

CHAPTER 3 RULES OF ORIGIN

SECTION I GENERAL PROVISIONS

Article 3.1: Definitions

1. For the purposes of this Chapter:

(a) **aquaculture** means the farming of aquatic organisms including fish, molluscs, crustaceans, other aquatic invertebrates and aquatic plants, from seedstock such as eggs, fry, fingerlings, and larvae, by intervention in the rearing or growth processes to enhance production such as regular stocking, feeding, or protection from predators;

(b) **chapters, headings, and sub-headings** mean the chapters, headings and sub-headings used in the nomenclature which makes up the HS with the changes pursuant to the Recommendation of 26 June 2004 of the Customs Co-operation Council;

(c) **CI** means the value of the good imported and includes the cost of insurance and freight up to the port or place of entry in the country of importation. The valuation shall be made in accordance with Article VII of GATT 1994;

(d) **classified** refers to the classification of a good or material under a particular chapter, heading, or sub-heading of the HS;

(e) **competent authority** means the authority that, according to the legislation of each Party, is responsible for the issuance of the certificate of origin and may designate the issuance of the certificate of origin to other entities or bodies. In the case of Sri Lanka, the competent authority is the Department of Commerce or any other Authority acting on behalf of the Ministry of Trade. In the case of Thailand, the competent authority is the Ministry of Commerce or any other Authority acting on behalf of the Ministry;

(f) **customs value** means the value as determined in accordance with the Customs Valuation Agreement;

(g) **exporter** means a natural or juridical person located in the territory of a Party, where a good is exported from, by such a person;

(h) **FOB** means the free-on-board value of the good, inclusive of the cost of transport to the port or site of final shipment abroad. The valuation shall be made in accordance with Article VII of GATT 1994 and the Agreement on the Implementation of Article VII of GATT 1994;

(i) **fungible materials** means materials that are of the same kind and commercial quality, with the same technical and physical characteristics, and which cannot be distinguished from one another once they are incorporated into the finished goods;

(j) **Generally Accepted Accounting Principles** means those principles recognised by consensus or with substantial authoritative support in the territory of a Party with respect to the recording of revenues, expenses, costs, assets, and liabilities; the disclosure of information; and the preparation of financial statements. These principles may encompass broad guidelines for general application, as well as detailed standards, practices, and procedures;

(k) **goods** means both materials and products being manufactured, even if it is intended for later use in another manufacturing operation;

(l) **indirect material/neutral elements** means goods used in the production, testing or inspection of goods but not physically incorporated into the goods, or goods used in the maintenance of buildings or the operation of equipment associated with the production of goods as referred to in Article 3.6 (Indirect Material/Neutral Elements);

(m) **material** means a good or any matter or substance such as raw materials, ingredients, parts, components, sub-components or sub-assemblies that are used or consumed in the production of goods or transformation of another good or are subject to a process in the production of another good;

(n) **originating goods or originating material** means goods or material that qualifies as originating in accordance with the provisions of this Chapter;

(o) **product specific rules** means rules that specify that the materials have undergone a change in tariff classification or a specific manufacturing or processing operation, or satisfy a Qualifying Value Content (QVC) criterion or a combination of any of these criteria; and

(p) **production** means methods of obtaining goods including, but not limited to, growing, raising, mining, harvesting, fishing, farming, trapping, hunting, capturing, aquaculture, gathering, collecting, breeding, extracting, manufacturing, processing or assembling a good.

2. For the purposes of this Article, where the last working or processing has been subcontracted to a manufacturer, the term “manufacturer” may refer to the enterprise that has employed the subcontractor.

Article 3.2: Origin Criteria

Except as otherwise provided for in this Chapter, a good shall qualify as an originating good of a Party where:

(a) the good is wholly obtained or produced entirely in the Party, as provided in Article 3.3 (Wholly Obtained or Produced Goods);

(b) the good is produced entirely in the Party exclusively from originating materials of the Parties; or

(c) the good is produced from non-originating materials in the Party, provided that the good has satisfied the requirements set out in Article 3.4 (Goods not Wholly Produced or Obtained).

Additionally, the good shall meet all applicable requirements of this Chapter.

