

CHAPTER 3

RULES OF ORIGIN

Article 1 Definitions

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) **back-to-back Certificate of Origin** means a Certificate of Origin issued by an intermediate exporting Party's Issuing Authority/Body based on the Certificate of Origin issued by the first exporting Party;
- (c) **CIF** means the value of the good imported and includes the cost of freight and insurance up to the port or place of entry into the country of importation. The valuation shall be made in accordance with Article VII of GATT 1994 and the Agreement on Customs Valuation;
- (d) **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 Customs Valuation;
- (e) **generally accepted accounting principles** means the recognised consensus or substantial

authoritative support in 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;

- (f) **good** means any merchandise, product, article or material;
- (g) **identical and interchangeable materials** means materials that are fungible as a result of being of the same kind and commercial quality, possessing the same technical and physical characteristics, and which once they are incorporated into the finished product cannot be distinguished from one another for origin purposes by virtue of any markings or mere visual examination;
- (h) **indirect material** means a good used in the production, testing, or inspection of a 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, including:
 - (i) fuel and energy;
 - (ii) tools, dies and moulds;
 - (iii) spare parts and materials used in the maintenance of equipment and buildings;
 - (iv) lubricants, greases, compounding materials and other materials used in production or used to operate equipment and buildings;

- (v) gloves, glasses, footwear, clothing, safety equipment and supplies;
 - (vi) equipment, devices and supplies used for testing or inspecting goods;
 - (vii) catalysts and solvents; and
 - (viii) any other goods that 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;
- (i) **material** means any matter or substance used or consumed in the production of goods or physically incorporated into a good or subjected to a process in the production of another good;
 - (j) **non-originating good** or **non-originating material** means a good or material that does not qualify as originating under this Chapter;
 - (k) **originating material** means a material that qualifies as originating under this Chapter;
 - (l) **producer** means a person who grows, mines, raises, harvests, fishes, traps, hunts, farms, captures, gathers, collects, breeds, extracts, manufactures, processes or assembles a good;
 - (m) **production** means methods of obtaining goods including growing, mining, harvesting, farming, raising, breeding, extracting, gathering, collecting, capturing, fishing, trapping, hunting, manufacturing, producing, processing or assembling a good;

- (n) **Product Specific Rules** are rules in Annex 2 (Product Specific Rules) that specify that the materials used to produce a good have undergone a change in tariff classification or a specific manufacturing or processing operation, or satisfy a regional value content criterion or a combination of any of these criteria; and
- (o) **packing materials and containers for transportation** means goods used to protect a good during its transportation, different from those containers or materials used for its retail sale.

Article 2

Originating Goods

1. For the purposes of this Chapter, a good shall be treated as an originating good if it is either:

- (a) wholly produced or obtained in a Party as provided in Article 3 (Goods Wholly Produced or Obtained);
- (b) not wholly produced or obtained in a Party provided that the good has satisfied the requirements of Article 4 (Goods Not Wholly Produced or Obtained); or
- (c) produced in a Party exclusively from originating materials from one or more of the Parties,

and meets all other applicable requirements of this Chapter.

2. A good which complies with the origin requirements of Paragraph 1 will retain its eligibility for preferential tariff treatment if exported to a Party and subsequently re-exported to another Party.

Article 3

Goods Wholly Produced or Obtained

For the purposes of Article 2.1(a) (Originating Goods), the following goods shall be considered as wholly produced or obtained:

- (a) plants and plant goods, including fruit, flowers, vegetables, trees, seaweed, fungi and live plants, grown, harvested, picked, or gathered in a Party¹;
- (b) live animals born and raised in a Party;
- (c) goods obtained from live animals in a Party;
- (d) goods obtained from hunting, trapping, fishing, farming, aquaculture, gathering, or capturing in a Party;
- (e) minerals and other naturally occurring substances extracted or taken from the soil, waters, seabed or beneath the seabed in a Party;
- (f) goods of sea-fishing and other marine goods taken from the high seas, in accordance with international law², by any vessel registered or recorded with a Party and entitled to fly the flag of that Party;

¹ For the purposes of this Article, “in a Party” means the land, territorial sea, Exclusive Economic Zone, Continental Shelf over which a Party exercises sovereignty, sovereign rights or jurisdiction, as the case may be, in accordance with international law.

