

## Chapter 4

### Rules of Origin

#### Section 1

#### Determination of Origin

##### Article 4.1: Definitions

For the purposes of this Chapter:

**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;

**CIF** 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 and the Agreement on the Implementation of Article VII of GATT 1994 as contained in Annex 1A to the WTO Agreement;

**competent authority** means the authority that, according to the legislation of each Party, is responsible for the issuing of the certificate of origin and may designate the issuance of the certificate of origin into other entities or bodies. In the case of Chile, the General Directorate of International Economic Affairs, Ministry of Foreign Affairs, and in the case of Thailand, the Ministry of Commerce, or an authority succeeding this Ministry;

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

**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 as contained in Annex 1A to the WTO Agreement;

**fungible goods and materials** means goods or materials that are interchangeable for commercial purposes and whose properties are essentially identical;

**Generally Accepted Accounting Principles (GAAP)** means the recognised consensus or 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 standards may encompass broad guidelines of general application as well as detailed standards, practices and procedures;

**goods** means any materials and/or products which can be wholly obtained or produced, or manufactured, even if they are intended for later use as material in another manufacturing operation;

**importer** means a natural or juridical person located in the territory of a Party where a good is imported into, by such a person;

**indirect materials** means a good used in the production, testing or inspection of another good but not physically incorporated into the good, or a good used in the maintenance of buildings or the operation of equipment associated with the production of a good;

**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;

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

**packing materials and containers for shipment** means goods used to protect a good during its transportation, different from those containers and packages and packing materials used for retail sale;

**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

**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.

#### **Article 4.2: 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 defined in Article 4.3;
- (b) the good is produced entirely in the Party exclusively from originating materials of the Parties; or
- (c) the good satisfies the product specific rules set out in Annex 4.2, when the good is produced entirely in the Party using non-originating materials in whole or in part.

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

### **Article 4.3: 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, picked or gathered in the territory of the Party;
- (b) live animals born and raised in the territory of the Party;
- (c) goods obtained from live animals referred to in subparagraph (b);
- (d) goods obtained from hunting, trapping, fishing, aquaculture, gathering or capturing and farming conducted in the territory of the Party;
- (e) micro-organisms and viruses from natural habitats or cultivate in the territory of the Party;
- (f) minerals and other naturally occurring substances, not included in subparagraphs (a) to (e), extracted or taken from its soil, water, seabed or beneath the seabed of the Party;
- (g) goods of sea-fishing taken by vessels registered with a Party and entitled to fly its flag and other goods<sup>2</sup> extracted or taken from the waters, seabed or beneath the seabed outside the territorial waters of that Party, provided that Party has the rights to exploit such waters, seabed and beneath the seabed in accordance with international law;
- (h) goods such as fish, shellfish and other marine life or marine goods taken from the high seas by vessels registered and entitled to fly the flag of that Party;
- (i) goods obtained, processed or produced on board a factory ship registered with that Party and entitled to fly the flag of that Party, exclusively from products referred to in subparagraph (g) and (h);
- (j) waste or scrap collected or derived from production in the territory of the Party and are fit only for the recovery of raw materials;
- (k) used goods and goods collected there which can no longer perform their original purpose nor are capable of being restored or repaired and are fit only for disposal or recovery of parts of raw materials, or for recycling purposes; and
- (l) goods obtained or produced in the territory of a Party solely from goods referred to in subparagraphs (a) to (k).

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<sup>2</sup> Other goods refers to minerals and other naturally occurring substances.

#### **Article 4.4: Qualifying Value Content (QVC)**

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

$$\text{QVC} = \frac{\text{V} - \text{VNM}}{\text{V}} \times 100$$

where:

**QVC** - is the qualifying value content expressed as a percentage;

**V** - is the FOB value of the final good; and

**VNM** - is the CIF value of the non-originating materials.

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.