Article 3.3: Wholly Obtained or Produced Goods

The following goods shall be considered as wholly obtained or produced entirely in the territory of a Party:

(a) plants, plant goods, and vegetable goods grown and harvested there;

(b) live animals born and raised there;

(c) goods obtained from live animals referred to in subparagraph (b);

(d) goods obtained from hunting, trapping, fishing, farming, aquaculture, gathering or capturing conducted there;

(e) goods from slaughtered animals born and raised there;

(f) mineral products extracted from its soil or seabed;

(g) goods of sea-fishing and other marine life taken by vessels of that Party¹, and other goods taken by that Party or a person of that Party, from the waters, seabed, or subsoil beneath the seabed outside the territorial sea of the Parties and non-Parties, in accordance with international law, provided that, in case of goods of sea-fishing and other marine life taken from the exclusive economic zone of any Party or non-Party, that Party or person of that Party has the rights to exploit² such exclusive economic zone, and in case of other goods, that Party or person of that Party has rights to exploit such seabed and subsoil beneath the seabed, in accordance with international law;

(h) goods of sea-fishing and other marine life taken by vessels of that Party from the high seas in accordance with international law;

(i) goods processed or made on board any factory ships of that Party³, exclusively from the goods referred to in subparagraph (g) or (h);

(j) waste or scrap derived from:

(i) production carried out there, or

(ii) used goods collected or salvaged there, provided that the waste or scrap is fit only for the recovery of raw materials; and

(k) goods produced or obtained there exclusively from goods referred to in subparagraph (a) through (j) or from their derivatives.

¹ For the purposes of this Article, “factory ships of that Party” or “vessels of that Party” respectively, means factory ships or vessels:

(a) which are registered in that Party; and

(b) which are entitled to fly the flag of that Party.

(c) which are owned to an extent of at least 50 per cent by nationals of the Party, or by a juridical person with its head office in the Party, of which the representatives, chairman of the board of directors, and the majority of the members of such board are nationals of the Party, and of which at least 50 per cent of the equity interest is owned by nationals or juridical persons of the Party; and

(d) of which at least 75 per cent of the total of the master, officers and crew are nationals of the Party.

² For the purposes of determining the origin of goods of sea-fishing and other marine life, “rights to exploit” in this subparagraph include those rights of access to the fisheries resources of a coastal State, as accruing from any agreements or arrangements between a Party and the coastal State.

³ See *supra* note 1.

Article 3.4: Goods not Wholly Produced or Obtained

1. For the purposes of subparagraph (c) of Article 3.2 (Origin Criteria), except for those goods covered under paragraph 2, a good shall be treated as an originating good:

(a) if the goods have a qualifying value content of not less than 40 per cent calculated using the formula set out in Article 3.5 (Qualifying Value Content (QVC)); or

(b) if all non-originating materials used in the production of the goods have undergone a change in tariff classification (hereinafter referred to as “CTC”) at four-digit level (i.e. a change in tariff heading) of the HS.

2. Notwithstanding paragraph 1, goods listed in Annex 3B (Product Specific Rules) shall qualify as originating goods if the goods satisfy the product specific rules set out therein.

Article 3.5: Qualifying Value Content (QVC)

1. The QVC of a good shall be calculated as follows:

$$QVC = \frac{FOB - VNM}{FOB} \times 100$$

Where:

(a) “QVC” is the qualifying value content of the good, expressed as a percentage;

(b) “FOB” is the FOB value as defined in subparagraph (h) of Article 3.1 (Definitions); and

(c) “VNM” is the materials, which do not qualify as originating in any Party within the meaning of Article 3.2 (Origin Criteria) and the materials of undetermined origin.

2. For the purposes of calculating the QVC provided in paragraph 1, VNM shall be:

(a) the CIF value at the time of importation of the goods; or

(b) the earliest ascertained price paid for the goods of undetermined origin in the territory of the Party where the working or processing takes place.

3. All costs considered for the calculation of the QVC shall be recorded and maintained in conformity with the Generally Accepted Accounting Principles applicable in the territory of the Party where the good is produced.

Article 3.6: Indirect Material/Neutral Elements

Any indirect material used in the production of a good but not incorporated into the good shall be treated as an originating material, irrespective of whether it originates from a non-Party. Such indirect materials include:

- (a) fuel, energy, catalysts, and solvents;
- (b) equipment, devices, and supplies used for testing or inspection of the goods;
- (c) gloves, glasses, footwear, clothing, and safety equipment and supplies;
- (d) tools, dies, and moulds;
- (e) spare parts and materials used in the maintenance of equipment and buildings;
- (f) lubricants, greases, compounding materials, and other materials used in production or used to operate equipment and buildings; and
- (g) any other materials which are not incorporated into the good but whose use in the production of the good can reasonably be demonstrated to be a part of that production.