For the avoidance of doubt, nothing contained in the above definition shall be construed as conferring recognition or acceptance by one Party of the outstanding maritime and territorial claims made by any other Party, nor shall be taken as pre-judging the determination of such claims.

² “International law” refers to generally accepted international law such as the *United Nations Convention on the Law of the Sea*.

- (g) goods produced on board any factory ship registered or recorded with a Party and entitled to fly the flag of that Party from the goods referred to in Subparagraph (f);
- (h) goods taken by a Party, or a person of a Party, from the seabed or beneath the seabed beyond the Exclusive Economic Zone and adjacent Continental Shelf of that Party and beyond areas over which third parties exercise jurisdiction under exploitation rights granted in accordance with international law³;
- (i) goods which are:
 - (i) waste and scrap derived from production and consumption in a Party provided that such goods are fit only for the recovery of raw materials; or
 - (ii) used goods collected in a Party provided that such goods are fit only for the recovery of raw materials; and
- (j) goods produced or obtained in a Party solely from products referred to in Subparagraphs (a) to (i) or from their derivatives.

Article 4

Goods Not Wholly Produced or Obtained

1. For the purposes of Article 2.1(b) (Originating Goods), except for those goods covered under Paragraph 2, a good shall be treated as an originating good if:

- (a) the good has a regional value content of not less than 40 per cent of FOB calculated using the

³ "International law" refers to generally accepted international law such as the *United Nations Convention on the Law of the Sea*.

formulae as described in Article 5 (Calculation of Regional Value Content), and the final process of production is performed within a Party; or

- (b) all non-originating materials used in the production of the good have undergone a change in tariff classification at the four-digit level (i.e. a change in tariff heading) of the HS Code in a Party.

2. In accordance with Paragraph 1, a good subject to Product Specific Rules shall be treated as an originating good if it meets those Product Specific Rules.

3. For a good not specified in Annex 2 (Product Specific Rules), a Party shall permit the producer or exporter of the good to decide whether to use Paragraph 1(a) or (b) when determining if the good is originating.

4. If a good is specified in Annex 2 (Product Specific Rules) and the relevant provisions of that Annex provide a choice of rule between a regional value content based rule of origin, a change in tariff classification based rule of origin, a specific process of production, or a combination of any of these, a Party shall permit the producer or exporter of the good to decide which rule to use in determining if the good is originating.

Article 5

Calculation of Regional Value Content

1. For the purposes of Article 4 (Goods Not Wholly Produced or Obtained), the formula for calculating the regional value content will be either:

(a) Direct Formula

$$\frac{\text{AANZFTA Material Cost} + \text{Labour Cost} + \text{Overhead Cost} + \text{Profit} + \text{Other Costs}}{\text{FOB}} \times 100\%$$

or

(b) Indirect/Build-Down Formula

$$\frac{\text{FOB} - \text{Value of Non-Originating Materials}}{\text{FOB}} \times 100\%$$

where:

- (a) **AANZFTA Material Cost** is the value of originating materials, parts or produce that are acquired or self-produced by the producer in the production of the good;
- (b) **Labour Cost** includes wages, remuneration and other employee benefits;
- (c) **Overhead Cost** is the total overhead expense;
- (d) **Other Costs** are the costs incurred in placing the good in the ship or other means of transport for export including, but not limited to, domestic transport costs, storage and warehousing, port handling, brokerage fees and service charges;
- (e) **FOB** is the free-on-board value of the goods as defined in Article 1 (Definitions); and

- (f) **Value of Non-Originating Materials** is the CIF value at the time of importation or the earliest ascertained price paid for all non-originating materials, parts or produce that are acquired by the producer in the production of the good. Non-originating materials include materials of undetermined origin but do not include a material that is self-produced.

2. The value of goods under this Chapter shall be determined in accordance with Article VII of GATT 1994 and the Agreement on Customs Valuation.

Article 6 Cumulative Rules of Origin

For the purposes of Article 2 (Originating Goods), a good which complies with the origin requirements provided therein and which is used in another Party as a material in the production of another good shall be considered to originate in the Party where working or processing of the finished good has taken place.