#### **Article 4.5: Indirect Materials**

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

- (a) fuel, energy, catalysts and solvents;
- (b) equipment, devices and supplies used for testing or inspection of the goods;
- (c) gloves, glasses, footwear, clothing, 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 4.6: Minimal Operations and Processes that do not Confer Origin**

The following minimal operations or processes, undertaken exclusively by itself or in combination, do not confer origin:

- (a) operations to ensure the preservation of products in good condition during transport and storage such as drying, freezing, keeping in brine, ventilation, chilling and like operations;
- (b) sifting, classifying, washing, cutting, slitting, bending, coiling or uncoiling, sharpening, simple grinding, slicing;
- (c) cleaning, including removal of dust, oxide, oil, paint or other coverings;
- (d) painting and polishing operations;
- (e) testing or calibration;
- (f) placing in bottles, cans, flasks, bags, cases, boxes, fixing on cards or boards and all other simple packaging operations;
- (g) simple<sup>3</sup> mixing of goods, whether or not of different kinds;
- (h) simple<sup>3</sup> assembly of parts of products to constitute a complete good;
- (i) changes of packing, unpacking or repacking operations, and breaking up and assembly of consignments;
- (j) affixing or printing marks, labels, logos and other like distinguishing signs on goods or their packaging;
- (k) mere dilution with water or another substance that does not materially alter the characteristics of the goods;
- (l) husking, partial or total bleaching, polishing and glazing of cereals and rice;
- (m) disassembly; and
- (n) mere making-up of sets of goods.

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<sup>3</sup> “Simple” generally describes an activity which does not need special skills, machines, apparatus or equipment especially produced or installed for carrying out the activity. 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 4.7: Accumulation**

Unless otherwise provided in this Agreement, originating goods of a Party which are used in the processing or production in the territory of the other Party as material for finished goods, shall be deemed as an originating material in the territory of the latter Party where the working or processing of the finished goods has taken place.

#### **Article 4.8: *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 ten percent (10%) 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 4.9: Fungible Goods and Materials**

1. The determination of whether fungible goods or materials are originating goods shall be made either by physical segregation of each of the materials, or through the use of an inventory management method recognised in the GAAP of the Party in which the production is performed or otherwise accepted by that Party.

2. Once a decision has been taken on the inventory management method, the method of inventory management chosen by the exporter must be maintained throughout the fiscal year.

#### **Article 4.10: Accessories, Spare Parts, Tools and Instructional or 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 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 4.11: Treatment of Packages, Packing Materials and Containers**

- 1. Packages and packing materials for retail sale:
  - (a) If a good is subject to the QVC as set out in Annex 4.2, 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 4.2, 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 4.12: 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 purpose 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 its originating status.
3. In the case where the originating goods of the exporting Party is 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 authorities of the importing Party:
  - (a) a Through Bill of Lading or similar documents used in multimodal transportation; and
  - (b) supporting documents, if any, in evidence that the requirements of subparagraphs 1 (b) (i), (ii) and (iii) are being complied with.

#### **Article 4.13: Certificate of Origin**

A claim that goods are eligible for preferential tariff treatment under this Agreement shall be supported by a Certificate of Origin issued by the exporting Party in the form as prescribed in Section A of Annex 4.13 (Form of Certificate of Origin of Chile, issued by its competent authority) or Section B of Annex 4.13 (Form of Certificate of Origin of Thailand, issued by its competent authority).

#### **Article 4.14: Committee on Rules of Origin**

1. The Parties hereby establish a Committee on Rules of Origin (hereinafter referred to as “the Committee”), comprising of 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 3.9 (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 Article 13.1.4 (Free Trade Commission).
3. The Committee shall meet at such venues and times as may be agreed by the Parties.

## **Section 2**

### **Operational Procedures**

#### **Article 4.15: Certification of Origin**

1. The Certificate of Origin shall be issued by the respective competent authority of each Party.
2. Each Party shall inform the other Party of the name, address, and specimen of official seals of its competent authorities, in hard copy and soft copy format. Any change in names, addresses, or seals shall be promptly informed in the same manner.
3. For the purposes of checking the Certificate of Origin:
  - (a) Chile shall provide websites with some key information of the Certificate of Origin issued by Chile such as Reference Number, HS code, description of goods, date of issuance, quantity and name of the exporter; and
  - (b) Thailand shall provide information on specimen signatures in hard or soft copy formats upon request and shall provide prompt update where appropriate.

