

Chapter V

Procedures Related to Rules of Origin

Article 30 Certificate of Origin

1. To qualify originating goods for preferential tariff treatment, Certificate of Origin as set out in Annex 4 shall be submitted on importation.
2. A Certificate of Origin shall be issued by the competent governmental authorities, for China by the General Administration of Quality Supervision, Inspection and Quarantine, and for Chile as defined in the Annex 5, on the written application presented by the exporter. The Certificate of Origin must be completed in English and duly signed, covering one or more goods under one consignment. The original Certificate of Origin must be submitted to the customs authorities of the importing Party.
3. The exporter applying for a Certificate of Origin shall provide all necessary documents to prove the originating status of the products concerned as required by the competent governmental authorities, and undertake to fulfill the other requirements as laid down under this Chapter.
4. The issuing competent governmental authorities shall have the rights, by taking any appropriate measures prior to the exportation, to examine the originating status of the products and the fulfillment of the other requirements of this Chapter. For this purpose, they shall have the rights to request any supportive evidence and to carry out any inspection of the exporter's accounts or any other check considered appropriate.
5. A Certificate of Origin as referred to in paragraph 1 shall be valid for one year from the date of issue in the exporting Party. The original Certificate of Origin must be submitted within the said period to the customs authorities of the importing Party. In the case of China, the original Certificate of Origin without the stamp of "ORIGINAL" shall be presented to the customs authorities of Chile. In the case of Chile, there shall be only one copy of the Certificate of Origin bearing the stamp of "ORIGINAL" to be presented to the customs authorities of China.
6. The Parties shall implement a Certification and Verification Networking System on the Certificate of Origin (CVNSCO) in two years after the signature of this Agreement as laid down under the Annex 6.

Article 31 Refund of Import Customs Duties or Deposit

Each Party shall provide that, where a good would have been qualified as an originating good when it was imported into the territory of that Party but without Certificate of Origin under this Agreement at that time, the importing customs authorities may impose general import customs duty or deposit on that good, where applicable. In this case, the importer may apply for a refund of any excess import customs duties paid or deposit imposed, where applicable, as the result of the good not having been accorded with preferential tariff treatment, within one year for the duty

paid or three months for the deposit imposed, where applicable, after the date on which the good was imported, on presentation of:

- (a) a written declaration at the time of importation that the good presented is qualified as an originating good;
- (b) the original Certificate of Origin which was issued prior to or within 30 days after the exportation; and
- (c) other documentation relating to the importation of the good as the customs authorities of the importing Party may require.

Article 32: Exceptions from Certificate of Origin

1. Each Party shall provide that a Certificate of Origin shall not be required for:
 - (a) a commercial importation of a good whose value does not exceed US\$ 600 or its equivalent amount in the Party's currency, except that it may require that the invoice accompanying the importation include a statement certifying that the good is qualified as an originating good;
 - (b) a non-commercial importation of a good whose value does not exceed US\$ 600 or its equivalent amount in the Party's currency; or
 - (c) an importation of a good for which the Party into whose territory the good is imported has waived the requirement for a Certificate of Origin. If a Party decides to apply this provision it shall notify the exporting Party.
2. Exceptions established in subparagraphs (a), (b), and (c), shall be applicable 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 Article 30.

Article 33 Supporting Documents

The documents referred to in paragraph 3 of Article 30 used for the purpose of proving that products covered by a Certificate of Origin can be considered as products originating and fulfill the other requirements of this Chapter may include but not limited to the following:

- (a) direct evidence of the processes carried out by the exporter or supplier to obtain the goods concerned, contained for example in his accounts or internal book-keeping;
- (b) documents proving the originating status of materials used, where these documents are used in accordance with the domestic legislation;
- (c) documents proving the working or processing of materials, where these documents are used in accordance with the domestic legislation; or

- (d) certificates of origin proving the originating status of materials used.

Article 34 Obligations Regarding Importations

1. Each Party's customs authorities shall require that an importer claiming preferential tariff treatment for a good to:

- (a) make a written declaration, in the importation document established in its legislation, based on a valid Certificate of Origin, that the good is qualified as an originating good;
- (b) have a Certificate of Origin in its possession at the time the import declaration referred to in subparagraph (a);
- (c) provide, upon request of the customs authorities, the original Certificate of Origin; and
- (d) promptly make a corrected declaration and pay any duties owed, where the importer has reason to believe that a Certificate of Origin on which a declaration was based contains information that is not correct.

2. Each Party shall provide that, when an importer in its territory does not comply with any requirement established in Chapter III, Chapter IV and this Chapter, the claimed preferential tariff treatment shall be denied for the imported goods from the territory of the other Party.

Article 35 Invoicing by a Non-Party Operator

When a good to be traded is invoiced by a non-Party operator, the exporter of the originating Party shall indicate, in the field title "Remarks" of the respective Certificate of Origin, the following data of the producer in the originating Party: name, address and country. The consignee written in the Certificate of Origin must be from China or Chile.

Article 36: Preservation of Certificate of Origin and Supporting Documents

1. The exporter applying for the issue of a Certificate of Origin shall keep for at least three years the documents referred to in paragraph 3 of Article 30 and Article 34.

2. The competent governmental authorities of the exporting Party issuing a Certificate of Origin shall keep a copy of the Certificate of Origin for at least three years.

