

ANNEX I to Protocol 1

INTRODUCTORY NOTES TO ANNEX II (LIST OF REQUIRED WORKING OR PROCESSING)

Note 1 – General Introduction

The list in Annex II to Protocol 1 sets out the conditions required for all products to be considered as sufficiently worked or processed within the meaning of Article 5 (Sufficiently Worked or Processed Products). There are four different types of rules, which vary according to the product:

- (a) through working or processing a maximum content of non-originating materials is not exceeded;
- (b) through working or processing the four-digit HS heading or six-digit HS subheading of the manufactured products becomes different from the four-digit HS heading or six-digit HS subheading, respectively, of the materials used. However, in the case set out in the second paragraph of Note 3.3., the four-digit HS heading or six-digit HS subheading of the manufactured products may be the same as the four-digit HS heading or six-digit HS subheading, respectively, of the materials used;
- (c) a specific working and processing operation is carried out; or
- (d) working or processing is carried out on certain wholly obtained materials.

Note 2 – The Structure of the List of Required Working or Processing

2.1. The first two columns in the list describe the product obtained. The first column gives the heading number or Chapter number used in the HS and the second column gives the description of goods used in that system for that heading or Chapter. For each entry in the first two columns, a rule is specified in column 3. Where, in some cases, the entry in the first column is preceded by an "ex", this signifies that the rules in column 3 apply only to the part of that heading as described in column 2.

2.2. Where several heading numbers are grouped together in column 1 or a Chapter number is given and the description of products in column 2 is therefore given in general terms, the adjacent rules in column 3 apply to all products which, under the HS, are classified in headings of the Chapter or in any of the headings grouped together in column 1.

2.3. Where there are different rules in the list applying to different products within a heading, each indent contains the description of that part of the heading covered by the adjacent rules in column 3.

2.4. Where two alternative rules are set out in column 3 that are separated by use of a different line and linked by an "or", it shall be at the choice of the exporter which one to use.

Note 3 – Examples of How to Apply the Rules

3.1. Article 5 (Sufficiently Worked or Processed Products), concerning products having acquired originating status which are used in the manufacture of other products, applies regardless of whether that status has been acquired inside the factory where those products are used or in another factory in a Party.

3.2. Pursuant to Article 6 (Insufficient Working or Processing), the working or processing carried out must go beyond the list of operations mentioned in that Article. If it does not, the goods shall not qualify for the granting of the preferential tariff treatment, even if the conditions set out in the list below are met.

Subject to the first paragraph, the rules in the list represent the minimum amount of working or processing required. The carrying-out of more working or processing also confers originating status, without prejudice to Article 6 (Insufficient Working or Processing). Conversely, the carrying-out of less working or processing shall not confer originating status.

3.3. Where a rule uses the expression "Manufacture from materials of any heading, except that of the product" all non-originating materials classified in headings other than that of the product may be used (Change in Tariff Heading).

Where a rule uses the expression "Manufacture from materials of any heading", then materials of any heading(s) (even materials of the same description and heading as the product) may be used.

3.4. Where a rule uses the expression "Manufacture in which the value of all the materials used does not exceed x % of the ex-works price of the product" then the value of all non-originating materials is to be considered and the percentage for the maximum value of non-originating materials may not be exceeded through the use of paragraph 3 of Article 5 (Sufficiently Worked or Processed Products).

3.5. If a rule provides that a specific non-originating material may be used, the use of materials which are still in an earlier stage of the manufacturing process of that specific material is allowed, and the use of materials resulting from further processing of that specific non- originating material is not.

If a rule provides that a specific non-originating material may not be used, the use of materials which are still in an earlier stage of the manufacturing process of that specific non-originating material is allowed, and the use of materials resulting from further processing of that specific non-originating material is not.

Example: when the rule for Chapter 19 requires that "non-originating materials of headings 1101 to 1108 cannot exceed 20 % of the weight", the use of non-originating cereals of Chapter 10 (materials at an earlier stage in the manufacturing process of goods of headings 1101 to 1108) is not limited by the requirement concerning the 20 % of the weight.

3.6. When a rule specifies that a product may be manufactured from more than one material, one or more materials may be used. It does not require that all materials be used.

3.7. Where a rule specifies that a product must be manufactured from a particular material, it does not prevent the use of other materials which, because of their inherent nature, cannot satisfy that requirement.

Example: Flat-rolled products of iron and non-alloy steel, of a width of 600 mm or more, which have been painted, varnished or coated with plastics are classified in the HS under 7210 70. The rule for 7210 is "Manufacture from ingots or other primary forms or semi-finished materials of heading 7206 or 7207". This rule does not prevent the use of non-originating paint and varnish (heading 3208) or plastics (Chapter 39).