To the best of its competence and ability, Thailand shall endeavour to provide websites in the same information as specified above by Chile. The Committee shall consult on the implementation of the websites.
4. 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 (12) months from the date of issuance.
5. The original of the Certificate of Origin shall be submitted to customs authorities at the time the declaration of the goods is made in accordance with the respective laws and regulations of the importing Party.
6. The Parties, to the extent possible, should implement an electronic system for issuance of Certificate of Origin. The Parties also recognise the validity of the electronic signature.

#### **Article 4.16: Certificate of Origin**

1. In the case of Chile, the Certificate of Origin shall be in 216 mm x 313 mm size paper and in conformity to the form as shown in Section A of Annex 4.13.
2. In the case of Thailand, the Certificate of Origin shall be in ISO A4 size paper and in conformity to the form as shown in Section B of Annex 4.13. The Certificate of Origin shall comprise one (1) original and two (2) carbon copies (Duplicate and Triplicate). The original copy shall be forwarded by the exporter to the importer for submission to the customs authority

at the port or place of importation. The duplicate shall be retained by the competent authority in the exporting Party. The triplicate shall be retained by the exporter.

3. The Certificate of Origin shall be made 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. Unused spaces in the Certificate of Origin shall be crossed out by the competent authority to prevent any subsequent addition.

#### **Article 4.17: 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 a written application for the Certificate of Origin together with appropriate supporting documents 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 respective laws and regulations of a Party.

#### **Article 4.18: Obligations of the Competent Authority**

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

- (a) the application and the Certificate of Origin are duly completed and 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 4. 19: 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 by:

- (a) striking out the erroneous materials and making any addition required. Such alterations shall be approved by an official authorised to sign the Certificate of Origin and certified by the competent authorities. Unused spaces shall be crossed out to prevent any subsequent addition; or
- (b) issuing a new Certificate of Origin to replace the erroneous one. The new Certificate of Origin shall bear the reference number and the date of issuance of the original Certificate of Origin. The words “replaced C/O No... issued date...” shall be endorsed. The new Certificate of Origin shall take effect from the date of issuance of the original Certificate of Origin.

#### **Article 4.20: Issuance of the Certificate of Origin**

1. The Certificate of Origin shall be issued prior to, at the time of exportation, or no later than three (3) days after the time of exportation.
2. Where a Certificate of Origin has not been issued at the time of exportation or no later than three (3) days from the declared shipment date, due to involuntary errors or omissions or other valid causes, the Certificate of Origin may be issued retroactively but no longer than one (1) year from the date of shipment and shall be duly and prominently marked “Issued Retroactively”.

#### **Article 4.21: Loss of the Certificate of Origin**

1. In the event of theft, loss or destruction of a Certificate of Origin, the exporter may apply in writing to the issuing authorities for a certified true copy to be made out on the basis of the export documents in their possession bearing the endorsement of the words “CERTIFIED TRUE COPY” in Box 14. This copy shall bear the date of issuance of the original Certificate of Origin.
2. The certified true copy shall take effect from the date of issuance of the original Certificate of Origin.

#### **Article 4.22: Exceptions**

1. 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.

2. An importation of originating goods of the exporting Party, for which the customs authority of the importing Party has waived the requirement for a Certificate of Origin.

#### **Article 4.23: Treatment of Minor Discrepancies**

1. The customs authority of the importing Party should disregard minor errors, such as slight discrepancies or omissions, typing errors or overrunning the margin of the designated field, provided that these minor errors may not affect the authenticity of the Certificate of Origin or the accuracy of the information included in the Certificate of Origin.

2. Where the origin of the goods is not in doubt, tariff classification differences between the statements made in the Certificate of Origin and those made in the documents submitted to the customs authority of the importing Party for the purposes of carrying out the formalities for importing the goods shall not *ipso-facto* invalidate the Certificate of Origin, if it does in fact correspond to the goods submitted. The process on claiming the preferential tariff treatment shall be subject to domestic laws and regulations.