Article 7 Minimal Operations and Processes

Where a claim for origin is based solely on a regional value content, the operations or processes listed below, undertaken by themselves or in combination with each other, are considered to be minimal and shall not be taken into account in determining whether or not a good is originating:

- (a) ensuring preservation of goods in good condition for the purposes of transport or storage;
- (b) facilitating shipment or transportation;

- (c) packaging⁴ or presenting goods for transportation or sale;
- (d) simple processes, consisting of sifting, classifying, washing, cutting, slitting, bending, coiling and uncoiling and other similar operations;
- (e) affixing of marks, labels or other like distinguishing signs on products or their packaging; and
- (f) mere dilution with water or another substance that does not materially alter the characteristics of the goods.

Article 8

De Minimis

1. A good that does not satisfy a change in tariff classification requirement pursuant to Article 4 (Goods Not Wholly Produced or Obtained) will nonetheless be an originating good if:

- (a) (i) for a good, other than that provided for in Chapters 50 to 63 of the HS Code, the value of all non-originating materials used in the production of the good that did not undergo the required change in tariff classification does not exceed 10 per cent of the FOB value of the good;
- (ii) for a good provided for in Chapters 50 to 63 of the HS Code, the weight of all non-originating materials used in its production that did not undergo the required change in tariff classification does not exceed 10 per cent of the total weight of the good, or the

⁴ This excludes encapsulation which is termed "packaging" by the electronics industry.

value of all non-originating materials used in the production of the good that did not undergo the required change in tariff classification does not exceed 10 per cent of the FOB value of the good; and

- (b) the good meets all other applicable criteria of this Chapter.

2. The value of such materials shall, however, be included in the value of non-originating materials for any applicable regional value content requirement.

Article 9

Accessories, Spare Parts and Tools

1. For the purposes of determining the origin of a good, accessories, spare parts, tools and instructional or other information materials presented with the good shall be considered part of that good and shall be disregarded in determining whether all the non-originating materials used in the production of the originating good have undergone the applicable change in tariff classification, provided that:

- (a) the accessories, spare parts, tools and instructional or other information materials presented with the good are not invoiced separately from the originating good; and
- (b) the quantities and value of the accessories, spare parts, tools and instructional or other information materials presented with the good are customary for that good.

2. Notwithstanding Paragraph 1, if the good is subject to a regional value content requirement, the value of the accessories, spare parts, tools and instructional or other information materials presented with the good shall be taken into account as originating or non-originating materials, as

the case may be, in calculating the regional value content of the good.

3. Paragraphs 1 and 2 do not apply where accessories, spare parts, tools and instructional or other information materials presented with the good have been added solely for the purpose of artificially raising the regional value content of that good, provided it is proven subsequently by the importing Party that they are not sold therewith.

Article 10

Identical and Interchangeable Materials

The determination of whether identical and interchangeable materials are originating materials shall be made either by physical segregation of each of the materials or by the use of generally accepted accounting principles of stock control applicable, or inventory management practice, in the exporting Party.

Article 11

Treatment of Packing Materials and Containers

1. Packing materials and containers for transportation and shipment of a good shall not be taken into account in determining the origin of any good.

2. Packing materials and containers in which a good is packaged for retail sale, when classified together with that good, shall not be taken into account in determining whether all of the non-originating materials used in the production of the good have met the applicable change in tariff classification requirements for the good.

3. If a good is subject to a regional value content requirement, the value of the packing materials and containers in which the good is packaged for retail sale shall be taken into account as originating or non-originating materials, as the case may be, in calculating the regional value content of the good.

Article 12

Indirect Materials

An indirect material shall be treated as an originating material without regard to where it is produced and its value shall be the cost registered in the accounting records of the producer of the good.

Article 13

Recording of Costs

For the purposes of this Chapter, all costs shall be recorded and maintained in accordance with the generally accepted accounting principles applicable in the Party in which the goods are produced.

Article 14

Direct Consignment

A good will retain its originating status as determined under Article 2 (Originating Goods) if the following conditions have been met:

- (a) the good has been transported to the importing Party without passing through any non-Party; or
- (b) the good has transited through a non-Party, provided that:
 - (i) the good has not undergone subsequent production or any other operation outside the territories of the Parties other than

unloading, reloading, storing, or any other operations necessary to preserve them in good condition or to transport them to the importing Party;

- (ii) the good has not entered the commerce of a non-Party; and
- (iii) the transit entry is justified for geographical, economic or logistical reasons.

