Article 3.2(1) and point (c) of Article 3.2(2), concerning products having acquired originating status which are used in the manufacture of other products, apply irrespective of whether or not this status has been acquired inside the same place of manufacture in a Party where those products are used.
2. If a product-specific rule of origin provides that a specified non-originating material cannot 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 HS.

3. If a product-specific rule of origin provides that a product is to be produced from a particular material, this does not prevent the use of other materials which cannot satisfy that requirement because of their inherent nature.

Note 4

Calculation of a maximum value of non-originating materials

1. For the purposes of 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" 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, if the price includes the value of all the materials used and all other costs incurred in the manufacture 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 manufacture of the product which are actually incurred in the manufacture of a product, the value of all the materials used and all other costs incurred in the manufacture 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) "MaxNOM" means the maximum value of non-originating materials expressed as a percentage; and
- (d) "VNM" means the value of non-originating materials used in the manufacture of the product, which is the customs value at the time of importation including freight, insurance if 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.

If it is not known and cannot be ascertained, the first ascertainable price paid for the non-originating materials in either Party is used, which may exclude all costs incurred in transporting the non-originating materials within a Party, such as freight, insurance and packing costs as well as any other known and ascertainable cost incurred there.

2. For the calculation of MaxNOM, the following formula applies:

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

Note 5

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

1. "Natural fibres" means fibres other than artificial or synthetic 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.
2. "Textile pulp", "chemical materials" and "paper-making materials" mean materials not classified in Chapters 50 to 63 which can be used to manufacture artificial, synthetic or paper fibres or yarns.
3. "Man-made staple fibres" means synthetic or artificial filament tow, staple fibres or waste of headings 55.01 to 55.07.

4. "Printing" means a technique by which an objectively assessed function, such as colour, design or technical performance, is applied to a textile substrate with a permanent character, using screen, roller, digital or transfer techniques.
5. "Printing (as standalone operation)" means a technique by which an objectively assessed function, such as colour, design or technical performance, is applied to a textile substrate with a permanent character, using screen, roller, digital or transfer techniques combined with at least 2 (two) preparatory or finishing operations such as scouring, bleaching, mercerising, heat setting, raising, calendering, shrink resistance processing, permanent finishing, decatizing, impregnating, mending and burling, provided that the value of all the materials used does not exceed 50 % (fifty per cent) of the ex-works price of the product.

Note 6

Tolerances applicable to products containing two or more basic textile materials

1. For the purposes of this Note, basic textile materials are the following:
 - silk;
 - wool;
 - coarse animal hair;

- fine animal hair;
- horsehair;
- cotton;
- paper-making materials and paper;
- flax;
- true hemp;
- jute and other textile bast fibres;
- sisal and other textile fibres of the genus *Agave*;
- coconut, abaca, ramie and other vegetable textile fibres;
- synthetic man-made filaments;
- artificial man-made filaments;
- current-conducting filaments;
- synthetic man-made staple fibres of polypropylene;
- synthetic man-made staple fibres of polyester;

- synthetic man-made staple fibres of polyamide;
- synthetic man-made staple fibres of polyacrylonitrile;
- synthetic man-made staple fibres of polyimide;
- synthetic man-made staple fibres of polytetrafluoroethylene;
- synthetic man-made staple fibres of poly(phenylene sulphide);
- synthetic man-made staple fibres of poly(vinyl chloride);
- other synthetic man-made staple fibres;
- artificial man-made staple fibres of viscose;
- other artificial man-made staple fibres;
- yarn made of polyurethane segmented with flexible segments of polyether, whether or not gimped;
- yarn made of polyurethane segmented with flexible segments of polyester, whether or not gimped;

- products of heading 56.05 (metallised yarn) incorporating strip consisting of a core of aluminium foil or of a core of plastic film whether or not coated with aluminium powder, of a width not exceeding 5 (five) mm, sandwiched by means of a transparent or coloured adhesive between 2 (two) layers of plastic film; and
- other products of heading 56.05.

Example:

A yarn, of heading 52.05, made from cotton fibres of heading 52.03 and synthetic staple fibres of heading 55.06, is a mixed yarn. Therefore, non-originating synthetic staple fibres which do not satisfy the requirements set out in Annex 3-B may be used, provided that their total weight does not exceed 10 % (ten per cent) of the weight of the yarn.