3. 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 4.24: Claims for Preferential Tariff Treatment**

1. For the purposes of claiming preferential tariff treatment, the importer shall submit to the customs authority of the importing Party, an import declaration, a Certificate of Origin and other documents as required in accordance with the laws and regulations of the importing Party.

2. In cases when a Certificate of Origin is rejected by the customs authority of the importing Party, the Certificate of Origin shall be marked accordingly in Box 4 and the original Certificate of Origin shall be returned to the competent authority within a reasonable period not exceeding sixty (60) days. The competent authority shall be duly notified of the grounds for the denial of preferential tariff treatment.

#### **Article 4.25: 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 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. 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 purposes of such request;

3. For the purposes of paragraph 1, the competent authority of the exporting Party shall provide the information requested within a period of six (6) 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 the laws and regulations of the exporting Party, provide the information requested within a period of three (3) months from the date of receipt of the request.

4. The request of information in accordance with paragraph 1 shall not preclude the use of the verification method provided for in Article 4.26.

5. 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 of the information until the notification of the result shall be completed within one hundred and eighty (180) days.

#### **Article 4.26: Verification Visit**

1. The customs 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 ninety (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 issuing the communication;
- (b) the name of the exporter/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 in the Certificate of Origin; and
  - (e) the names and titles of the officials of the customs 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 thirty (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 compliance 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 the laws and regulations of the exporting Party, provide information within sixty (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.

#### **Article 4.27: 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 Articles 4.25.3 or 4.26.3;
  - (b) where the competent authority of the exporting Party refuses to conduct a visit, or fails to respond to the communication referred to in Article 4.26.1 within the period referred to in Article 4.26.3; or
  - (c) where the information provided to the customs authority of the importing Party pursuant to Articles 4.25 or 4.26, 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 4.25 or 4.26 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 forty-five (45) days from the date of receipt of the information provided by the competent authority of the exporting Party pursuant to Articles 4.25 or 4.26. The competent authority of the exporting Party shall inform such determination by the customs authority of the importing Party to the exporter of the good in the exporting Party, whose premises were subject to the visit referred to in Article 4.26.

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 4.28: Records and Confidentiality**

1. For the purposes of the verification process, the application for Certificates of Origin and all documents related to such application shall be kept by the competent authorities and exporters for five (5) years from the date of issuance of the Certificate of Origin.

2. Information relating to the validity of the Certificate of Origin shall be furnished upon request of the importing Party by the appropriate authorities.

3. Any confidential information shall be treated as such in accordance with the Parties domestic legislation and shall be used for the validation of Certificates of Origin purposes only.

4. 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 4.25 and 4.26 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.

5. All records identified in the preceding paragraphs of this Article may be maintained in paper or electronic form in accordance with the domestic laws and regulations of each Party

#### **Article 4.29: Exhibition**

1. Originating goods, sent for exhibition in a country other than Chile or Thailand and sold during or after the exhibition for importation in Chile or Thailand shall be deemed as originating and eligible for preferential tariff treatment provided it is shown to the satisfaction of the customs authority of the importing Party that:

- (a) an exporter has consigned the goods from Chile or Thailand to the country in which the exhibition is held and has exhibited there;
- (b) the goods have been sold or transferred to a consignee or otherwise disposed of by that exporter to an importer in Chile or Thailand;
- (c) the goods have been consigned during the exhibition or immediately thereafter in the Party in which they were sent for exhibition and have not been used for a purpose other than demonstration at the exhibition; and
- (d) the goods have remained during the exhibition under customs control.

2. 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.

3. Paragraph 1 shall apply to any trade, agricultural or crafts exhibition, fair or similar show or display in shops or business premises with the view to the sale of foreign goods and where the goods remain under customs control during the exhibition.

#### **Article 4.30: 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 4.31: Obligations of the Exporter**

The exporter to whom a Certificate of Origin has been issued in the exporting Party referred to in Article 4.15, 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 4.32: 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 owing where the importer has reason to believe that the Certificate of Origin on which a declaration was based contains information that is not correct.

2. An importer claiming preferential tariff treatment for goods imported into the Party's territory shall maintain, at least for five (5) 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, in accordance with the domestic laws and regulations.