Article 37 Cooperation and Mutual Assistance

1. The competent governmental authority of the exporting Party shall provide to the customs authorities of the importing Party with specimen impression of stamps used

for the issuing of Certificate of Origin, and the specimen of the stamp of “ORIGINAL” from Chile, and with the address of the competent governmental authorities.

2. In order to ensure the proper application of this Chapter, the Parties shall assist each other, in checking the authenticity of Certificate of Origin and the correctness of the information given in this certificate and supporting documents as established in paragraph 3 of Article 30 and may use electronic means in this process.

3. The customs authorities of the Parties shall negotiate a Mutual Administrative Assistance Agreement that will cover relevant customs issues.

Article 38 Verification of Origin

1. Verification of origin shall be carried out whenever the customs authorities of the importing Party have doubts as to the authenticity of Certificate of Origin, the originating status of the products concerned or the fulfillment of the other requirements of this Chapter.

2. For the purposes of implementing the provisions of paragraph 1, the customs authorities of the importing Party shall return a photo-copy of Certificate of Origin, to the competent governmental authorities of the exporting Party, indicating the reasons for the enquiry. Any documents and information obtained establishing that the information given on the Certificate of Origin is incorrect shall be forwarded in support of the request for verification.

3. The verification shall be carried out by the competent governmental authorities of the exporting Party. For this purpose, they shall have the rights to call for any evidence and to carry out any inspection of the exporter's accounts or any other check considered appropriate.

4. The customs authorities requesting the verification shall be informed of the results of this verification as soon as possible. These results must indicate clearly whether the documents are authentic, whether the products concerned can be considered as products originating and fulfill the other requirements of this Chapter, including the findings of facts and the legal basis for the determination.

5. If no reply within six months of the date of the verification request was received or if the reply does not contain sufficient information to determine the authenticity of the document in question or the real origin of the products, the requesting customs authorities shall deny preferential tariff treatment.

6. Where the customs authorities of the importing Party determines that it has been certified more than once falsely or without substantiation that a good qualifies as originating, the customs authorities of the importing Party may suspend preferential tariff treatment to identical goods imported by the same importer, until it demonstrates that it has complied with the provisions under this Agreement.

7. All the information requested, supporting documents, and all other related information exchange between the customs authorities of the importing Party and the

competent governmental authorities regarding this Article may be communicated electronically.

Article 39 Penalties

Penalties shall be imposed in accordance with domestic legislation of each Party for infringement on the provisions of this Chapter.

Article 40 Confidentiality

1. The Parties shall maintain the confidentiality of confidential business information acquired pursuant to this Chapter. Any violation of the confidentiality shall be treated in accordance with the domestic legislation of each Party.

2. This information may only be disclosed to those customs and revenue authorities, or in the context of judicial proceedings.

Article 41 Advance Rulings

1. Customs authorities of each Party, shall issue written advance rulings prior to the importation of a good into its territory upon written request of an importer in its territory, or an exporter in the territory of the other Party³, on the basis of the facts and circumstances provided by the requester, including a detailed description of the information required to process a request for an advance ruling, concerning:

- (a) tariff classification; or
- (b) whether a good qualifies as an originating good under the provision established in this Agreement.

2. The customs authorities shall issue advance rulings after receiving a written request, provided that the requester has submitted all necessary information. The issuance of advance ruling on determination of origin of a good shall be made within 150 days.

3. Each Party shall provide that advance rulings shall be in force from their date of issuance, or such other date specified by the ruling, for at least one year, provided that the facts or circumstances on which the ruling is based remain unchanged.

4. The customs authorities issuing the advance ruling may modify or revoke an advance ruling where facts or circumstances prove that the information on which the advance ruling is based is false or inaccurate.

5. Where an importer claims that the treatment accorded to an imported good should be governed by an advance ruling, the customs authorities may evaluate whether the facts and circumstances of the importation are consistent with the facts and circumstances upon which the advance ruling was based.

³ For China, the applicant of an advance ruling on tariff classification shall be registered with a local customs authority of China.

6. Each Party shall make its advance rulings publicly available, subject to confidentiality requirements in its domestic law, for purposes of promoting the consistent application of advance rulings to other goods.

7. If a requester provides false information or omits relevant circumstances or facts in its request for an advance ruling, or does not act in accordance with the ruling's terms and conditions, the importing Party may apply appropriate measures, including civil, criminal, and administrative actions, penalties, or other sanctions in accordance with its domestic laws.

Article 42 Other Customs Issues Related to Rules of Origin

Each Party:

- (a) subject to its domestic law, shall publish its customs laws, regulations, and customs procedures of general application which are related to Rules of Origin, on the websites and designate one or more inquiry points to address inquiries from interested persons concerning origin matters, consulting by *Internet* or other means;
- (b) shall exchange the statistics regarding the imports under this Agreement from the other Party as early as possible, and at least before the end of February; and
- (c) shall designate focal points between the two customs authorities to ensure the effective and efficient implementation of Rules of Origin under this Agreement.

Article 43: Transitional Provision for Goods in Transit or Storage

The provisions of this Agreement may be applied to goods which comply with the provisions of this Chapter and which on the date of entry into force of this Agreement are either in transit from China or Chile, or in temporary storage in customs warehouses or in free zones. The importer shall submit to the customs authorities of the importing Party, within four months of the said date, a Certificate of Origin, and shall be prepared to submit all documents supporting that good is originating. In this case, the competent governmental authorities may issue retroactively Certificates of Origin within this transitional period.