Article 3.7: Minimal Operations and Processes that do not Confer Origin

1. Without prejudice to paragraph 2, the following operations shall be considered as insufficient working or processing to confer the status of originating goods, whether or not the requirements set out in Article 3.4 (Goods not Wholly Produced or Obtained) are satisfied:

- (a) operations to ensure the preservation of goods in good condition during transport and storage;

(b) sifting, classifying, washing, cutting, slitting, bending, coiling, uncoiling, sharpening, simple grinding, or slicing;

(c) changes of packing, unpacking or repacking operations, and breaking up or assembly of consignments;

(d) cleaning, including removal of dust, paint, oil or other coverings and simple removal of oxide;

(e) simple painting and polishing operations;

(f) testing or calibration;

(g) placing in bottles, cans, flasks, bags, cases, boxes, fixing on cards or boards, and all other simple packaging operations;

(h) simple mixing of goods, whether or not of different kinds, where one or more components of the mixture do not meet the conditions laid down in this Chapter to enable them to be considered as originating goods;

(i) simple assembly of parts of articles to constitute a complete article or simple disassembly of goods into parts;

(j) slaughtering⁴ of animals;

(k) affixing or printing marks, labels, logos, and other like distinguishing signs on goods or their packaging;

(l) husking, partial or total bleaching, polishing, and glazing of cereals and rice;

(m) mere making-up of sets of goods;

(n) ironing or pressing of textiles and textile articles;

(o) operations to colour sugar or form sugar lumps;

(p) simple peeling, stoning, and shelling;

(q) a combination of two or more of the operations specified in subparagraphs (a) through (p).

2. For the purposes of paragraph 1, operations shall be considered simple when neither special skills nor machines, apparatus, or tools especially

⁴ For the purposes of this Article, “slaughtering” means the mere killing of animals.

produced or installed for those operations are required for their performance. However, simple mixing does not include chemical reaction. “Chemical reaction” means a process (including a bio-chemical process) which results in a molecule with a new structure by breaking intra molecular bonds and by forming new intra molecular bonds, or by altering the spatial arrangement of atoms in a molecule.

Article 3.8: Cumulation of Origin

For the purposes of determining whether a good qualifies as an originating good of a Party, the originating materials from the territory of the Party within the meaning of Article 3.2 (Origin Criteria), incorporated in the production of a good in the territory of the other Party, shall be considered to originate in the territory of the other Party. The finished good to be exported shall comply with Article 3.4 (Goods not Wholly Produced or Obtained).

Article 3.9: *De Minimis*

1. A good that does not undergo a change in tariff classification shall be considered as originating if:

(a) the value of all non-originating materials used in its production that do not undergo the required change in tariff classification do not exceed 10 per cent of the FOB value of the good; and

(b) the good meets all other applicable criteria set forth in this Chapter for qualifying as originating goods.

2. The value of non-originating materials referred to in paragraph 1 shall, however, be included in the value of non-originating materials for any applicable QVC requirement for the good.

Article 3.10: Fungible Goods or Materials

Each Party shall provide that a fungible good or material is treated as originating based on the:

(a) physical segregation of each fungible good or material; or

(b) use of any inventory management method recognised in the Generally Accepted Accounting Principles if the fungible goods or materials are commingled, provided that the inventory management method selected is used throughout the fiscal year of the person that selected the inventory management method.

Article 3.11: Accessories, Spare Parts, Tools, and Instructional or other Information Materials

1. If the goods are subject to the requirements of a change in tariff classification or specific manufacturing or processing operation, the origin of accessories, spare parts, tools, instructional, or other information materials delivered with a good that form part of the good's standard accessories, spare parts, or tools, shall be regarded as a part of the good, and shall be disregarded in determining whether or not all the non-originating materials used in the production of the originating goods undergo the applicable change in tariff classification provided that:

(a) the accessories, spare parts, tools, instructional or other information materials are classified with, and not invoiced separately from, the good; and

(b) the quantities and value of the accessories, spare parts, tools, instructional or other information materials are customary for the good.

2. If the goods are subject to the QVC requirement, the value of the accessories, spare parts, tools, and instructional or information materials shall be taken into account as the value of originating or non-originating materials, as the case may be, in calculating the QVC of the goods.

Article 3.12: Treatment of Packages, Packing Materials, and Containers

1. For packages and packing materials for retail sale:

(a) if a good is subject to the QVC requirement as set out in Annex 3B (Product Specific Rules), the value of the packages and packing materials for retail sale shall be taken into account in determining the origin of that good as

originating or non-originating, as the case may be, provided that the packages and packing materials are considered to be forming a whole with the good; and

(b) if a good is subject to the change in tariff classification criterion as set out in Annex 3B (Product Specific Rules), packages and packing materials classified together with the packaged good shall not be taken into account in determining origin.

2. The containers and packing materials exclusively used for the transport of a good shall not be taken into account for determining the origin of the said good.