#### **Article 4.33: Customs Duty Refund**

Each Party shall provide that, where a good would have qualified as originating goods when it was imported into the territory of that Party but no claim for preferential tariff treatment was made at that time, the importer may, subject to the relevant laws and regulations of the importing Party, apply for a refund of any duties paid on presentation of:

- (a) a written declaration that the good qualified as originating at the time of importation;
- (b) a Certificate of Origin; and
- (c) such other documentations relating to the importation of the good as the importing Party may require.

#### **Article 4.34: Non-Party Invoices**

1. For the purposes of granting preferential tariff treatment, the customs authority of the importing Party shall accept Certificate of Origin in cases where the sale invoice is issued by a non-Party operator, provided that the goods meet all the applicable requirements of this Chapter.

2. For the purposes of paragraph 1, the exporter shall indicate “non-Party invoicing” and the following information in the Certificate of Origin: name and legal address (including city and country) of the non-Party operator.

3. In the case where a good is invoiced by a non-Party operator, the number and date of the invoice issued by the exporter and the number and date of the invoice issued by the non-Party operator (if known) shall be indicated in the Certificate of Origin.

## **Annex 4.2\***

### **Product Specific Rules of Origin**

#### **Headnote**

1. The following definitions apply to this Annex:
  - (a) **chapter** means a chapter of the Harmonized System;
  - (b) **heading** means the first four digits in the tariff classification number under the Harmonized System; and
  - (c) **subheading** means the first six digits in the tariff classification number under the Harmonized System.
2. The specific rule, or specific set of rules, that applies to a particular subheading under that chapter as the case may be, is set out immediately adjacent to the chapter in the column entitled "Product Specific Rules".
3. A requirement of a change in tariff classification applies only to non-originating materials.
4. The product specific rules in this Annex are structured on the basis of the Harmonized System, including its General Rules of Interpretation, Section Notes and Chapter Notes.
5. Where a subheading is subject to alternative Product Specific Rules, it shall be sufficient to comply with one of the rules.

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\* This Annex is based on the Harmonized System 2012.

**Annex 4.13**

**Form of Certificate of Origin**

**Section A**

**Form of Certificate of Origin of Chile**

**Overleaf Notes**

|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |                                  |                                                                                         |                                                                                                                                                                                                                                                                                                                                                        |                                   |                                 |
|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------|-----------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------|---------------------------------|
| 1. Goods consigned from (Exporter's business name, address, country)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |                                  |                                                                                         | Reference No.<br><br><b>THAILAND - CHILE FREE TRADE AGREEMENT</b><br><b>(Combined application and certificate)</b><br><b>FORM TC</b>                                                                                                                                                                                                                   |                                   |                                 |
| 2. Goods consigned to (Consignee's name, address, country; (if known))                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |                                  |                                                                                         | Issued in .....<br><br><div style="text-align: right;">(Country)</div> <div style="text-align: right;">See Overleaf Note</div>                                                                                                                                                                                                                         |                                   |                                 |
| 3. Means of transport and route (as far as known)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |                                  |                                                                                         | 4. For official use<br><br><input type="checkbox"/> Preferential Treatment Given under Thailand-Chile FTA<br><br><input type="checkbox"/> Preferential Treatment Not Given (Please state reason/s)<br><br><div style="text-align: right;">.....</div> <div style="text-align: right;">Signature of Authorized Signatory of the Importing Country</div> |                                   |                                 |
| 5. Item number                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             | 6. Marks and numbers on packages | 7. Number and type of packages, description of goods and HS Tariff classification code. | 8. Origin criterion (see Overleaf Notes)                                                                                                                                                                                                                                                                                                               | 9. Gross weight or other quantity | 10. Number and date of invoices |
|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |                                  |                                                                                         |                                                                                                                                                                                                                                                                                                                                                        |                                   |                                 |
| 11. Remarks                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |                                  |                                                                                         |                                                                                                                                                                                                                                                                                                                                                        |                                   |                                 |
| 12. Declaration by the exporter<br><br>The undersigned hereby declares that the above details and statements are correct; that all the goods were produced in .....<br><div style="text-align: right;">(Country)</div><br>and that they comply with the origin requirements specified for those goods in the Thailand – Chile Free Trade Agreement for the goods exported to .....<br><div style="text-align: right;">(Importing Country)</div><br><div style="text-align: right;">.....</div><br><div style="text-align: right;">Place and date, signature of authorized signatory.</div> |                                  |                                                                                         | 13. Certification<br><br>It is hereby certified, on the basis of control carried out, that the declaration by the exporter is correct.<br><br><div style="text-align: right;">.....</div><br><div style="text-align: right;">Place and date, name and signature and stamp of competent authority.</div>                                                |                                   |                                 |
| 14. <input type="checkbox"/> Issued Retroactively <input type="checkbox"/> Non-Party Invoices <input type="checkbox"/> Exhibitions <input type="checkbox"/> Certified True Copy                                                                                                                                                                                                                                                                                                                                                                                                            |                                  |                                                                                         |                                                                                                                                                                                                                                                                                                                                                        |                                   |                                 |

