

CHAPTER 4 RULES OF ORIGIN

ARTICLE 10 Definitions

For the purposes of this Chapter:

- (a) **aquaculture** refers to 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, protection from predators, *etc*;
- (b) **fungible products and materials** refers to goods or materials which are interchangeable for commercial purposes, whose properties are essentially identical, and between which it is impractical to differentiate by a mere visual examination;
- (c) **generally accepted accounting principles** refers to the recognized accounting standards 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. Those standards may encompass broad guidelines of general application as well as detailed standards, practices and procedures;
- (d) **material** refers to ingredients, parts, components, subassembly and/or goods that were physically incorporated into another good or were subject to a process in the production of another good;
- (e) **non-originating material** refers to a material that has not satisfied the requirements of this Chapter;
- (f) **originating materials or originating goods** refers to materials or goods which qualify as originating in accordance with this Chapter;
- (g) **producer** refers to a person who engages in the production of a good;
- (h) **Product Specific Rules** are rules that specify that the materials have undergone a change in tariff classification or a specific manufacturing or processing operation, or satisfy an *ad valorem* criterion or a combination of any of these criteria;

- (i) **production** refers to methods of obtaining goods including growing, mining, harvesting, raising, breeding, extracting, gathering, collecting, capturing, fishing, trapping, hunting, manufacturing, producing, processing or assembling a good; and
- (j) **used** means spent or consumed in the production of products.

ARTICLE 11 Origin Criteria

For the purposes of this Agreement, products imported by a Party shall be deemed to be originating and eligible for preferential concessions if they conform to the origin requirements under any one of the following:

- (a) products which are wholly obtained or produced as set out and defined in Article 12 (Wholly Obtained Products);
- (b) products not wholly obtained or produced in the territory of the exporting Party, provided that said products are eligible under Articles 13 (Regional Value Content), 14 (Cumulative Rule of Origin) and 15 (Product Specific Rules).

ARTICLE 12 Wholly Obtained Products

For the purposes of this Agreement, the following shall be considered as being wholly produced or obtained in a Party:

- (a) plant² and plant products harvested, picked or gathered there;
- (b) live animals³ born and raised there;
- (c) products⁴ obtained from live animals referred to in sub-paragraph (b) above;
- (d) products obtained from hunting, trapping, fishing, aquaculture, gathering or capturing conducted there;

² **Plant** referred to in paragraph (a) covers all plant life, including fruit, flowers, vegetables, trees, seaweed, fungi and live plants.

³ **Animals** referred to in paragraphs (b) and (c) covers all animal life, including mammals, birds, fish, crustaceans, molluscs, reptiles, bacteria and viruses.

⁴ **Products** referred to in paragraph (c) covers those obtained from live animals without further processing, including milk, eggs, natural honey, hair, wool, semen and dung.

- (e) minerals and other naturally occurring substances, not included in sub-paragraphs (a) to (d), extracted or taken from its soil, waters, seabed or beneath their seabed;
- (f) products taken from the waters, seabed or beneath the seabed outside the territorial waters of that Party, provided that that Party has the rights to exploit such waters, seabed and beneath the seabed in accordance with international law;
- (g) products of sea fishing and other marine products taken from the high seas by vessels registered with a Party or entitled to fly the flag of that Party;
- (h) products processed and/or made on board factory ships registered with a Party or entitled to fly the flag of that Party, exclusively from products referred to in sub-paragraph (g) above;
- (i) articles collected in the territory of that Party that 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 purposes⁵;
- (j) goods obtained or produced in a Party solely from products referred to in sub-paragraphs (a) to (i) above.

ARTICLE 13 Regional Value Content

1. The regional value content of a good shall be calculated on the basis of the following method:

$$RVC = \frac{V - VNM}{V} \times 100$$

where:

RVC means the regional value content expressed as a percentage;

V means the value of the good, as defined in the *Agreement on Implementation of Article VII of the General Agreement on Tariffs and Trade 1994*, adjusted on an FOB basis; and

⁵ This would cover all scrap and waste including scrap and waste resulting from manufacturing or processing operations or consumption in the same country, scrap machinery, discarded packaging and all products that can no longer perform the purpose for which they were produced and are fit only for discarding or for the recovery of raw materials. Such manufacturing or processing operations shall include all types of processing, not only industrial or chemical but also mining, agriculture, construction, refining, incineration and sewage treatment operations.

VNM shall be:

- (i) the CIF value at the time of importation of the materials;
or
- (ii) the earliest ascertained price paid for the materials of undetermined origin in the territory of the Party where the working or processing takes place.

2. The percentage of regional value content shall not be less than 40%, except for the goods listed in Annex 2 (Product Specific Rules), which shall comply with the Product Specific Rules as provided under Article 15 (Product Specific Rules).

3. The value of the non-originating materials used by the producer in the production of a good shall not include, for purposes of calculating the regional value content of the good, pursuant to paragraph 1, the value of non-originating materials used to produce originating materials that are subsequently used in the production of the good.

