Rules of Origin for Chemical Chapters 28 to 39 under EU-Japan FTA/EPA

This paper was prepared by jointly European Chemical Industry Council (Cefic) and Japan Chemical Industry Association (JCIA) to submit proposal to both European Commission and Japanese government with respect to Rule of Origin of chemical products (RoO).

Cefic and JCIA expect flexible and updated RoO so that preferential custom treatment for chemical trade will be widely utilized between EU member states and Japan in the event of the execution of the anticipated EU-Japan FTA/EPA.

Cefic and JCIA hope that this joint paper would be taken into consideration in the midst of current intensive EU-Japan FTA/EPA trade negotiation round.

RoO for chemical chapters 28 to 39 under EU-Japan FTA/EPA are based on “substantial transformation” which is understood to confer origin if one of the following rules apply (non-hierarchical order), provided that such application shall be conditional that the rules are technically, practically, reasonably and economically applicable to the specific chapters from 28 to 39.

Change of tariff sub-heading (CTSH) as the most widely accepted method to confer origin for Chapters 28-39: One of the methods for determining origin should be the rule of Change in Tariff Classification (Tariff Shift) on a heading (4-digit HS Code) or sub-heading level (6-digit HS Code).

De Minimis Clause: Goods that do not undergo a change in tariff classification are nonetheless originating goods if the value of all non-originating materials that have been used in the production of the good, and do not undergo the applicable change in tariff classification, does not exceed 10%-15% of the adjusted value of the good.

If companies are unable to qualify their product through the tariff shift rule, then the rules below (non-hierarchical order) may be considered as origin conferring processes.

Added-Value Rule:
Added-value criteria can be calculated with one of the following options:

(a) Build-down Method: Based on the Value of Non-Originating Materials

\[ \text{RVC} = \frac{(\text{Value of the Good } - \text{VNM})}{\text{Value of the Goods}} \times 100 \]

RVC: Not less than 40%-45%

Note:
\( RVC \): the regional value content of a good, expressed as a percentage
\( VNM \): is the value of non-originating materials, including materials of undetermined origin, used in the production of the good

(b) Build-up Method: Based on the Value of Originating Materials

\[ \text{RVC} = \frac{\text{VOM}}{\text{Value of the Goods}} \times 100 \]

RVC: Not less than 30%-35%
**VOM:** the value of originating materials used in the production of the good in the territory of Parties

**Chemical Reaction:** A “chemical reaction” is a process (including a biochemical process) 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.

The following processes should not be considered for purpose of origin:
(a) dissolving in water or other solvents;
(b) the elimination of solvents including solvent water; or
(c) the addition or elimination of water of crystallization.

A chemical reaction as defined above is to be considered as origin conferring.

Note: For the purposes of conferring of origin, Cefic and JCIA recognize that biochemical process is equal to biotechnological process.

**Biotechnological Process include:**
(a) Biological or biotechnological culturing (including cell culture), hybridization or genetic modification of:
   (I) micro-organisms (bacteria, viruses (including phages) etc.) or
   (ii) human, animal or plant cells; and

   (b) Production, isolation or purification of cellular or intercellular structures (such as isolated genes, gene fragments and plasmids) and fermentation

**Mixtures and Blends:** The deliberate and proportionally controlled mixing or blending (including dispersing) of materials, other than the addition of diluents, to conform to predetermined specifications which results in the production of a good having physical or chemical characteristics which are relevant to the purposes or uses of the good and are different from the input materials is to be considered to be as origin conferring.

**Purification:** Purification is to be considered as origin conferring provided that purification occurs in the territory of one or both of the Parties results in the elimination of at least 80 percent of the content of existing impurities.

**Change in Particle Size:** The deliberate and controlled modification in particle size of a good, other than by merely crushing or pressing, resulting in a good having a defined particle size, defined particle size distribution or defined surface area, which is relevant to the purposes of the resulting good and having different physical or chemical characteristics from the input materials is to be considered as origin conferring.

**Standard Materials:** Standard materials (including standard solutions) are preparations suitable for analytical, calibrating or referencing uses having precise degrees of purity or proportions which are certified by the manufacturer. The production of standard materials is to be considered as origin conferring.

**Isomer Separation:** The isolation or separation of isomers from a mixture of isomers is to be considered as origin conferring.
Minimal Operations or Processes not Sufficient to Confer Origin: Below minimal operations and/or processes which are not sufficient to confer origin are the following.

a) unloading, reloading or any other operation necessary to maintain the good in good condition during transport and storage;
b) application of preservative or decorative coatings, including lubricants, protective encapsulation, preservative or decorative paint, or metallic coatings and polishing operations;
c) washing, cleaning, including removal of rust, dust, grease, paint, or other coatings;
d) mere dilution with water or another substance that does not materially alter the characteristics of the good; simple mixing of products, whether or not of different kinds;
e) trimming, filing, sharpening, simple grinding, simple cutting
f) testing, sorting, or grading; sifting, screening, classifying, matching (including the making-up of sets of articles); marking, affixing or printing marks, labels, logos and other like distinguishing signs on products or their packaging
g) simple placing in bottles, cans, flasks, bags, cases, boxes, fixing on cards or boards and all other simple packaging operations; breaking-up and assembly of packages
h) simple assembly of parts of articles to constitute a complete article or disassembly of products into parts