Article 15

Certificate of Origin

A claim that goods are eligible for preferential tariff treatment shall be supported by a Certificate of Origin issued by an Issuing Authority/Body notified to the other Parties as set out in this Chapter's Annex on Operational Certification Procedures.

Article 16

Denial of Preferential Tariff Treatment

The Customs Authority of the importing Party may deny a claim for preferential tariff treatment when:

- (a) the good does not qualify as an originating good;
or
- (b) the importer, exporter or producer fails to comply with any of the relevant requirements of this Chapter.

Article 17

Review and Appeal

The importing Party shall grant the right of appeal in matters relating to the eligibility for preferential tariff treatment to producers, exporters or importers of goods traded or to be

traded between the Parties, in accordance with its domestic laws, regulations and administrative practices.

Article 18

Sub-Committee on Rules of Origin

1. For the purpose of the effective and uniform implementation of this Chapter, the Parties hereby establish a Sub-Committee on Rules of Origin (ROO Sub-Committee). The functions of the ROO Sub-Committee shall include:

- (a) monitoring of the implementation and administration of this Chapter;
- (b) discussion of any issue that may have arisen in the course of implementation, including any matters that may have been referred to the ROO Sub-Committee by the Goods Committee established pursuant to Article 11 (Committee on Trade in Goods) of Chapter 2 (Trade in Goods) or the FTA Joint Committee;
- (c) discussion of any proposed modifications of the rules of origin under this Chapter; and
- (d) consultation on issues relating to rules of origin and administrative co-operation.

2. The ROO Sub-Committee shall consist of representatives of the Parties. It shall meet from time to time as mutually determined by the Parties.

3. The ROO Sub-Committee shall commence a review of Article 6 (Cumulative Rules of Origin) no earlier than 12 months, and no later than 18 months following entry into force of this Agreement. This review will consider the extension of the application of cumulation to all value added to a good within AANZFTA. The ROO Sub-Committee shall submit to the Goods Committee established pursuant to

Article 11 (Committee on Trade in Goods) of Chapter 2 (Trade in Goods) a final report, including any recommendations, within three years of entry into force of this Agreement.

4. The ROO Sub-Committee shall commence a review of the application of the chemical reaction rule and other chemical process rules to Chapters 28 to 40 of the HS Code and other Product Specific Rules identified by Parties, no earlier than 12 months and no later than 18 months, following entry into force of this Agreement. The ROO Sub-Committee shall submit to the Goods Committee established pursuant to Article 11 (Committee on Trade in Goods) of Chapter 2 (Trade in Goods) a final report, including any recommendations, within three years of entry into force of this Agreement.

Article 19

Consultations, Review and Modification

1. The Parties shall consult regularly to ensure that this Chapter is administered effectively, uniformly and consistently in order to achieve the spirit and objectives of this Agreement.

2. This Chapter may be reviewed and modified in accordance with Article 6 (Amendments) of Chapter 18 (Final Provisions) as and when necessary, upon request of a Party, and subject to the agreement of the Parties, and may be open to such reviews and modifications as may be agreed upon by the FTA Joint Committee.

ANNEX ON OPERATIONAL CERTIFICATION PROCEDURES

For the purpose of implementing Chapter 3 (Rules of Origin), the following operational procedures on the issuance and verification of Certificates of Origin and other related administrative matters shall be observed by each Party.

AUTHORITIES

Rule 1

The Certificate of Origin shall be issued by an Issuing Authority/Body of the exporting Party. Details of the Issuing Authorities/Bodies shall be notified by each Party, through the ASEAN Secretariat, prior to the entry into force of this Agreement. Any subsequent changes shall be promptly notified by each Party, through the ASEAN Secretariat.

Rule 2

1. The Issuing Authorities/Bodies shall provide the names, addresses, specimen signatures and specimens of the impressions of official seals of their respective Issuing Authorities/Bodies to the other Parties, through the ASEAN Secretariat. The Issuing Authorities/Bodies shall submit electronically to the ASEAN Secretariat the above information and specimens for dissemination to the other Parties. Any subsequent changes shall be promptly notified through the ASEAN Secretariat.
2. Any Certificate of Origin issued by a person not included in the list may not be honoured by the Customs Authority of the importing Party.