4. When the producer of the good acquires a non-originating material within the Party's territory where it is located, the value of such material shall not include freight, insurance, packing costs, and any other costs incurred in transporting the material from the supplier's warehouse to the producer's location.

ARTICLE 14 **Cumulative Rule of Origin**

Where originating goods or materials of a Party are incorporated into a good in the other Party's territory, the goods or materials so incorporated shall be regarded to be originating in the latter's territory.

ARTICLE 15 **Product Specific Rules**

Products which have undergone sufficient transformation in a Party shall be treated as originating goods of that Party. Products which satisfy the Product Specific Rules provided for in Annex 2 (Product Specific Rules) shall be considered as goods to which sufficient transformation has been carried out in a Party.

ARTICLE 16

De Minimis

A good that does not meet tariff classification change requirements, pursuant to the provisions of Annex 2 (Product Specific Rules), shall nonetheless be considered to be an originating good if:

- (a) the value of all non-originating materials used in the production of the product, which do not undergo the applicable change in tariff classification or fulfil any other condition set out in Annex 2 (Product Specific Rules), does not exceed 10% of the FOB value of the product; and
- (b) the product meets all other applicable requirements provided in this Chapter for qualifying as an originating product.

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

ARTICLE 17

Minimal Operations and Processes

1. The following operations undertaken by themselves shall be considered as insufficient working or processing to confer the status of originating products:

- (a) preserving operations to ensure that the products remain in good condition during transport and storage;
- (b) breaking-up and assembly of packages;
- (c) washing, cleaning, removal of dust, oxide, oil, paint or other coverings;
- (d) ironing or pressing of textiles;
- (e) simple painting and polishing operations;
- (f) husking, partial or total bleaching, polishing, and glazing of cereals and rice;
- (g) operations to color sugar or form sugar lumps;
- (h) peeling, stoning and shelling, of fruits, nuts and vegetables;
- (i) sharpening, simple grinding or simple cutting;
- (j) sifting, screening, sorting, classifying, grading or matching

(including the making-up of sets of articles);

- (k) simple placing in bottles, cans, flasks, bags, cases, boxes, fixing on cards or boards and all other simple packaging operations;
- (l) affixing or printing marks, labels, logos and other like distinguishing signs on products or their packaging;
- (m) simple mixing of products, whether or not of different kinds;
- (n) simple assembly of parts of articles to constitute a complete article or disassembly of products into parts;
- (o) operations whose sole purpose is to ease port handling;
- (p) a combination of two or more operations specified in subparagraphs (a) to (o); and
- (q) slaughter of animals.

2. For the purposes of this Article:

- (a) **simple** generally describes activities which need neither special skills nor special machines, apparatus or equipment specially produced or installed for carrying out the activity; and
- (b) **simple mixing** generally describes activities which need neither special skills nor machines, apparatus or equipment especially produced or installed for carrying out the activity. However, simple mixing does not include chemical reaction.

ARTICLE 18

Direct Consignment

1. Preferential tariff treatment provided for in this Agreement shall be applied to goods which satisfy the requirements of this Chapter and are directly consigned between the Parties.

2. For the purposes of paragraph 1, the following shall be considered as consigned directly from the exporting Party to the importing Party:

- (a) goods that are transported without passing through the territory of a non-Party;
- (b) goods whose transport involves transit through one or more non-Parties with or without trans-shipment or temporary storage of up to three (3) months in such non-Parties provided that:
 - (i) the goods do not enter into trade or commerce there;

- (ii) the goods do not undergo any operation there other than unloading and reloading, or any operation required to keep them in good condition; and
- (iii) the transit entry is justified for geographical reasons or by considerations related exclusively to transport requirements.

3. Compliance with the provisions set out in paragraph 2(b) shall be authenticated by the importer presenting to the customs authorities of the importing Party either with customs documents of the non-Parties or with any other documents provided to the customs authorities of the importing Party.

ARTICLE 19

Treatment of Packing

1. Where, for the purposes of assessing customs duties, a Party treats products separately from their packing, it may also, in respect of its imports consigned from the other Party, determine separately the origin of such packing.

2. Where paragraph 1 is not applied, packing shall be considered as forming a whole with the products and no part of any packing required for their transport or storage shall be considered as having been imported from a non-Party when determining the origin of the products as a whole.

ARTICLE 20

Accessories, Spare Parts and Tools

The origin of accessories, spare parts, tools and instructional or other information materials presented with the goods therewith shall be neglected in determining the origin of the goods, provided that such accessories, spare parts, tools and information materials are classified and collected customs duties with the goods by the importing Party.

ARTICLE 21

Fungible Products and Materials

In determining whether a good is an originating good, any interchangeable materials shall be distinguished by:

- (a) physical separation of the goods; or
- (b) an inventory management method recognised in the generally accepted accounting principles of the exporting Party.

ARTICLE 22
Neutral Elements

Unless otherwise provided, for the purpose of determining the origin of goods, the origin of the power and fuel, plant and equipment, or machines and tools used to obtain the goods, or the materials used in its manufacture which do not remain in the goods or form part of the goods, shall not be taken into account.