Article 3.13: Direct Consignment

1. The goods shall be deemed as directly consigned from the exporting Party to the importing Party:

(a) if the goods are transported without passing through the territory of any non-Party; or

(b) if the goods are transported for the purposes of transit through a non-Party with or without transshipment or temporary storage in such non-Party, provided that:

(i) the goods have not entered into trade or consumption in the territory of the non-Party;

(ii) the transit entry is justified for geographical reason or by consideration related to transport requirements; and

(iii) the goods have not undergone any operation in the territory of the non-Party other than unloading, reloading or any operation required to keep the goods in good condition.

2. The directly consigned goods shall retain their originating status.

3. In cases where the originating goods of the exporting Party are imported through one or more non-Parties, the customs authority of the importing Party may require importers, who claim the preferential tariff treatment for the goods, to submit the following documentation to the customs authority of the importing Party:

(a) a Through Bill of Lading or similar documents used in multimodal transportation; and

(b) supporting documents⁵, in evidence that the requirements of subparagraphs 1(b)(i) through (iii) are being complied with.

Article 3.14: Sets

Sets, as defined in General Interpretative Rule 3 of the HS, shall be regarded as originating when all component goods are originating goods. When a set is composed of originating and non-originating goods, the set as a whole shall be regarded as originating, provided that the value of the non-originating goods does not exceed 15 per cent of the FOB price of the set.

⁵ Supporting documents refers to a certificate of non-manipulation provided by the customs authority of the country of transit stating that the goods have remained under customs control or other documents required by the importing Party.

SECTION II OPERATIONAL CERTIFICATION PROCEDURES

Article 3.15: General Requirements for Certificate of Origin

1. Goods originating in Sri Lanka shall, on importation into Thailand, and goods originating in Thailand shall, on importation into Sri Lanka, benefit from preferential tariff treatment under this Agreement upon submission of a Certificate of Origin.
2. A claim that goods are eligible for preferential tariff treatment under this Agreement shall be supported by a Certificate of Origin issued by the competent authority of the exporting Party.
3. Originating goods within the meaning of this Chapter shall, in the cases specified in Article 3.23 (Waiver of Certificates of Origin), benefit from preferential tariff treatment under this Agreement without it being necessary to submit the Certificate of Origin referred to in paragraph 1.

Article 3.16: Issuance of the Certificate of Origin

1. The Certificate of Origin shall be issued before or at the time of exportation whenever the goods to be exported can be considered as originating in that Party subject to this Chapter. The exporter or producer shall submit an application for the Certificate of Origin together with appropriate supporting documents proving that the goods to be exported qualify for the issuance of a Certificate of Origin.
2. In cases where a Certificate of Origin has not been issued before or at the time of exportation due to involuntary errors or omissions or other valid causes, the Certificate of Origin may be issued retrospectively but no later than one year from the date of shipment.

Article 3.17: Validity of Certificates of Origin

1. The issued Certificate of Origin shall be applicable to a single importation of an originating good of the exporting Party into the importing Party and be

valid for twelve months from the date of issuance.

2. The Certificate of Origin shall be submitted to customs authorities at the time the declaration of the goods is made.

3. Certificates of Origin which are submitted to the customs authorities of the importing Party after the period of validity specified in paragraph 1 may be accepted for the purposes of applying preferential treatment, where the failure to submit these documents within such period is due to exceptional circumstances.⁶

4. In cases of belated submission of Certificates of Origin in circumstances other than those provided for in paragraph 3, the customs authorities of the importing Party may accept the Certificates of Origin where the goods have been imported before the expiry of the period of validity specified in paragraph 1 in accordance with domestic laws and regulations.⁷

5. The Parties, to the extent possible, shall implement an electronic system for issuance of Certificate of Origin.

Article 3.18: Certificate of Origin

1. The Certificate of Origin shall:

(a) be in a format to be determined by the Parties;

(b) contain information specified in the minimum information requirements as set out in Annex 3A (Minimum Information Requirements for the Certificate of Origin);

(c) be in writing, or any other medium including electronic format as notified by the exporting Party; and

(d) specify that the good is originating and meets the requirements of this Chapter.

⁶ Exceptional circumstances mean *force majeure* or other valid causes beyond the control of the exporter.

⁷ Thailand has refund provision which allows importer to claim the preferential tariff treatment by submission of the Certificate of Origin after importation but within the validity period of such Certificate of Origin.

2. The Certificate of Origin shall be forwarded by the exporter to the importer for submission to the customs authority at the port or place of importation. The copy shall be retained by the competent authority in the exporting Party.
3. The Certificate of Origin shall be in the English language.
4. Each Certificate of Origin shall bear a serial reference number separately given by each place or office of issuance.
5. Each Certificate of Origin shall bear an authorised signature and official seal and shall be applied manually or electronically.
6. Each Party shall provide the other Party with the list of names, addresses, specimen signatures, and specimen of official seals of its competent authorities, in hard copy or soft copy format through the diplomatic channel or by any other channel mutually agreed by both Parties. Any change in names, addresses, signatures or seals shall be promptly informed in the same manner and shall be acknowledged by the customs authorities of the other Party before the signatures become effective.