Rule 3

For the purpose of determining originating status, the Issuing Authorities/Bodies shall have the right to call for supporting documentary evidence and/or other relevant information to carry out any check considered appropriate in accordance with respective domestic laws, regulations and administrative practices.

APPLICATIONS

Rule 4

1. The manufacturer, producer, or exporter of the good or its authorised representative shall apply in writing or by electronic means to an Issuing Authority/Body, in accordance with the exporting Party's domestic laws, regulations and the Issuing Authority's/Body's procedures, requesting a pre-exportation examination of the origin of the good to be exported.
2. The result of the examination, subject to review periodically or whenever appropriate, shall be accepted as the supporting evidence in issuing a Certificate of Origin for the good to be exported thereafter.
3. Pre-exportation examination need not apply to a good for which, by its nature, origin can be easily determined.

Rule 5

The manufacturer, producer, or exporter of the good or its authorised representative shall apply for the Certificate of Origin by providing appropriate supporting documents and other relevant information, proving that the good to be exported qualifies as originating.

PRE-EXPORTATION EXAMINATION

Rule 6

The Issuing Authority/Body shall, to the best of its competence and ability, carry out proper examination, in accordance with the domestic laws and regulations of the exporting Party or the procedures of the Issuing Authority/Body, upon each application for the Certificate of Origin to ensure that:

- (i) the application and the Certificate of Origin are duly completed and signed by the authorised signatory;
- (ii) the good is an originating good in accordance with Article 2 (Originating Goods) of Chapter 3 (Rules of Origin);
- (iii) other statements in the Certificate of Origin correspond to appropriate supporting documents and other relevant information; and
- (iv) information to meet the minimum data requirements listed in this Annex's Appendix 1 (Minimum Data Requirements – Application for a Certificate of Origin) is provided for the goods being exported.

ISSUANCE OF CERTIFICATE OF ORIGIN

Rule 7

1. The format of the Certificate of Origin is to be determined by the Parties and it must contain the minimum data requirements listed in this Annex's Appendix 2 (Minimum Data Requirements – Certificate of Origin).

2. The Certificate of Origin shall comprise one original and two copies.

3. The Certificate of Origin shall:

- (i) be in hardcopy;
- (ii) bear a unique reference number separately given by each place or office of issuance;
- (iii) be in the English language; and
- (iv) bear an authorised signature and official seal of the Issuing Authority/Body. The signature and official seal may be applied electronically.

4. The original Certificate of Origin shall be forwarded by the exporter to the importer for submission to the Customs Authority of the importing Party. Copies shall be retained by the Issuing Authority/Body and the exporter.

5. Multiple goods declared on the same Certificate of Origin shall be allowed, provided that each good is originating in its own right.

Rule 8

To implement Article 2 (Originating Goods) of Chapter 3 (Rules of Origin), the Certificate of Origin issued by the Issuing Authority/Body shall specify the relevant origin conferring criteria.

Rule 9

Neither erasures nor superimpositions shall be allowed on the Certificate of Origin. Any alteration shall be made by striking out the erroneous material and making any addition required. Such alterations shall be approved by a person authorised to sign the Certificate of Origin and certified by

the appropriate Issuing Authority/Body. Unused spaces shall be crossed out to prevent any subsequent addition.

Rule 10

1. The Certificate of Origin shall be issued as near as possible to, but no later than three working days after, the date of exportation.

2. Where a Certificate of Origin has not been issued as provided for in Paragraph 1 due to involuntary errors or omissions or other valid causes, the Certificate of Origin may be issued retroactively, but no longer than 12 months from the date of exportation, bearing the words **“ISSUED RETROACTIVELY”**.

