



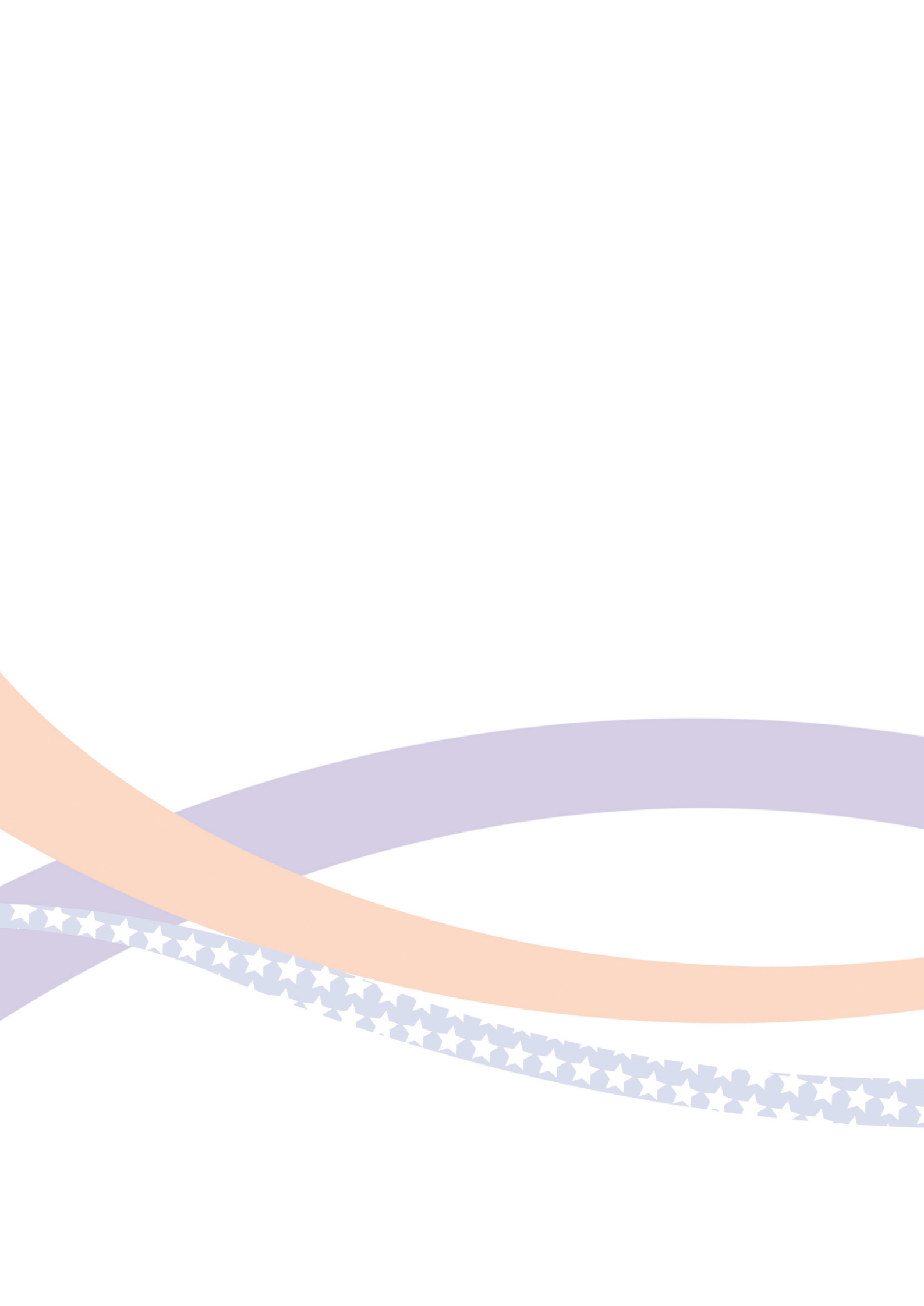
Processed Food Industry

Utilization Guide for Korea-US FTA

Sep, 2012



KOREA CUSTOMS SERVICE





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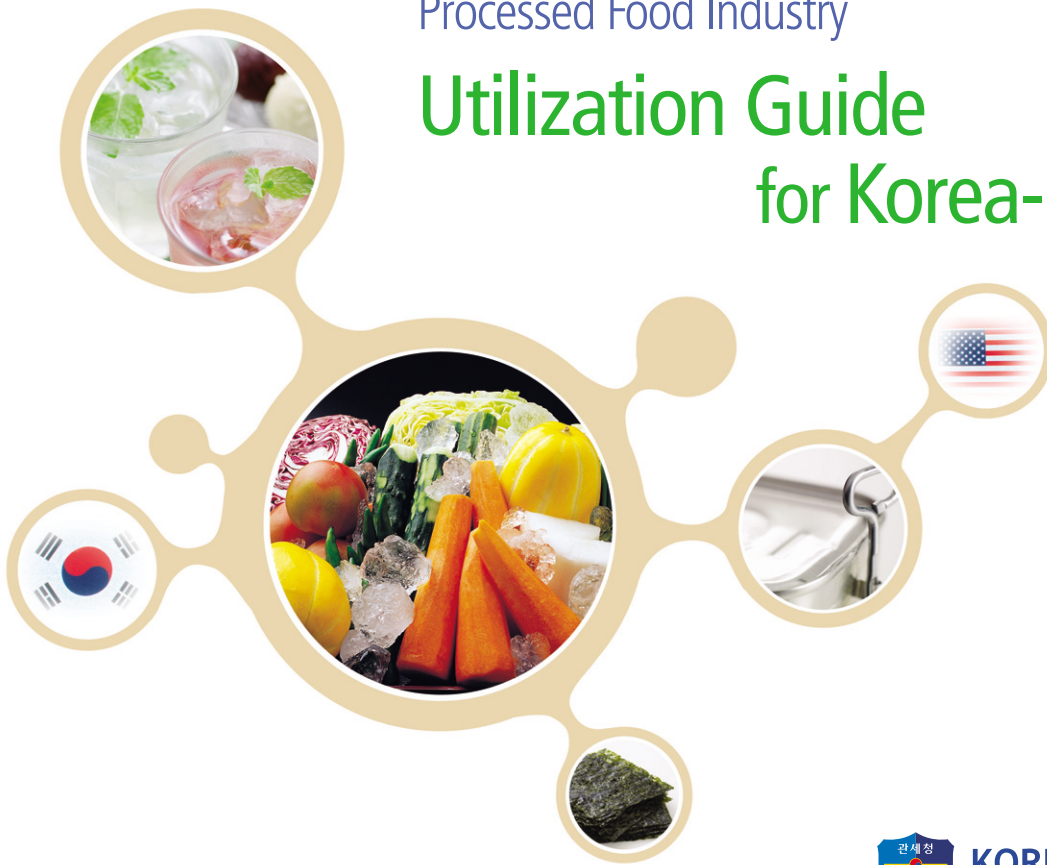
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I. What is FTA?

⚙️ Free Trade Agreement is an agreement reached between two or more countries under the aim of facilitating trades by eliminating trade barriers such as tariffs, from the trade of products and services among them.

- Korea-US FTA, recently come into force, has reduced tariffs on majority of the products traded between the two countries.

- Tools to help utilize Korea-US FTA

<http://www.ustr.gov/trade-agreements/free-trade-agreements/korus-fta/tools-to-help-utilize>.

II. Tariff Concessions under Korea-US FTA

- In terms of Tariff Concessions of the US, goods entitled to immediate tariff reduction (including zero-tariff) account for 55%, based on the number of items. The rate at 55% is quite low compared to the rates in other industries.
- The major items that are imported by the US and undergo immediate tariff reduction are seasoned laver (tariff rate in the US at 6%) and non-alcoholic drinks (tariff rate at 0.2/Liter) etc.