Article 3.19: Application for Certificate of Origin

1. At the time of carrying out the formalities for exporting the goods under preferential treatment, the exporter or its authorised representative shall submit an application in writing or by electronic means for the Certificate of Origin together with all supporting documents specified by the issuing authority proving that the goods to be exported fulfill the originating criteria under this Agreement.
2. For the purposes of determining originating status, the competent authorities shall have the right to request supporting documentary evidence or to carry out check(s) considered appropriate in accordance with the laws and regulations of the Party.

Article 3.20: Obligations of the Competent Authority

The competent authority shall carry out proper examination upon each application for the Certificate of Origin to ensure, to the best of its ability, that:

- (a) the application and the Certificate of Origin are duly completed and manually or electronically signed by the authorised signatory;
- (b) the origin of the good is in conformity with this Agreement;
- (c) other statements on the Certificate of Origin correspond to the supporting documentary evidence submitted;
- (d) description, quantity, and weight of goods, marks, and number of packages, number, and kinds of packages, as specified, conform to the goods to be exported; and
- (e) multiple items declared on the same Certificate of Origin shall be allowed, provided that each item qualifies separately in its own right.

Article 3.21: Treatment of Erroneous Declaration in the Certificate of Origin

Neither erasures nor superimpositions shall be allowed on the Certificate of Origin. Any alteration shall be made on the request by the exporter to issue a new Certificate of Origin to replace the erroneous one. The new Certificate of Origin shall take effect from the date of issuance of the original Certificate of Origin.

Article 3.22: Loss of the Certificate of Origin

In the event of theft, loss or destruction of a Certificate of Origin, exporter may apply in writing to the issuing authority to issue a certified true copy within the period of validity of the original Certificate of Origin, on the basis of the export documents in their possession bearing the endorsement of the words “CERTIFIED TRUE COPY” in Box 12 of the Certificate of Origin. The certified true copy which must bear the date of issuance and the serial number of the original certificate will take effect from the date of issuance of the original Certificate of Origin.

Article 3.23: Waiver of Certificates of Origin

In the case of consignments of goods originating in the exporting Party and not

exceeding US\$200 FOB, the requirement of a Certificate of Origin may be waived provided that the importation does not form part of one or more importations that may reasonably be considered to have been undertaken or arranged for the purpose of avoiding the certification requirements of this Chapter.

Article 3.24: Treatment of Minor Discrepancies

1. The customs authority of the importing Party shall disregard minor errors, such as slight discrepancies or omissions, typing errors or overrunning the margin of the designated field, provided that these minor errors do not affect the authenticity of the Certificate of Origin or the accuracy of the information included in the Certificate of Origin.⁸
2. For multiple items declared under the same Certificate of Origin, a problem with one of the items listed shall not affect or delay the granting of preferential tariff treatment and customs clearance of the remaining items listed in the Certificate of Origin.

Article 3.25: Claims for preferential Treatment

1. Each Party shall require an importer in its territory that claims preferential tariff treatment for a good imported into its territory from the territory of the other Party to:
 - (a) make a declaration for preference, based on importer's knowledge or information including a valid Certificate of Origin, that the good qualifies as an originating good;
 - (b) submit the Certificate of Origin at the time of the declaration referred to in subparagraph (a) to its customs authorities upon request; and
 - (c) promptly make a corrected declaration and pay any duties due, where the importer has reason to believe that a Certificate of Origin on which a declaration was based contains information that is incorrect.
2. Each Party shall provide that the importing Party applies preferential

⁸ When the difference in tariff classification is not regarded as minor discrepancy, the Parties agreed that the exporter needs to clarify the HS code with the importing Party before they apply for the Certificate of Origin with the issuing authority of the exporting Party.

tariff treatment only in cases where an importer proves the accuracy of origin of the imported goods through documentary evidence or any other relevant information in accordance with its laws and regulations.

3. A Party may deny preferential tariff treatment to an imported good if the importer fails to comply with requirements of this Chapter.

4. The importing Party shall grant preferential tariff treatment to goods imported after the date of entry into force of this Agreement, in cases where the importer does not have the Certificate of Origin at the time of importation, provided that⁹:

(a) the importer had, at the time of importation, indicated to the customs authorities of the importing Party his intention to claim preferential tariff treatment; and

(b) the Certificate of Origin or other documentary evidence of origin is submitted to its customs authorities within such period from the date of payment of customs duties in accordance with the laws and regulations of the importing Party.