## OVERLEAF NOTES

For the purpose of claiming preferential tariff treatment, this form must be completed legibly and filled by the exporter. All items of the form must be completed in the English language.

If the space of this form is insufficient to specify the necessary particulars for identifying the goods and other related information, the exporter may provide the information using an additional form(s) of the Certificate of Origin.

1. Box 1: State the full business name, address and country of the exporter.
2. Box 2: State the full name, address and country of the consignee (if known). Additionally, in case where goods are sent from exporting party for exhibition in another country and sold during or after the exhibition for importation into the other party, in accordance with Article 4.29 of the operational procedures, the name and address of place of the exhibition shall be indicated.
3. Box 3: Provide the means of transport and route such as the name of loading port, transit port, discharging port and the date of shipment, the name of vessel/flight number ( as far as known).
4. Box 4: For official use only.
5. Box 5: Provide the item number.
6. Box 6: Provide the marks and numbers on packages. (in case where all marks and numbers on packages cannot be reflected on the C/O, may see the invoice(s) or packing list attached).
7. Box 7: Provide the number and type of packages, HS tariff classification code at six digit level and description of each goods consigned.
  - The description of the goods on a Certificate of Origin should be sufficiently detailed to enable the goods to be identified by the Customs Officers examining them and relate it to the invoice description. When the description of the goods is finished, add "\*\*\*\*" (three stars) or " \ " (finishing slash).
8. Box 8: For the goods that meet the origin criterion, the exporter must indicate the origin criterion met in the manner shown in the following table:

| Description of Criterion                                                                                                                                                                                                                                                                                                                                                                   | Criterion (Insert in Box 8)    |
|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------|
| a) the good is wholly obtained or produced entirely in the Party, as defined in Article 4.3;                                                                                                                                                                                                                                                                                               | WO                             |
| b) the good is produced entirely in the Party exclusively from originating materials of the Parties                                                                                                                                                                                                                                                                                        | PE                             |
| c) the good satisfies the product specific rules set out in Annex 4.2, when the good produced entirely in the Party using non-originating materials in whole or in part. <ul style="list-style-type: none"> <li>(i) Change of Chapter</li> <li>(ii) Change of Heading</li> <li>(iii) Change of Sub-heading</li> <li>(iv) Qualifying Value Content</li> <li>(v) Specific Process</li> </ul> | CC<br>CTH<br>CTSH<br>QVC<br>SP |
| Also, should indicate the following where applicable:<br>Goods which comply with Article 4.7<br>Goods which comply with Article 4.8                                                                                                                                                                                                                                                        | ACU<br>DMI                     |