Tariff Concessions of Seasoned Laver and Drinks in the US

Tariff Reduction	Other prepared foods (HS Chapter 21)		Drinks and Alcohol (HS Chapter 22)		Total	
	No of items	Tariff Rate (%)	No of items	Tariff Rate (%)	No of items	Tariff Rate (%)
Immediate	31	34.8	58	79.5	89	54.9
In 3 yrs	1	0.8			1	0.6
In 5 yrs	31	34.8	9	12.3	40	24.7
In 7 yrs	5	5.6	6	8.2	11	6.8
In 10 yrs	21	23.6			21	13.0
Total	89		73		162	

III. Comparison of Tariff Rates on Major Goods

- Selection Based on items eligible for preferential tariff treatment, out of all items exported to the US in the top range in terms of the volume of exports

HS code (8-digit)	Product Description	Tariff Rate	Preferential Tariff Rate (2012)
20089990	Other edible prepared food of parts of plants	6	0
21069099	Food preparations not elsewhere specified	6.4	0
21031000	Soy sauce	6	0
21050010	Ice cream	20	16 (2016 : 0%)
20059997	Vegetables nesoi, & mixtures of vegetables	11.2	0
22060045	Rice wine or sake	3 ¢/liter	0
21012090	Preparations nesoi, with a basis of extracts, essences or concentrates or with a basis of tea or mate	8.5	0
22029090	Other non-alcoholic beverages	0.2 / Liter	0
22011000	Mineral waters and aerated waters	0.26 ¢/liter	0

IV. Origin Determination

1. Originating Goods

- ❖ An originating good is one that meets the general and/or product specific rules of origin set forth in GN 33 and all other requirement of the agreement.
- ❖ In general terms, under the KORUS FTA a good is originating when:

- The good is wholly obtained or produced entirely in the territory of the Parties (Republic of Korea, the United States or both)
- The good is produced entirely in the territory of one or more of the Parties and
 - Each of the non-originating materials used in the production of the good undergoes an applicable change in tariff classification specified in GN 33(o); or
 - The good otherwise satisfies any applicable regional value content (RVC) requirements specified in GN 33(b); andThe good satisfied all other applicable requirement; or
- The good is produced entirely in the territory of one or more of the Parties exclusively from originating materials.

2. Change in Tariff Classification (CTC)

- ❖ Good is regarded originating if the HS code of the good is different to the HS codes of the outward materials used in the production of the good.
- ❖ CTC is based on the tariff classification. Thus, correct classification is one of the most important elements.
- ❖ Types of Change in Tariff Classification
 - CC (Change of Chapter): Change in the first 2 digits
 - CTH (Change of Tariff Heading): Change in the first 4 digits
 - CTSH (Change of Tariff Sub-Heading): Change in the first 6 digits



3. De Minimis (Non-Textiles)

- A good containing a non-originating material that does not undergo the tariff classification change specified in GN 33(e) may still originate if the value of all such non-originating materials does not exceed 10 percent of the adjusted value of the good. When performing an RVC computation, the value of de minimis materials is included in the total value of the non-originating materials.

4. Transit and Transshipment

- Goods that undergo further production outside the territory of the Republic of Korea or the United States, other than unloading, reloading or other processes to preserve the condition of the good or to transport the good to the territory of Korea or the United States, or goods that do not stay under customs control in the territory of a non-Party, will not be considered originating.

Example of Product Specific Rules

2008.99 (Seasoned laver):

A change to subheadings 2008.99 from any other chapter, CTC (CC)

except as provided for in chapter rule 1 for chapter 20

Chapter rule 1: Fruit, nut and vegetable preparations of headings 2001 through 2008 that have been prepared or preserved by freezing, by packing (including canning) in water, brine or natural juices or by roasting, either dry or in oil (including processing incidental to freezing, packing or roasting) shall be treated as originating only if the fresh good were wholly obtained or produced entirely in the territory of Korea or of the United States, or both. Furthermore, fruit preparations of heading 2008 that contain peaches, pears or apricots, either alone or mixed with other fruits, shall be treated as originating only if the peaches, pears, or apricots were wholly obtained or produced entirely in the territory of Korea or of the United States, or both.