3. An Issuing Authority/Body of an intermediate Party shall issue a back-to-back Certificate of Origin, if an application is made by the exporter while the good is passing through that intermediate Party, provided that:

- (i) a valid original Certificate of Origin or its certified true copy is presented;
- (ii) the period of validity of the back-to-back Certificate of Origin does not exceed the period of validity of the original Certificate of Origin;
- (iii) the consignment which is to be re-exported using the back-to-back Certificate of Origin does not undergo any further processing in the intermediate Party, except for repacking or logistics activities such as unloading, reloading, storing, or any other operations necessary to preserve them in good condition or to transport them to the importing Party;
- (iv) the back-to-back Certificate of Origin contains relevant information from the original Certificate

of Origin in accordance with the minimum data requirements in this Annex's Appendix 2 (Minimum Data Requirements – Certificate of Origin). The FOB value shall be the FOB value of the goods exported from the intermediate Party; and

- (v) the verification procedures in Rule 17 and Rule 18 shall also apply to the back-to-back Certificate of Origin.

Rule 11

In the event of theft, loss or destruction of a Certificate of Origin, the manufacturer, producer, exporter or its authorised representative may apply to the Issuing Authority/Body for a certified true copy of the original Certificate of Origin. The copy shall be made on the basis of the export documents in their possession and bear the words “**CERTIFIED TRUE COPY**”. This copy shall bear the date of issuance of the original Certificate of Origin. The certified true copy of a Certificate of Origin shall be issued no longer than 12 months from the date of issuance of the original Certificate of Origin.

PRESENTATION

Rule 12

1. For the purpose of claiming preferential tariff treatment, the importer shall submit to the Customs Authority at the time of import declaration the Certificate of Origin and other documents as required, in accordance with the procedures of the Customs Authority or domestic laws and regulations of the importing Party.
2. Notwithstanding Paragraph 1, a Party may elect not to require the submission of the Certificate of Origin.

Rule 13

The following time limits for the presentation of the Certificate of Origin shall be observed:

- (i) the Certificate of Origin shall be valid for a period of 12 months from the date of issue and must be submitted to the Customs Authority of the importing Party within that period;
- (ii) where the Certificate of Origin is submitted to the Customs Authority of the importing Party after the expiration of the time limit for its submission, such Certificate of Origin shall still be accepted, subject to the importing Party's domestic laws, regulations or administrative practices, when failure to observe the time limit results from *force majeure* or other valid causes beyond the control of the importer and/or exporter; and
- (iii) the Customs Authority of the importing Party may accept such Certificate of Origin, provided that the goods have been imported before the expiration of the time limit of that Certificate of Origin.

Rule 14

The Certificate of Origin shall not be required for:

- (i) goods originating in the exporting Party and not exceeding US\$200.00 FOB value or such higher amount specified in the importing Party's domestic laws, regulations or administrative practices; or
- (ii) goods sent through the post not exceeding US\$200.00 FOB value or such higher amount

specified in the importing Party's domestic laws, regulations or administrative practices,

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 submission of the Certificate of Origin.

Rule 15

1. Where the origin of the good is not in doubt, the discovery of minor transcription errors or discrepancies in documentation shall not *ipso facto* invalidate the Certificate of Origin, if it does in fact correspond to the goods submitted.
2. For multiple goods declared under the same Certificate of Origin, a problem encountered with one of the goods listed shall not affect or delay the granting of preferential tariff treatment and customs clearance of the remaining goods listed in the Certificate of Origin.

Rule 16

1. Each Party shall require that the Issuing Authority/Body, manufacturer, producer, exporter, importer, and their authorised representatives maintain for a period of not less than three years after the date of exportation or importation, as the case may be, all records relating to that exportation or importation which are necessary to demonstrate that the good for which a claim for preferential tariff treatment was made qualifies for preferential tariff treatment. Such records may be in electronic form.
2. Information relating to the validity of the Certificate of Origin shall be furnished upon request of the importing Party by an official authorised to sign the Certificate of Origin and certified by the appropriate Issuing Authority/Body.

3. Any information communicated between the Parties concerned shall be treated as confidential and shall be used for the validation of Certificates of Origin purposes only.¹

ORIGIN VERIFICATION

Rule 17

1. The Customs Authority of the importing Party may verify the eligibility of a good for preferential tariff treatment in accordance with its domestic laws, regulations or administrative practices.

2. If the Customs Authority of the importing Party has reasonable doubts as to the authenticity or accuracy of the information included in the Certificate of Origin or other documentary evidence, it may:

- (i) institute retroactive checking measures to establish the validity of the Certificate of Origin or other documentary evidence of origin;
- (ii) request information from the relevant importer of a good for which preferential tariff treatment was claimed; and
- (iii) issue written requests to the Issuing Authority/Body of the exporting Party for information from the exporter or producer.