Note 4 – General Provisions Concerning Certain Agricultural Goods

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

4.2. Whenever the rules for products in Chapters 1 to 24 incorporate some limitations in weight, it should be noted that in accordance with paragraph 2 of Article 5 (Sufficiently Worked or Processed Products), those limitations in weight only apply to non-originating materials. Consequently, originating materials are not to be taken into account for the calculation of the limitations in weight. In addition, those limitations are expressed in different manners. In particular:

- (a) When the rule uses the expression "the weight of the materials of Chapters/headings", the weight of each material mentioned shall be added up and the total weight shall not exceed the maximum percentage.

Example: The rule for Chapter 19 provides that the weight of the materials of Chapters 2, 3 and 16 used does not exceed 20 % of the weight of the final product. In case the weight of the final product contains 12 % of materials of Chapter 3 and 10 % of materials of Chapter 16, the product does not meet the origin conferring rule of Chapter 19 as the combined weight exceeds 20 % of the weight of the final product.

- (b) When the rule uses the expression "the individual weight of the materials of Chapters/headings" the weight of each material mentioned shall not exceed the maximum percentage. The combined weight of the materials added together has no relevance.

Example: The rule for Chapter 22 provides that the individual weight of sugar and of the materials of Chapter 4 does not exceed 20 % of the weight of the final product. In case the weight of the final product contains 15 % of sugar as well as 10 % of materials of Chapter 4, the origin conferring rule of Chapter 22 is complied with. Each individual material is less than 20 % of the weight of the final product. On the contrary, in case the weight of the final product contains 25 % of sugar and 10 % of materials of Chapter 4, the origin conferring rule is not complied with.

- (c) When the rule uses the expression "the total combined weight of sugar and the materials of Chapter 4 used does not exceed x % of the weight of the final product", both the weight of the sugar and the materials of Chapter 4 shall meet individually their weight limitation, and their combined weights added up shall meet the combined weight limitation. A combined weight limitation expresses a further restriction to the individual weight limitations.

Example: The rule for heading 1704 provides that the total combined weight of sugar and the materials of Chapter 4 used does not exceed 50 % of the weight of the final product. The individual weight limitations for materials of Chapter 4 are 20 % and for sugar 40 %. In case the weight of the final product contains 35 % of sugar and 15 % of materials of Chapter 4, both the individual weight limitations and the combined weight limitations of the origin conferring rule of heading 1704 are complied with. On the contrary, in case the weight of the final product contains 35 % of sugar and 20 % of materials of Chapter 4, the combined weight represents 55 % of the weight of the final product. In that case the individual weight limitations are respected but the combined weight limitation is exceeded and therefore the origin conferring rule of heading 1704 is not complied with.

Note 5 - Terminology Used in Respect of Certain Textile Products

5.1. The term "natural fibres" is used in the list to refer to fibres other than artificial or synthetic fibres. It 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.

5.2. The term "natural fibres" includes horsehair of heading 0511, silk of headings 5002 and 5003, as well as wool-fibres and fine or coarse animal hair of headings 5101 to 5105, cotton fibres of headings 5201 to 5203, and other vegetable fibres of headings 5301 to 5305.

5.3. The terms "textile pulp", "chemical materials" and "paper-making materials" are used in the list to describe the materials, not classified in Chapters 50 to 63, which can be used to manufacture artificial, synthetic or paper fibres or yarns.

5.4. The term "man-made staple fibres" is used in the list to refer to synthetic or artificial filament tow, staple fibres or waste of headings 5501 to 5507.

Note 6 - Tolerances Applicable to Products Made of a Mixture of Textile Materials

6.1. Where, for a given product in the list, reference is made to this Note, the conditions set out in column 3 shall not be applied to any basic textile materials used in the manufacture of this product and which, taken together, represent 10 % or less of the total weight of all the basic textile materials used. (See also Notes 6.3 and 6.4).

6.2. However, the tolerance mentioned in Note 6.1 may be applied only to mixed products which have been made from two or more basic textile materials.

The following are the basic textile materials:

- 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 5605 (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 mm, sandwiched by means of a transparent or coloured adhesive between two layers of plastic film,
- other products of heading 5605,
- glass fibres,
- metal fibres.

Example: A yarn of heading 5205, made from cotton fibres of heading 5203 and synthetic staple fibres of heading 5506, is a mixed yarn. Therefore, non-originating synthetic staple fibres which do not satisfy the origin rules may be used, provided that their total weight does not exceed 10 % of the weight of the yarn.