For confirmation of Preferential Criterion under Korea-US FTA, please visit:

http://www.ustr.gov/sites/default/files/uploads/agreement/fta/korus/asset_upload_file751_12702.pdf.

1878



V. Steps to Use Korea-US FTA

Step 1 Confirmation of Correct HS Code

1. What are the HS Codes?

- ⚙ The World Customs Organization (WCO) has developed and upholds the Harmonized Commodity Description and Coding System (HS) as an internationally accepted standard for categorizing various traded goods, facilitating the collection of trade-related statistics and tariffs on them. Most FTA contracting countries worldwide have adopted the HS Convention.
- The first six digits of HS codes are common worldwide.
- From the seventh digit of HS code varies from country to country.
- ⚙ Korea uses 10-digit HS code whereas the United States uses 8-digit numbers.

The first two digits of a traded good's HS code indicate its main category.

The next two digits indicate its intermediate category, and the fifth and the sixth digits indicate its sub-category.

For example, the six-digit HS code for a sweater is 6110.30.

61	10	30
Main Category	Interm. Category	Sub-category

← The first six digits are common worldwide.

2. Enjoying Benefits from Korea-US FTA Begins with Identifying Exact HS code

- ⚙ Preferential tariff rates and Preference criterion base on each HS code under the FTA. Please visit: <http://www.usitc.gov/tata/hts/bychapter/index.htm>

3. How to Identify Correct HS code

- ⚙ Please visit: <http://uscensus.prod.3ceonline.com/>
- ⚙ Should you still undergo difficulties after visiting the above webpage, you may request for a consultation from a customs specialist in your region or apply for advance ruling to CBP.

Step 2 Checking Benefits from Preferential Tariff Treatment

1. Eligibility for Preferential Tariff Treatment to be Applied

❖ Check whether the goods you want to import are subject to preferential tariff treatment under Korea-US FTA.

❖ Compare the Basic* and Preferential Tariff Rates**.

* Basic Tariff Rate: tariff rate imposed on imported goods in general, regardless of the FTA.

** Preferential Tariff Rate: tariff rate that is either eliminated or reduced as a result of the FTA.

* To see the list of goods subject to preferential tariff treatment and their tariff rates, visit:

▶ http://dataweb.usitc.gov/scripts/tariff_current.asp

▶ http://www.usitc.gov/publications/tariff_affairs/USITCPub4308.pdf.

2. Benefits from Use of FTA:

❖ Benefits from preferential tariff treatment in the trade of goods are associated with the difference between Basic Tariff Rate and Preferential Tariff Rate applicable to the good.

▶ Tariff benefit applied to the U.S. importer when importing sweaters from Korea (HTS 6110.30-30):
(Tariff benefit 32%) = MFN Rate (32%) - Preferential Tariff Rate (0%)

Before Korea-US FTA	After Korea-US FTA
(a) Tax Base: USD 1,000	(a) Tax Base: USD 1,000
(b) Tariff: (a) × 32% = USD 320	(b) Tariff: (a) × 0% = USD 0
(c) Merchandise Processing fee: (a) × 0.34% = USD 34	(c) Merchandise Processing fee: (a) × 0% = USD 0
(d) Total: USD 354	(d) Total: USD 0

Tariff in total before the FTA into force (USD 354) - Preferential Tariff after the FTA into force (USD 0)
= USD 354 Tariff Reduction for sweaters imported from Korea!

Step 3 Preparation of Certificate of Origin (C/O)

1. Requesting and Obtaining C/Os:

- ❖ Request for issuance of C/O regarding the goods in question is to be made to the exporter or producer of the FTA partner country. The importer may receive the C/O along with other documents related import.
- ❖ In terms of Korea-US FTA, importers are entitled to issue C/Os. Thus, the importers are able to issue C/Os even though C/O is not provided by the exporter or producer.