3. A request for information in accordance with Paragraph 2(iii) shall not preclude the use of the verification visit provided for in Rule 18.

4. The recipient of a request for information under Paragraph 2 shall provide the information requested within a period of 90 days from the date the written request is made.

¹ This Paragraph shall be read with reference to the confidentiality provisions of Article 5 (Confidentiality) of Chapter 18 (Final Provisions).

5. The Customs Authority of the importing Party shall provide written advice as to whether the goods are eligible for preferential tariff treatment to all the relevant parties within 60 days from receipt of information necessary to make a decision.

VERIFICATION VISIT

Rule 18

1. If the Customs Authority of the importing Party wishes to undertake a verification visit, it shall issue a written request to the Issuing Authority/Body of the exporting Party at least 30 days in advance of the proposed verification visit.

2. If the Issuing Authority/Body of the exporting Party is not a government agency, the Customs Authority of the importing Party shall notify the Customs Authority of the exporting Party of the written request to undertake the verification visit.

3. The written request referred to in Paragraphs 1 and 2 shall at a minimum include:

- (i) the identity of the Customs Authority issuing the request;
- (ii) the name of the exporter or the producer of the exporting Party whose good is subject to the verification visit;
- (iii) the date the written request is made;
- (iv) the proposed date and place of the visit;
- (v) the objective and scope of the proposed visit, including specific reference to the good subject to the verification; and

- (vi) the names and titles of the officials of the Customs Authority or other relevant authorities of the importing Party who will participate in the visit.

4. The Issuing Authority/Body of the exporting Party shall notify the exporter or producer of the intended verification visit by the Customs Authority or other relevant authorities of the importing Party and request the exporter or producer to:

- (i) permit the Customs Authority or other relevant authorities of the importing Party to visit their premises or factory; and
- (ii) provide information relating to the origin of the good.

5. The Issuing Authority/Body shall advise the exporter or producer that, should they fail to respond by a specified date, preferential tariff treatment may be denied.

6. The Issuing Authority/Body of the exporting Party shall advise the Customs Authority of the importing Party within 30 days of the date of the written request from the Customs Authority of the importing Party whether the exporter or producer has agreed to the request for a verification visit.

7. The Customs Authority of the importing Party shall not visit the premises or factory of any exporter or producer in the territory of the exporting Party without written prior consent from the exporter or producer.

8. The Customs Authority of the importing Party shall complete any action to verify eligibility for preferential tariff treatment and make a decision within 150 days of the date of the request to the Issuing Authority/Body under Paragraph 1. The Customs Authority of the importing Party shall provide written advice as to whether goods are eligible for

preferential tariff treatment to the relevant parties within ten days of the decision being made.

9. Parties shall maintain the confidentiality of information classified as confidential collected in the process of verification and shall protect that information from disclosure that could prejudice the competitive position of the person who provided the information. The information classified as confidential may only be disclosed to those authorities responsible for the administration and enforcement of origin determination.²

SUSPENSION OF PREFERENTIAL TARIFF TREATMENT

Rule 19

1. The Customs Authority of the importing Party may suspend preferential tariff treatment to a good that is the subject of an origin verification action under this Annex for the duration of that action or any part thereof.

2. The importing Party may release the goods to the importer subject to any administrative measures deemed necessary, provided that they are not held to be subject to import prohibition or restriction and there is no suspicion of fraud.

3. In the event that a determination is made by the Customs Authority of the importing Party that the good qualifies as an originating good of the exporting Party, any suspended preferential tariff treatment shall be reinstated.

Rule 20

When the destination of any goods exported to a specified Party is changed after their export from the exporting Party, but before clearance by the importing Party, the exporter,

² This Paragraph shall be read with reference to the confidentiality provisions of Article 5 (Confidentiality) of Chapter 18 (Final Provisions).

manufacturer, producer or its authorised representative shall apply in writing to the Issuing Authority/Body for a new Certificate of Origin for the goods changing destination. The application shall include the original Certificate of Origin relating to the goods.