5. In cases where the Certificate of Origin is not accepted as stated in paragraph 4, the customs authority of the importing Party should accept and consider the clarifications made by the issuing authority and assess again whether or not the application can be accepted for the granting of the preferential treatment. The clarification should be detailed and exhaustive in addressing the grounds of preference raised by the customs authority of importing Party.

Article 3.26: Verification of Origin

1. For the purposes of determining whether a good imported from the exporting Party under preferential tariff treatment qualifies as an originating good of the exporting Party, the customs authority of the importing Party may

⁹ For greater certainty, a Party may require, as a condition for the release of the goods, a guarantee in the form of a surety, a deposit or other appropriate instrument provided for in its laws and regulations. Such guarantee shall not be greater than the amount required by the Party to ensure payment of custom duties and taxes, and no penalty or other charges shall be imposed in accordance with relevant laws and regulations of the importing Party.

request the competent authority of the exporting Party, information relating to the origin of the good, where it has reasonable doubt as to the authenticity of the Certificate of Origin or the accuracy of the information included in the Certificate of Origin.

2. In cases where the importer, exporter, or producer does not return the written request for information made by the importing Party within the given period or its extension, or that the information provided is false or incomplete, the importing Party may deny preferential tariff treatment.

3. Where the customs authority of the importing Party requests the information under paragraph 1, it shall provide the competent authority of the exporting Party with:

- (a) the reasons why such verification is requested;
- (b) the Certificate of Origin of the good or a copy thereof; and
- (c) any information and documents as may be necessary for the purposes of such request.

4. For the purposes of paragraph 1, the competent authority of the exporting Party shall provide the information requested within a period of three months from the date of receipt of the request. If the customs authority of the importing Party considers necessary, it may require additional information relating to the origin of the good. If additional information is requested by the customs authority of the importing Party, the competent authority of the exporting Party shall, in accordance with its laws and regulations, provide the information requested within a period of two months from the date of receipt of the request.

5. The request for information in accordance with paragraph 1 shall not preclude the use of the verification method provided for in Article 3.27 (Verification Visit).

6. The competent authority of the exporting Party shall promptly transmit the information requested to the customs authority of the importing Party which shall then determine whether or not the goods concerned is originating. The entire process from the date of receipt of the request for the information until the notification of the result shall be completed within 180 days.

Article 3.27: Verification Visit

1. The customs authority or competent authority of the importing Party may request the competent authority of the exporting Party:

(a) to conduct a visit, whereby it shall deliver a written communication at least 90 days in advance of the proposed date of the visit, the receipt of which is to be confirmed by the competent authority of the exporting Party. The competent authority of the exporting Party shall request the written consent of the exporter or the producer of the good in the exporting Party whose premises are to be visited; and

(b) to provide information relating to the origin of the good in the possession of the competent authority of the exporting Party during the visit pursuant to subparagraph (a).

2. The communication referred to in paragraph 1 shall include:

(a) the identity of the customs authority or competent authority issuing the communication;

(b) the name of the exporter or producer, whose premises are requested to be visited;

(c) the proposed date and place of the visit;

(d) the objective and scope of the proposed visit, including specific reference to the good subject to the verification, referred to in the Certificate of Origin; and

(e) the names and titles of the officials of the customs authority or competent authority of the importing Party to be present during the visit.

3. The competent authority of the exporting Party shall respond in writing to the importing Party, within 30 days of the receipt of the communication referred to in paragraph 2, if it accepts or refuses to conduct the visit requested pursuant to paragraph 1.

4. For the purposes of subparagraph 1(a), the competent authority of the exporting Party shall cooperate by providing the necessary information and relevant documentations as well as facilitating an on-site visit to the premises of the exporter or the producer of the goods in the exporting Party.

5. The competent authority of the exporting Party shall, in accordance with its laws and regulations, provide information within 60 days or any other mutually agreed period from the last day of the visit, to the customs authority of the importing Party pursuant to paragraph 1.

6. The determination of whether the good qualifies as an originating good shall be notified to the producer or exporter and the relevant competent authority. Any suspended preferential treatment shall be reinstated upon a determination that the good qualifies as an originating good.

7. If the good is determined to be non-originating, the producer or exporter shall be given 30 days from the date of receipt of the written determination to provide any written comments or additional information regarding the eligibility of the good for preferential tariff treatment. If the good is still found to be non-originating, the final written determination issued by the importing Party shall be communicated to the competent authority of the exporting Party within 30 days from the date of receipt of the comments or additional information from the producer or exporter.

