

EFTA-Korea
RULES OF ORIGIN AND CUSTOMS PROCEDURE

EXPLANATORY NOTES to Annex I¹

The Parties agreed on the following Explanatory Notes for the interpretation, application and administration of Annex I (Rules of Origin and Customs Procedures) referred to in Article 2.2 of the Free Trade Agreement between Korea and the EFTA States, pursuant to Article 33 of Annex I.

Notes to ARTICLE 1

Definitions

1. Paragraph (e): The ex-works price of a product shall include
 - the value of all supplied materials used in manufacture
 - all costs (material costs as well as other costs) incurred in the production of a product.
2. For example, the ex-works price of recorded video cassettes, records, discs, media-carrying computer software and other such products comprising an element of intellectual property rights shall as far as possible include all costs with regard to the use of intellectual property rights for the manufacture of the goods, paid for by the manufacturer, whether or not the holder of such rights has his seat or residence in the country of production.
3. No account shall be taken of commercial price reduction (e.g. for early payment, or large quantity deliveries).
4. Paragraph (n): “ascertainable” means “established in accordance with the provisions of the WTO Agreement on customs valuation”.

Notes to ARTICLE 5

Sufficiently Worked or Processed Products – Value of Non-Originating Materials

1. If non-originating and originating materials undergo processing, which results in a non-originating product, and that product is used in a subsequent manufacture of another product in the same Party, account may be taken only of the non-originating materials contained therein.
2. For the purposes of paragraph 1, the value of non-originating material can be acquired by deducting from the ex-works price of the product the value of originating material, including self-produced originating material used in producing the resulting non-originating material. The value of originating material that is self-produced includes all the costs incurred in the production of the material and an amount for profit equivalent to the profit added in the normal course of trade.

¹ Entered into effect 3 May 2017. Amendment to the Notes to ARTICLE 14 entered into effect on 23 June 2020.

Notes to ARTICLE 9

Origin Rule for Sets

1. The origin rule for sets applies only to sets within the meaning of General Rule 3 for the interpretation of the Harmonized System.
2. According to this provision, each product of which the set is composed, with the exception of products the value of which, taken together, does not exceed 15 per cent of the total value of the set, must fulfil the origin criteria for the heading under which the product would have been classified if it were a separate product and not included in a set regardless of the heading under which the whole set is classified in accordance with the text of the General Rule referred to above.
3. These provisions remain applicable even if the 15 per cent tolerance is used for that product which under the text of the General Rule referred to above determines the classification of the whole set.

Notes to ARTICLE 10

Neutral Elements

Neutral elements will for example include:

- (a) spare parts and materials used in the maintenance of equipment and buildings;
- (b) lubricants, greases, compounding materials and other materials used in production or used to operate equipment and buildings;
- (c) gloves, glasses, footwear, clothing, safety equipment and supplies;
- (d) equipment, devices and supplies used for testing or inspecting the goods;
- (e) catalysts and solvents.

Notes to ARTICLE 14

Direct Transport – Splitting-Up

1. In cases where e.g.:
 - the exporter did not know the final destination of individual products included in the consignment,
 - the consignment was split up during transport and storage,
 - no origin declaration covering the particular goods was issued,

the importer may present an origin declaration issued after the exportation.

2. Storage of products in a third country is allowed, provided that they do not undergo operations other than unloading, reloading, splitting-up of consignments or any operation designed to preserve them in good condition and they shall remain under customs control in the country of transit during the period of storage.

Example 1:

European storage and distribution hub of Korean electronics in the European Union, which also distributes to the EFTA countries;

Example 2:

European storage and distribution hub of cars produced in Korea in the European Union, which also distributes to the EFTA countries;

Example 3:

Asian storage and distribution hub in Singapore of Swiss watches to Asian countries, including Korea;

Example 4:

Storage and distribution of crude oil from Norway in a hub in Malaysia for distribution to Asian countries, including Korea. Rudiments due to the fact that it is physically impossible to completely empty a tank before it is filled up with originating oil, this shall not be regarded as changing the originating status of the stored oil, as long as it can be accounted for that the total amount of originating oil not has increased during the storage operation.

Example 5:

Transportation of oil originating in Norway on a ship that en route to Korea loads oil with unknown origin in the United Kingdom and unloads oil in China, as long as the oil originating in Norway is kept in separate storage compartments and is not mixed with oil of unknown origin.

3. The importer may be asked to prove that the goods that were in transit through the territory of a non-Party (with or without trans-shipment or temporary storage) were under the surveillance of the customs authorities of such country or countries. The customs authorities may ask e.g. the following documents to be presented:

- transport documents such as airway bill, bill of lading or road consignment note, as the case may be, or the combined transport document;
- If necessary, a Non-Manipulation Certificate issued by the customs authority of the non-Party country containing date, number of packages, weight, date of arrival, date of departure, means of transport (e.g. name of vessel, container number etc.) and the confirmation, that the goods have remained under customs surveillance during their stay in the non-Party country and have not been treated in any manner going beyond the treatments allowed in Article 14 or a copy of the customs control documentation that provides evidence that the goods remained under surveillance of the customs authority of the country that is a non-Party while being in transit. In absence of any of the above-mentioned documents, and only for the purposes of Article 14 of Annex I, the importer may provide any other supporting document.