9. Box 9: Indicate the quantity or gross weight for each goods.
10. Box 10: Indicate the invoice number(s) and date(s) for each goods. The invoice is the one issued for the exportation of the goods into the importing Party. In the case where a good is invoiced by a non-Party operator, the number and date of the invoice issued by the non-Party operator (if known), may also be indicated.
11. Box 11: This Box is for additional information (if any):
  - In case of non-Party Invoice, the name (address) and legal address (including city and country) of the non-Party, who issued the invoice shall be indicated.
  - In case where a new Certificate of Origin issued to replace the erroneous one (Article 4.19), indicate the word "Replace C/O number", the reference number and the date of issuance of the original Certificate of Origin.
12. Box 12: This Box must be completed, signed and dated by the exporter. The "Date" is the date when the Certificate of Origin is applied for.
13. Box 13: This Box must be completed by filling place, date, name, and signature and stamped by the competent authority of the exporting Party.
14. Box 14:
  - If the Certificate of Origin is issued retroactively, please tick (√) the "Issued Retroactively" box.
  - In case where invoices are issued by a non-Party, please tick (√) the "Non-Party invoicing" box.
  - In cases where the goods are sent from the exporting Party for exhibition in a country other than Thailand or Chile in accordance with Article 4.29, please tick (√) the "Exhibition" box.
  - In case where the Certificate of Origin is a certified true copy of the original in accordance with Article 4.21, please tick (√) the "Certified true copy" box. The certified true copy shall bear the date of the issuance of the original Certificate of Origin.

**Section B**

**Form of Certificate of Origin of Thailand**

**Overleaf Notes**

|                                                                                                                                                                                                                                                                                                                                                                                                                                            |                                  |                                                                                                                                |                                                                                                                                                                                                                                                                               |                                   |                                 |
|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------|--------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------|---------------------------------|
| 1. Goods consigned from (Exporter's business name, address, country)                                                                                                                                                                                                                                                                                                                                                                       |                                  |                                                                                                                                | Reference No.<br><br><b>THAILAND-CHILE FREE TRADE AGREEMENT<br/>(Combined Declaration and Certificate)<br/>FORM TC</b>                                                                                                                                                        |                                   |                                 |
| 2. Goods consigned to (Consignee's name, address, country; (if known))                                                                                                                                                                                                                                                                                                                                                                     |                                  |                                                                                                                                | Issued in .....<br><br>(Country) <span style="float: right;">See Overleaf Note</span>                                                                                                                                                                                         |                                   |                                 |
| 3. Means of transport and route (as far as known)                                                                                                                                                                                                                                                                                                                                                                                          |                                  |                                                                                                                                | 4. For official use<br><br><input type="checkbox"/> Preferential Treatment Given under Thailand-Chile FTA<br><br><input type="checkbox"/> Preferential Treatment Not Given (Please state reason/s)<br><br>.....<br>Signature of Authorized Signatory of the Importing Country |                                   |                                 |
| 5. Item number                                                                                                                                                                                                                                                                                                                                                                                                                             | 6. Marks and numbers on packages | 7. Number and type of packages, description of Goods (including quantity where appropriate) and HS Tariff classification code. | 8. Origin criterion (see Overleaf Notes)                                                                                                                                                                                                                                      | 9. Gross weight or other quantity | 10. Number and date of invoices |
|                                                                                                                                                                                                                                                                                                                                                                                                                                            |                                  |                                                                                                                                |                                                                                                                                                                                                                                                                               |                                   |                                 |
| 11. Remarks                                                                                                                                                                                                                                                                                                                                                                                                                                |                                  |                                                                                                                                |                                                                                                                                                                                                                                                                               |                                   |                                 |
| 12. Declaration by the exporter<br><br>The undersigned hereby declares that the above details and statements are correct; that all the goods were produced in .....<br>(Country)<br><br>and that they comply with the origin requirements specified for those goods in the Thailand – Chile Free Trade Agreement for the goods exported to .....<br>(Importing Country)<br><br>.....<br>Place and date, signature of authorized signatory. |                                  |                                                                                                                                | 13. Certification<br><br>It is hereby certified, on the basis of control carried out, that the declaration by the exporter is correct.<br><br><br><br>.....<br>Place and date, name and signature and stamp of competent authority.                                           |                                   |                                 |
| 14. <input type="checkbox"/> Issued Retroactively <input type="checkbox"/> Non-Party Invoices <input type="checkbox"/> Exhibitions <input type="checkbox"/> Certified True Copy                                                                                                                                                                                                                                                            |                                  |                                                                                                                                |                                                                                                                                                                                                                                                                               |                                   |                                 |

## OVERLEAF NOTES

For the purpose of claiming preferential tariff treatment, this form must be completed legibly and filled by the exporter. All items of the form must be completed in the English language.