Article 3.28: Determination of Origin and Preferential Tariff Treatment

1. The customs authority of the importing Party may deny preferential tariff treatment to a good for which an importer claims preferential tariff treatment where the good does not qualify as an originating good of the exporting Party or where the importer fails to comply with any of the relevant requirements of this Chapter.

2. The customs authority of the importing Party may determine that a good does not qualify as an originating good of the exporting Party and may deny preferential tariff treatment in the following cases:

(a) where the competent authority of the exporting Party fails to respond to the request within the period referred to in paragraph 4 of Article 3.26 (Verification of Origin) or paragraph 3 of Article 3.27 (Verification Visit);

(b) where the competent authority of the exporting Party refuses to conduct a visit, or fails to respond to the communication referred to in paragraph 1 of Article 3.27 (Verification Visit) within the period referred to in

paragraph 3 of Article 3.27 (Verification Visit); or

(c) where the information provided to the customs authority of the importing Party pursuant to Articles 3.26 (Verification of Origin) or Article 3.27 (Verification Visit) is not sufficient to prove that the good qualifies as an originating good of the exporting Party.

In such cases, a written determination thereof shall be sent to the competent authority of the exporting Party.

3. After carrying out the procedures outlined in Articles 3.26 (Verification of Origin) or Article 3.27 (Verification Visit), as the case may be, the customs authority of the importing Party shall provide the competent authority of the exporting Party with a written determination of whether or not the good qualifies as an originating good of the exporting Party, including findings of fact and the legal basis for the determination, within 45 days from the date of receipt of the information provided by the competent authority of the exporting Party pursuant to Articles 3.26 (Verification of Origin) or Article 3.27 (Verification Visit). The competent authority of the exporting Party shall inform the exporter of the good in the exporting Party, whose premises were subject to the visit referred to in Article 3.27 (Verification Visit), of such determination by the customs authority of the importing Party.

4. The competent authority of the exporting Party shall, when it cancels the decision to issue the Certificate of Origin, promptly notify the cancellation to the exporter to whom the Certificate of Origin has been issued, and to the customs authority of the importing Party, except where the Certificate of Origin has been returned to the competent authority of the exporting Party. The customs authority of the importing Party may deny preferential tariff treatment when it receives the notification.

Article 3.29: Preservation of Certificates of Origin and Supporting Documents

1. Each Party shall provide that an exporter or a producer in its territory that has obtained a Certificate of Origin shall maintain in its territory, for three years after the date on which the Certificate of Origin was issued or for such

longer period as the Party may specify, all records relating to the origin of a good for which preferential tariff treatment was claimed in the territory of the other Party.

2. Each Party shall provide that an importer claiming preferential tariff treatment for a good imported into the Party's territory shall maintain in that territory, for three years after the date of importation of the good or for such longer period as the Party may specify, such documentation, including a copy of the Certificate of Origin, as the Party may require relating to the importation of the good.

3. Each Party shall permit, in accordance with its laws and regulations, exporters in its territory to maintain documentation or records in any medium, provided that the documentation or records can be retrieved and printed.

Article 3.30: Confidentiality

1. Any confidential information shall be treated as such in accordance with the laws and regulations of the Parties and shall be used for the validation of Certificates of Origin purposes only.

2. The Parties shall maintain, in accordance with their laws and regulations, the confidentiality of classified business information collected in the process of verification pursuant to Articles 3.26 (Verification of Origin) or Article 3.27 (Verification Visit) and shall protect that information from disclosure that could prejudice the competitive position of the person who provided the information. The classified business information may only be disclosed to those authorities responsible for the administration and enforcement of origin determination.

Article 3.31: Exhibitions

1. Notwithstanding Article 3.13 (Direct Consignment), originating goods sent for exhibition in a country other than a Party and sold after the exhibition for importation into a Party shall benefit on importation from the provisions of this Agreement provided that it is shown to the satisfaction of the customs authorities that:

(a) an exporter has consigned these goods from a Party to the country in

which the exhibition is held and has exhibited them there;

(b) the goods have been sold or otherwise disposed of by that exporter to a person in a Party;

(c) the goods have been consigned during the exhibition or immediately thereafter in the State in which they were sent for exhibition; and

(d) the goods have not, since they were consigned for exhibition, been used for any purpose other than demonstration at the exhibition.

2. Paragraph 1 shall apply to any trade, industrial, agricultural or crafts exhibition, fair or similar public show or display, which is not organised for private purposes in shops or business premises with a view to the sale of foreign goods, and during which the goods remain under customs control.

3. A Certificate of Origin must be issued or made out in accordance with this Chapter. The name and address of the place of the exhibition must be indicated in the Certificate of Origin. Where necessary, additional documentary evidence of the conditions, under which they have been exhibited, may be required from the relevant authorities of the country where the exhibition took place.