Example 1:

A Korean exporter is shipping its products to Europe. Normally, the destination of the shipment is a non-Party harbour and constitutes one single consignment. On departure from Korea the exporter does not know the final destination of individual products included in the consignment. During the transport a decision is taken to deliver part of the consignment to an EFTA State, the other part would be delivered to customers in a non-Party. Upon arrival to the harbour of the non-Party the shipment is stored in a customs warehouse. While in the customs warehouse and under customs surveillance, the consignment is split up; one part delivered to the customer in the non-Party country,

the other part transported further to the customer in the EFTA State. Upon arrival in the EFTA State the importer will present an origin declaration completed after the exportation, i.e. during shipment/storage covering the shipment destined for the EFTA State.

Example 2:

A Swiss company produces its products in Switzerland, exports them in one shipment to a customs warehouse in the European Union (e.g. the Netherlands - non-party) for temporary storage. Based on orders from customers in Korea, part of the initial shipment is sent to Korea. At that moment the Swiss exporter completes retrospectively an origin declaration covering the shipment to Korea and sends it to the Korean importer. If desired, the Korean customs authorities can ask for transport documents from Switzerland covering the whole shipment from the producer to the Netherlands, and transport documents covering the transport from the Netherlands to Korea. It would also be required that the transport documents issued in Switzerland and the Netherlands contain the necessary information in order to identify the particular goods imported into Korea.

Notes to ARTICLE 15

Origin Declaration

The following guidelines shall apply:

- (a) the wording of the invoice declaration shall be in conformity with the wording set out in Appendix 3 of Annex I. If the products covered by the invoice declaration originate in more than one country, an indication of the names or official abbreviation of all the countries concerned² or a reference to a specific indication in the invoice, must be entered in the wording of the invoice declaration. In the invoice or equivalent, the name or official abbreviation of every country shall be indicated for each item on the invoice;
- (b) the indication of non-originating products and therefore products which are not covered by the invoice declaration should not be made on the declaration itself. However, this indication should appear on the invoice in a precise way so as to avoid any misunderstandings;
- (c) declarations made on copied invoices are acceptable provided such declarations bear the signature of the exporter or producer under the same conditions as the original. Approved exporters who are authorized not to sign invoice declarations are not required to sign invoice declarations made on copied invoices;
- (d) an origin declaration on the reverse of the invoice is acceptable;
- (e) an origin declaration may be made on a separate sheet of the invoice provided that the sheet is obviously part of the invoice.
- (f) an origin declaration made on a label, which is subsequently attached to the invoice, is acceptable provided there is no doubt that the label has

² The ISO-Alpha-2 and -3 codes for each one of the countries are the following:

- Iceland	IS	ISL
- Korea	KR	KOR
- Norway	NO	NOR
- Switzerland	CH	CHE

been affixed by the exporter. For example, the exporter's stamp or signature should cover both the label and the invoice.

Notes to ARTICLE 15

Documentary Proofs for Used Goods

Origin declarations may be issued also for used or any other goods where, because of a considerable time lapse between the date of production or importation on the one hand and the date of exportation on the other hand, the usual supporting documents are no longer available, provided that:

- (a) the date of production or importation of the goods lies beyond that period of time during which, according to the respective legislation in the country of exportation, records must be kept by traders;
- (b) the goods may be deemed to be originating on the grounds of other evidences, like declarations of the producer or any other trader, an expert's opinion, by marks on the goods or descriptions of them, etc.;
- (c) there is no indication that the goods do not comply with the requirements of Annex I.

Notes to ARTICLE 16

Approved Exporter

The term "exporter" may refer to persons or undertakings exporting from the territory of one of the contracting parties, regardless of whether they are producers or traders, as long as they comply with all the other provisions of Annex I.

Notes to ARTICLE 18

Importation by Instalments

1. An importer wishing to take advantage of the provisions of this article must inform the exporter before the first instalment is exported that a single origin declaration for the complete product is required.
2. It is possible that each instalment is made up only of originating products. Where such instalments are accompanied by origin declarations those separate origin declarations shall be accepted by the customs authorities of the importing country for the instalments concerned, instead of a single origin declaration issued for the complete product.

Notes to ARTICLE 28

Refusal of Preferential Treatment without Verification

1. This covers cases in which the origin declaration is considered inapplicable, *inter alia* for the following cases:
 - (a) the requirement on direct transport of Article 14 have not been fulfilled;

- (b) the proof of origin is produced subsequently for goods that were initially imported fraudulently
- (c) the proof of origin has been completed by an exporter or producer in a non-Party to this agreement
- (d) the importer fails to submit a proof of origin to the customs authorities of the importing Party within the period specified in the importing Party's legislation.

2. The customs authorities of the importing Party may inform the customs authorities of the exporting Party about the refusal.