Example: A woollen fabric of heading 5112, made from woollen yarn of heading 5107 and synthetic yarn of staple fibres of heading 5509, is a mixed fabric. Therefore, synthetic yarn which does not satisfy the origin rules, or woollen yarn which does not satisfy the origin rules, or a combination of the two, may be used, provided that their total weight does not exceed 10 % of the weight of the fabric.

Example: Tufted textile fabric of heading 5802, made from cotton yarn of heading 5205 and cotton fabric of heading 5210, 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.

Example: If the tufted textile fabric concerned was made from cotton yarn of heading 5205 and synthetic fabric of heading 5407, the yarns used are two separate basic textile materials and the tufted textile fabric is, accordingly, a mixed product.

6.3. In the case of products incorporating "yarn made of polyurethane segmented with flexible segments of polyether, whether or not gimped", this tolerance is 20 % in respect of this yarn.

6.4. In the case of products 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 mm, sandwiched by means of a transparent or coloured adhesive between two layers of plastic film", this tolerance is 30 % in respect of this strip.

Note 7 - Other Tolerances Applicable to Certain Textile Products

7.1. Where, in the list, reference is made to this Note, textile materials which do not satisfy the rule set out in the list in column 3 for the made-up product concerned, 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 ex-works price of the product.

7.2. Without prejudice to Note 7.3, materials which are not classified within Chapters 50 to 63 may be used freely in the manufacture of textile products, whether or not they contain textiles.

Example: If a rule provides that, for a particular textile item (such as trousers), yarn shall be used, it does not prevent the use of metal items, such as buttons, because buttons 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.

7.3. Where a percentage rule 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 non-originating materials incorporated.

Note 8 - Definition of Specific Processes and Simple Operations Carried out in Respect of Certain Products of Chapter 27

8.1. For the purposes of headings ex 2707 and 2713, the "specific processes" are the following:

- (a) vacuum-distillation;
- (b) redistillation by a very thorough fractionation process;
- (c) cracking;
- (d) reforming;
- (e) extraction by means of selective solvents;
- (f) the process comprising all of the following operations: processing with concentrated sulphuric acid, oleum or sulphuric anhydride; neutralisation with alkaline agents; decolourisation and purification with naturally active earth, activated earth, activated charcoal or bauxite;
- (g) polymerisation;
- (h) alkylation; and
- (i) isomerisation.

8.2. For the purposes of headings 2710, 2711 and 2712, the "specific processes" are the following:

- (a) vacuum-distillation;
- (b) redistillation by a very thorough fractionation process;
- (c) cracking;
- (d) reforming;
- (e) extraction by means of selective solvents;
- (f) the process comprising all of the following operations: processing with concentrated sulphuric acid, oleum or sulphuric anhydride; neutralisation with alkaline agents; decolourisation and purification with naturally active earth, activated earth, activated charcoal or bauxite;
- (g) polymerisation;
- (h) alkylation;
- (i) isomerisation;
- (j) in respect of heavy oils of heading ex 2710 only, desulphurisation with hydrogen, resulting in a reduction of at least 85 % of the sulphur content of the products processed (ASTM D 1266-59 T method);

- (k) in respect of products of heading 2710 only, deparaffining by a process other than filtering;
- (l) in respect of heavy oils of heading ex 2710 only, treatment with hydrogen, at a pressure of more than 20 bar and a temperature of more than 250 °C, with the use of a catalyst, other than to effect desulphurisation, when the hydrogen constitutes an active element in a chemical reaction. The further treatment, with hydrogen, of lubricating oils of heading ex 2710 (e.g. hydrofinishing or decolourisation), in order, more especially, to improve colour or stability shall not, however, be deemed to be a specific process;
- (m) in respect of fuel oils of heading ex 2710 only, atmospheric distillation, on condition that less than 30 % of these products distils, by volume, including losses, at 300 °C, by the ASTM D 86 method;
- (n) in respect of heavy oils other than gas oils and fuel oils of heading ex 2710 only, treatment by means of a high-frequency electrical brush discharge; and
- (o) in respect of crude products (other than petroleum jelly, ozokerite, lignite wax or peat wax, paraffin wax containing by weight less than 0,75 % of oil) of heading ex 2712 only, de-oiling by fractional crystallisation.

8.3. For the purposes of headings ex 2707 and 2713, simple operations, such as cleaning, decanting, desalting, water separation, filtering, colouring, marking, obtaining a sulphur content as a result of mixing products with different sulphur contents, or any combination of these operations or like operations, do not confer origin.