Article 3.32: Sanctions against False Declaration

1. Each Party shall establish or maintain appropriate sanctions against its exporters to whom a Certificate of Origin has been issued, for providing false declaration or documents to the competent authority of the exporting Party, prior to the issuance of the Certificate of Origin.

2. Each Party shall, in accordance with its laws and regulations, take measures which it considers appropriate against its exporters to whom a Certificate of Origin has been issued if they fail to notify in writing to the competent authority of the exporting Party without delay after having known, after the issuance of the Certificate of Origin, that such good does not qualify as originating goods of the exporting Party.

3. When the exporter repeatedly provided false information or documentation, the competent authority may temporarily suspend the issuance of a new Certificate of Origin.

Article 3.33: Obligations of the Importer

1. Except as otherwise provided in this Chapter, the customs authority of the importing Party shall require an importer who claims preferential tariff treatment for goods imported from the other Party to:

(a) make a customs declaration, based on a valid Certificate of Origin, that the goods qualify as originating goods of the exporting Party;

(b) have the Certificate of Origin in its possession at the time the declaration is made;

(c) provide the Certificate of Origin on the request of the customs authority of the importing Party; and

(d) promptly notify the customs authority and pay any duties due where the importer has reason to believe that the Certificate of Origin on which a declaration was based contains information that is incorrect.

2. An importer claiming preferential tariff treatment for goods imported into the Party's territory shall maintain for three years after the date of importation of the goods, a Certificate of Origin, and all other documents that the Party may require relating to the importation of the goods.

Article 3.34: Obligations of the Exporter

The exporter to whom a Certificate of Origin has been issued in the exporting Party shall notify in writing to the competent authority of the exporting Party without delay when such exporter knows that such good does not qualify as originating goods of the exporting Party.

Article 3.35: Third Party Invoices

An importing Party shall not deny a claim for preferential tariff treatment for the sole reason that an invoice was not issued by the exporter or producer of a good, provided that, the good meets the requirements in this Chapter. The Third Party invoice shall include the Third Party located within the exporting Party and Third Party more than one country.

Article 3.36: Importation by Instalments

Where, at the request of the importer and on the conditions laid down by the customs authorities of the importing Party, dismantled or non-assembled goods are imported by instalments, a single Certificate of Origin for such goods may be submitted to the customs authorities upon importation of the first instalment.

Article 3.37: Cooperation between Competent Authorities

1. The customs authorities of the Parties shall provide each other with the addresses of the competent authorities responsible for verification.
2. In order to ensure the proper application of this Chapter, the Parties shall assist each other, through their competent authorities, in checking the authenticity of the Certificates of Origin and the correctness of the information given in these documents.

Article 3.38: Settlement of Disputes

1. Without prejudice to Chapter 13 (Dispute Settlement), where disputes arise in relation to the verification procedures prescribed in Article 3.26 (Verification of Origin) which cannot be settled between the competent authorities of the Parties, or where they raise a question as to the interpretation of this Chapter, such disputes or questions shall be submitted to the Committee on Rules of Origin.
2. All disputes between the importer and the competent authorities or customs authorities of the importing Party shall be settled in accordance with the laws and regulations of that Party.

Article 3.39: Transitional Provisions for Goods in Transit

This Agreement may be applied to goods which comply with the Articles of this Chapter and which on the date of entry into force of this Agreement are in transit, subject to the submission to the customs authorities of the importing Party, no later than one year after the import of the goods into the territory of that Party, of the Certificate of Origin made out retrospectively in accordance

with Article 3.16 (Issuance of the Certificate of Origin), and if requested, together with the documents showing that the goods have been transported directly in accordance with Article 3.13 (Direct Consignment).

Article 3.40: Review and Appeal

The importing Party shall grant the right of appeal in matters relating to the eligibility for preferential tariff treatment to importers of goods traded or to be traded between the Parties, in accordance with its domestic laws, regulations, and administrative practices.

Article 3.41: Committee on Rules of Origin

1. The Parties hereby establish the Committee on Rules of Origin, comprising government representatives of each Party.
2. The functions of the Committee shall be to:
 - (a) monitor and review the implementation and operation of this Chapter;
 - (b) report its findings to the Committee on Trade in Goods in accordance with Article 2.16 (Committee on Trade in Goods);
 - (c) identify areas relating to this Chapter to be improved for facilitating trade in goods between the Parties;
 - (d) consider any other matters as Parties may agree related to this Chapter; and
 - (e) carry out other functions as may be delegated by the Commission in accordance with paragraph 2(a) of Article 14.2 (Duties of the Commission).
3. The Committee shall meet at such venues and times as may be agreed by the Parties.