Rule 21

For the purpose of implementing Article 14 (Direct Consignment) of Chapter 3 (Rules of Origin) where transportation is effected through the territory of any non-Party, the following shall be provided to the Customs Authority of the importing Party:

- (i) a through Bill of Lading issued in the exporting Party;
- (ii) a Certificate of Origin issued by the relevant Issuing Authority/Body of the exporting Party, unless not required pursuant to Rule 12.2 or Rule 14;
- (iii) a copy of the original commercial invoice in respect of the good; and
- (iv) supporting documents in evidence that the requirements of Article 14 (Direct Consignment) of Chapter 3 (Rules of Origin) have been complied with.

Rule 22

1. The Customs Authority of the importing Party may accept Certificates of Origin in cases where the sales invoice is issued either by a company located in a third country or by an exporter for the account of that company, provided that the goods meet the requirements of Chapter 3 (Rules of Origin).

2. The words “**SUBJECT OF THIRD-PARTY INVOICE** (*name of company using the invoice*)” shall appear on the Certificate of Origin.

ACTION AGAINST FRAUDULENT ACTS

Rule 23

When it is suspected that fraudulent acts in connection with the Certificate of Origin have been committed, the government authorities concerned shall co-operate in the action to be taken in the respective Party against the persons involved, in accordance with the Party's respective laws and regulations.

GOODS IN TRANSPORT OR STORAGE

Rule 24

Originating goods which are in the process of being transported from the exporting Party to the importing Party, or which are in temporary storage in a bonded area in the importing Party, should be accorded preferential tariff treatment if they are imported into the importing Party on or after the date of entry into force of this Agreement, subject to the submission of a Certificate of Origin issued retroactively to the Customs Authority of the importing Party and subject to domestic laws, regulations or administrative practices of the importing Party.

SETTLEMENT OF DISPUTES

Rule 25³

1. In the case of a dispute concerning origin determination, classification of goods or other matters, the

³ This Rule is without prejudice to a Party's rights under Chapter 17 (Consultations and Dispute Settlement).

government authorities concerned in the importing and exporting Parties shall consult each other with a view to resolving the dispute, and the result shall be reported to the other Parties for information.

2. If no settlement can be reached bilaterally, the dispute may be referred to the ROO Sub-Committee established pursuant to Article 18 (Sub-Committee on Rules of Origin) of Chapter 3 (Rules of Origin).

Appendix 1

Minimum Data Requirements – Application for a Certificate of Origin

The minimum data to be included in an application for a Certificate of Origin are:

1. Exporter details	The name, address and contact details of the exporter
2. Shipment details (a separate application must be made for each shipment)	(i) Consignee name and address (ii) Sufficient details to identify the consignment, such as importer's purchase order number, invoice number and date and Air Way Bill or Sea Way Bill or Bill of Lading (iii) Port of Discharge, if known
3. Full description of goods	(i) Detailed description of the goods, including HS Code (6-digit level), and if applicable, product number and brand name (ii) The relevant origin conferring criteria
4. Exporter's declaration	Declaration completed by the exporter or its authorised representative, signed and dated, and annotated with the signatory's name and designation. The declaration shall include a statement that the details provided in the application are true and correct

Appendix 2

Minimum Data Requirements – Certificate of Origin

The minimum data to be included in the Certificate of Origin are:

1. Exporter details	The name and address and contact details of the exporter
2. Shipment details (a Certificate of Origin can only apply to a single shipment of goods)	(i) Consignee name and address (ii) Sufficient details to identify the consignment, such as importer's purchase order number, invoice number and date and Air Way Bill or Sea Way Bill or Bill of Lading (iii) Port of Discharge, if known
3. Full description of goods	(i) Detailed description of the goods, including HS Code (6-digit level), and if applicable, product number and brand name (ii) The relevant origin conferring criteria (iii) FOB Value ¹
4. Certification by Issuing Authority/Body	Certification by the Issuing Authority/Body that, based on the evidence provided, the goods specified in the Certificate of Origin meet all the relevant requirements of Chapter 3 (Rules of Origin)
5. Certificate of Origin number	A unique number assigned to the Certificate of Origin by the Issuing Authority/Body

¹ In the case of Australia and New Zealand, a Certificate of Origin or back-to-back Certificate of Origin which does not state the FOB value shall be accompanied by a declaration made by the exporter stating the FOB value of each good described in the Certificate of Origin.