2. Issuing C/Os

- ❖ FTAs excluding Korea-US FTA generally have specific forms of C/O that the importers and exporters of the contracting parties shall comply with. Whereas, there is no specific form of C/O under Korea-US FTA, however following data elements must be contained;

Data Elements for the KORUS FTA Certification of Origin (CBP)

- 1. Name and address of the importer:**
The legal name, address, telephone, and e-mail of the importer of record of the good.
- 2. Name and address of the exporter:**
The legal name, address, telephone, and e-mail of the exporter of record of the good.
(If different from the producer)
- 3. Name and address of the producer:**
The legal name, address, telephone, and e-mail of the producer of record of the good.
(If known)
- 4. Description of good:**
The description of a good shall be sufficiently detailed to relate it to the invoice and the Harmonized System nomenclature.
- 5. HS tariff classification number:**
The HS tariff classification, to six or more digits, as specified for each good in the Rules of Origin.
- 6. Preference criterion:**
The rule of origin set forth in General Note 33(b) or Article 6.1 of the Agreement. In the case of a product-specific rule specified in General Note 33(o) or Annex 4-A or 6-A of the Agreement, please be specific as to which rule was applied.
- 7. Single shipment:**
Provide the commercial invoice number.



8. Multiple shipments of identical goods:

Provide the blanket period in "mm/dd/yyyy to mm/dd/yyyy" format. (12-month maximum)

9. Authorized signature, company, title, telephone, fax, e-mail, and certification date:

The signee must have access to the underlying records and the legal authority to bind the company. This field shall include signature, company, title, telephone, fax, and e-mail.

10. Certification:

I certify that:

The information on this document is true and accurate and I assume the responsibility for proving such representations. I understand that I am liable for any false statements or material omissions made on or in connection with this document;

I agree to maintain and present upon request, documentation necessary to support these representations;

The goods comply with all requirements for preferential tariff treatment specified for those goods in the United-Korea Free Trade Agreement; and

This document consists of _____ pages, including all attachments.

Signature:

Title:

Phone Number:

Email Address:

Date:

NOTES: Keep in mind when issuing C/Os under Korea-US FTA;

- The certification may cover a single importation or multiple importations of identical goods within a maximum 12 month period; and
- Valid period: effective for four (4) years from the dates of their original issuance under Korea-US FTA.

► No C/Os required for imported goods worth USD 2,500 or less

Step 4 Claim for Preferential Tariff Treatment

1. Claim Procedure

- ⚙️ Claim is made by placing the "KR" on the entry summary (CBP Form 7501).
- ⚙️ Identify the applicable tariff rate
- ⚙️ Have a written/electronic certification at the time the declaration is made
- ⚙️ Provide a copy of the certification, on request, to the government
- ⚙️ When the importer has reason to believe that the declaration is based on inaccurate information, correct the importation document and pay all duties and merchandise processing fee. Penalties will not be assessed when the importer promptly and voluntarily makes a corrected claim and pays and duties owing.
- ⚙️ Importer may make a post-importation claim for preferential treatment under the KORUS FTA, within one year of importation. The importer shall submit a claim in writing to the port of entry, to include:
 - 1) A written declaration stating that the good qualified as an originating good at the time of importation and the number and date of the entry or entries covering the good;
 - 2) A copy of a certification containing the required data elements demonstrating that the good originated at importation;
 - 3) A statement indicating whether the entry summary or equivalent documentation was provided to any other person;
 - 4) A statement indicating whether a protest, petition or request for reliquidation has been filed relating to the good and identification of such filing(s)

2. Correction of False/Unsupported KORUS FTA Claim

- ⚙️ An importer who has made a false or unsupported preference claim must submit a correction within 30 days of discovery and pay all duties and merchandise processing fee(MPF). Penalties will not be assessed when the importer promptly and voluntarily makes a corrected claim and pays any duties owing.