Example:

A woollen fabric, of heading 51.12, made from woollen yarn of heading 51.07 and synthetic yarn of staple fibres of heading 55.09, is a mixed fabric. Therefore, synthetic yarn which does not satisfy the requirements set out in Annex 3-B, or woollen yarn which does not satisfy the requirements set out in Annex 3-B, or a combination of the two, may be used, provided that their total weight does not exceed 10 % (ten per cent) of the weight of all the basic textile materials.

Example:

Tufted textile fabric, of heading 58.02, made from cotton yarn of heading 52.05 and cotton fabric of heading 52.10, is only a mixed product if the cotton fabric is itself a mixed fabric made from yarns classified in two separate headings, or if the cotton yarns used are themselves mixtures.

If the tufted textile fabric concerned had been made from cotton yarn of heading 52.05 and synthetic fabric of heading 54.07, then, obviously, the yarns used are two separate basic textile materials and the tufted textile fabric is, accordingly, a mixed product.

2. Where reference to this Note is made in Annex 3-B, the requirements set out in Column 2 thereof shall not apply to any non-originating basic textile materials, excluding elastomeric yarns, which are used in the manufacture of the product of Chapters 50 to 63, provided that:
 - (a) the product contains 2 (two) or more basic textile materials; and
 - (b) the weight of the non-originating basic textile materials, taken together, does not exceed 10 % (ten per cent) of the total weight of all the basic textile materials used.
3. Notwithstanding Note 6.2, for products of Chapters 50 to 63 incorporating "yarn made of polyurethane segmented with flexible segments of polyether, whether or not gimped", the tolerance is 20 % (twenty per cent) in respect of the weight of this non-originating yarn as a percentage of the weight of all the basic textile materials used.

4. Notwithstanding Note 6.2, for products of Chapters 50 to 63 incorporating "strip consisting of a core of aluminium foil or of a core of plastic film whether or not coated with aluminium powder, of a width not exceeding 5 (five) mm, sandwiched by means of a transparent or coloured adhesive between two layers of plastic film", the tolerance is 30 % (thirty per cent) in respect of the weight of this non-originating strip as a percentage of the weight of all the basic textile materials used.

Note 7

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, elastomeric yarns and sewing threads, which do not satisfy the requirements set out in the list in Column 2 for the 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 % (eight per cent) of the ex-works price of the product.
2. Non-originating materials which are not classified within Chapters 50 to 63 may be used without restriction in the manufacture 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 provides that yarn must be used for a particular 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 within Chapters 50 to 63. For the same reason, it does not prevent the use of slide fasteners, even though slide fasteners normally contain textiles.

3. If a requirement set out in Annex 3-B that consists of a maximum value of non-originating materials applies, the value of non-originating materials which are not classified within Chapters 50 to 63 shall be taken into account when calculating the value of the incorporated non-originating materials.

Note 8

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

For the purposes of 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:
 - (1) micro-organisms such as bacteria and viruses, including phages; or

- (2) 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 of the 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 for 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 purposes 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) "isomer separation" means the isolation or separation of isomers from a mixture of isomers;

- (e) "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 which are relevant for the purposes or uses of the product and are different from the input materials;
- (f) "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;
- (g) "purification" means a process which results in:
 - (i) the purification of a good resulting in the elimination of at least 80 % (eighty per cent) 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:
 - (1) pharmaceutical, medical, cosmetic, veterinary or food grade substances;
 - (2) chemical products and reagents for analytical, diagnostic or laboratory uses;
 - (3) elements and components for use in micro-electronics;
 - (4) specialised optical uses;

- (5) biotechnical use, such as in cell culturing, in genetic technology, or as a catalyst);
- (6) carriers used in a separation process; or
- (7) nuclear grade uses.

Note 9

Agricultural products

Agricultural products falling within Chapters 6, 7, 8, 9, 10, 12 and heading 24.01 which are grown or harvested in the territory of a Party shall be treated as originating in the territory of that Party, even if grown from seeds, bulbs, rootstock, cuttings, slips, grafts, shoots, buds or other live parts of plants imported from a third country.