If the space of this form is insufficient to specify the necessary particulars for identifying the goods and other related information, the exporter may provide the information using an additional form(s) of the Certificate of Origin.

1. Box 1: State the full business name, address and country of the exporter.
2. Box 2: State the full name, address and country of the consignee (if known). Additionally, in case where goods are sent from exporting party for exhibition in another country and sold during or after the exhibition for importation into the other party, in accordance with Article 4.29 of the operational procedures, the name and address of place of the exhibition shall be indicated.
3. Box 3: Provide the means of transport and route such as the name of loading port, transit port, discharging port and the date of shipment, the name of vessel/flight number (as far as known).
4. Box 4: For official use only.
5. Box 5: Provide the item number.
6. Box 6: Provide the marks and number on packages. (in case where all marks and numbers on packages cannot be reflected on the C/O, see the invoice(s) or packing list attached).
7. Box 7: Provide the number and type of packages, HS tariff classification code at six digit level and description of each goods consigned.

For Thailand the word "quantity" in box 7 only refers to the numerical units of commodities, which may be used for business purpose.

- The description of the goods on a Certificate of Origin should be sufficiently detailed to enable the goods to be identified by the Customs Officers examining them and relate it to the invoice description. When the description of the goods is finished, add "\*\*\*" (three stars) or "\ " (finishing slash).

8. Box 8: For the goods that meet the origin criterion, the exporter must indicate the origin criterion met in the manner shown in the following table:

| Description of Criterion                                                                                                                                                                                                                                                                                               | Criterion (Insert in Box 8)    |
|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------|
| a) the good is wholly obtained or produced entirely in the Party, as defined in Article 4.3;                                                                                                                                                                                                                           | WO                             |
| b) the good is produced entirely in the Party exclusively from originating materials of the Parties                                                                                                                                                                                                                    | PE                             |
| c) the good satisfies the product specific rules set out in Annex 4.2, when the good is produced entirely in the Party using non-originating materials in whole or in part.<br>(i) Change of Chapter<br>(ii) Change of Heading<br>(iii) Change of Sub-heading<br>(iv) Qualifying Value Content<br>(v) Specific Process | CC<br>CTH<br>CTSH<br>QVC<br>SP |
| Also, should indicate the following where applicable:<br>Goods which comply with Article 4.7<br>Goods which comply with Article 4.8                                                                                                                                                                                    | ACU<br>DMI                     |

9. Box 9: Indicate the quantity or gross weight for each goods.
10. Box 10: Indicate the invoice number(s) and date(s) for each goods. The invoice is the one issued for the exportation of the goods into the importing Party. In the case where a good is invoiced by a non-Party operator, the number and date of the invoice issued by the non-Party operator (if known), may also be indicated.
11. Box 11: This Box is for additional information (if any):
  - In case of non-Party Invoice, the name (address) and legal address (including city and country) of the non-Party, who issued the invoice shall be indicated.
  - In case where a new certificate of origin is issued to replace the erroneous one (Article 4.19), indicate the word "Replace C/O number", the reference number and the date of issuance of the original certificate of origin.
12. Box 12: This Box must be completed, signed and dated by the exporter. The "Date" is the date when the Certificate of Origin is applied for.
13. Box 13: This Box must be completed by filling place, date, name, and signature and stamped by the competent authority of the exporting Party.
14. Box 14:
  - If the Certificate of Origin is issued retroactively, please tick (✓) the "Issued Retroactively" box.
  - In case where invoices are issued by a non-Party, please tick (✓) the "Non-Party invoicing" box.
  - In cases where the goods are sent from the exporting Party for exhibition in a country other than Thailand or Chile in accordance with Article 4.29, please tick (✓) the "Exhibition" box.
  - In case where the Certificate of Origin is a certified true copy of the original in accordance with Article 4.21, please tick (✓) the "Certified true copy" box. The certified true copy shall bear the date of the issuance of the original Certificate of Origin.