Step 5 Record-Keeping

1. Reasons for Record Keeping

- ❖ Verification on the importer regarding whether or not the preferential tariff treatment was duly granted in compliance with the law is conducted after the import clearance. It is therefore mandatory for importers to keep all the relevant documents, including the certificates of origin issued by the exporters, producers or the importers themselves, in order to prove the country of origin of the good in question.
- ❖ Violation of this record-keeping rule may not only deprive the importer of the benefits from preferential tariff treatment, but even lead to penalization under the criminal law of the importer's jurisdiction.

2. Record-Keeping Period and Documents to be Kept

- ❖ Importers are required to maintain all certifications in their possession and all records related to the importation for five years from the date of importation



Step 6 Origin Verification

- ⚡ Under the KORUS FTA, the importer is responsible for substantiating the validity of a preference claim. This preference claim may be based on a certification, other documentation, or the importer's knowledge. CBP will initiate verification via a CBP Form 28, Request for Information, to the importer.
- ⚡ Upon request, the importer shall provide the certification and documentation supporting the certification. Importer should be prepared to substantiate the originating status of the goods with documentation such as, but not limited to, the following:
 - Flow charts, technical specifications and other documents explaining the manufacturing process;
 - An explanation of how the good meets the rule of origin
 - A bill of materials showing the classification number, origin, and cost (if the good is subject to a RVC calculation) of each material.
 - A certification of origin or affidavit corresponding to each originating material that fails the prescribed tariff shift; otherwise, the material may be deemed non-originating;
 - Purchase orders and proof of payment to substantiate values;
 - Documentation pertaining to assists, inventory management methods, indirect materials, etc.; or
 - Other documentation, as needed.
- ⚡ Importer is responsible for ensuring that adequate substantiating documentation is provided to CBP upon request.
- ⚡ The producer may elect to provide this documentation directly to CBP to protect its confidentiality. Subsequent to the initial contact with the importer, CBP may, at its discretion, communicate directly with the exporter or producer.
- ⚡ CBP may verify the originating status of a good by means of a verification visit to the exporter or producer in accordance with procedures established by the Parties.

KORUS FTA Implementation Instruction _US CBP

http://www.cbp.gov/linkhandler/cgov/trade/trade_programs/international_agreements/free_trade/korea/korea_fta.ctt/korea_fta.pdf

VI. Additional Information

1. Exemption from Merchandise Processing Fee (Article 2.10)

⚡ Thanks to the Korea-US FTA, those who import Korea-originating goods under Korea-US FTA do not have to pay merchandise processing fees.

※ Unconditionally free goods with a KORUS FTA claim are subject to the same certification and verification requirements as dutiable goods.

Classification	Legal Basis and the Target	Details
Merchandise Processing Fees	<ul style="list-style-type: none"> ⚡ "Consolidated Omnibus Budget Reconciliation Act" (1985) ⚡ Ad-valorem duties applied categorically to all imported goods. ⚡ Not applicable to goods imported from (1) protectorate states of the United States; (2) the least developed countries; (3) certain Caribbean states that are beneficiaries of preferential tariffs. 	<ul style="list-style-type: none"> ⚡ For formal entries: <ul style="list-style-type: none"> - 0.3461% of the value of merchandise (\$25 minimum and \$485 maximum). ⚡ For informal entries: <ul style="list-style-type: none"> - USD 2 for automatic declaration; - USD 6 for manual declaration made by the importer; and - USD 9 for manual declaration made by the customs Authority.

2. Advance Ruling System

⚡ Those (including importers, exporters, producers, and their duly authorized representatives in the FTA contracting countries), who are unsure of whether their goods satisfy preference criterion, may apply for advance ruling prior to the import declaration to the Customs authorities in the region.

- Eligibility:** open to importer, exporter and producer/ prior to importation declaration
- Scope of Ruling:** tariff classification, determination of price and country of origin, applicable quotas or tariff rates, and indication of country-of-origin of the good in question etc.
- Apply online:** <http://www.cbp.gov/xp/cgov/trade/legal/rulings/>

Additional information is available on www.cbp.gov at:
http://www.cbp.gov/xp/cgov/trade/trade_programs/international_agreements/free_trade/





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