

## **CHAPTER 3 RULES OF ORIGIN**

### Article 3.1: 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, *inter alia*, regular stocking, feeding, protection from predators;

**CIF value** means the price actually paid or payable to the exporter for a product when the product is loaded out of the carrier, at the port of importation, including the cost of the product, insurance, and freight necessary to deliver the product to the named port of destination. The valuation shall be made in accordance with Article VII of the GATT 1994, including its notes and supplementary provision thereof, and the Customs Valuation Agreement;

**competent authority** means:

- (a) for Chile, the General Directorate of Export Promotion, Ministry of Foreign Affairs or any other agency notified from time to time, and
- (b) for the UAE, to the Ministry of Economy or any other agency notified from time to time;

**consignment** means products which are either sent simultaneously from one exporter to one consignee or covered by a single transport document covering their shipment from the exporter to the consignee or, in the absence of such a document, by a single invoice;

**customs authority** means:

- (a) for Chile, the National Customs Service, or its successor, and
- (b) for the UAE, the Federal Customs Authority, or its successor;

**generally accepted accounting principles** 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;

**good** means any article of trade, including materials and products;

**Harmonized System ("HS")** means the Harmonized Commodity Description and Coding System, including its general rules and legal notes set out in the Annex to the International Convention on the Harmonized Commodity Description and Coding System;

**manufacture** means any kind of working or processing, including assembly or specific operations;

**material** means any ingredient, raw material, compound or part used in the production of a good;

**non-originating good** means a good that does not qualify as originating under this Chapter;

**non-originating material (NOM)** means any materials whose country of origin is a country other than the Parties (imported non-originating), any materials whose origin cannot be determined (undetermined origin) or a material that does not qualify as originating under this Chapter;

**originating goods or originating material** means goods or materials that qualify as originating under this Chapter;

**product** means that which is obtained by growing, raising, mining, harvesting, fishing, aquaculture, trapping, hunting, extracting or manufactured, even if it is intended for later use in another manufacturing operation;

**production** means growing, raising, mining, harvesting, fishing, aquaculture, trapping, hunting, manufacturing, processing, assembling or disassembling a good, and

**self-produced material** means a material that is produced by the producer of a good and used in the production of that good.

## **Section A: Origin Determination**

### Article 3.2: Originating Goods

1. For the purposes of implementing this Agreement, goods shall be considered as originating in the territory of a Party, if those goods are:

- (a) wholly obtained or produced there according to Article 3.3;

- (b) not wholly obtained or produced entirely there, provided that the good has undergone sufficient transformation according to Article 3.4, or
- (c) produced entirely there exclusively from materials that qualify as originating pursuant to the provisions of this Chapter.

2. In each case provided in paragraph 1, the goods shall also satisfy all other applicable requirements of this Chapter.

### Article 3.3: Wholly Obtained or Produced Goods

For the purposes of Article 3.2(a), the following goods shall be deemed to be wholly obtained or produced in the territory of a Party:

- (a) plants and plant products grown, collected and harvested there;
- (b) live animals born and raised there;
- (c) products obtained from live animals there;
- (d) mineral products and natural resources extracted or taken from that Party's soil, subsoil, waters, seabed or beneath the seabed;
- (e) products obtained from hunting, trapping, collecting, capturing, fishing or aquaculture conducted there;
- (f) products of sea fishing and other marine products taken from outside the territorial waters of the Parties by a vessel or produced or obtained by a factory ship registered, recorded, listed or licensed with a Party and flying its flag;
- (g) products, other than products of sea fishing and other marine products, taken or extracted from the seabed, ocean floor or the subsoil of the continental shelf or the exclusive economic zone of any of the Parties, provided that the Party or person has the right to exploit such seabed, ocean floor, or subsoil in accordance to international law;
- (h) raw materials recovered from used goods collected there;
- (i) wastes or scraps resulting from utilization, consumption or manufacturing operations conducted there, fit only for recovery of raw materials, and

- (j) products produced or obtained there exclusively from products referred to in subparagraphs (a) through (i), or from their derivatives, at any stage of production.

#### Article 3.4: Sufficient Working or Production

1. For the purposes of Article 3.2(b), a good shall be deemed to be originating if the good satisfies any of the following:

- (a) a change in Tariff Heading (CTH), which means that all non-originating materials used in the production of the good have undergone a change in HS tariff classification at the 4-digit level;
- (b) a Regional Value Content (RVC) not less than 40% of the FOB value, or
- (c) a Regional Value Content (RVC) not less than 35% of the Ex-Works Value.

2. Notwithstanding paragraph 1, if the good falls within the classifications included in the list in Annex 3A then the good shall fulfil the specific rule detailed therein.

3. For the purposes of paragraph 1, the RVC shall be calculated using any of the following methods:

$$RVC = \frac{ExWorks\ Value\ or\ FOB\ Value - V.N.M}{ExWorks\ Value\ or\ FOB\ Value} * 100$$

where:

- (a) **RVC** is the regional value content of a good expressed as a percentage;
- (b) **FOB** is the value of the good free on board, inclusive of the cost of transport (regardless of the mode of transport) to the port or site of final shipment abroad;
- (c) **Ex-Works Value** is the price paid for the good Ex-Works to the manufacturer in the Party in whose undertaking the last working or processing is carried out, provided the price includes the value of all the materials used, minus any internal taxes which are, or may be, repaid when the good obtained is exported, and

- (d) **V.N.M** is the **CIF/Customs** value of the non-originating materials at the time of importation, or the earliest ascertained price paid or payable in the Party where the production takes place for all non-originating materials, parts or produce that are acquired by the producer in the production of the good. When the producer of a good acquires non-originating materials within that Party the value of such materials 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 3.5: Intermediate Goods

1. For a non-originating material that undergoes sufficient production in the territory of a Party as provided in Article 3.4, the resulting good shall be considered as originating and no account shall be taken of the non-originating material contained therein when that good is used as an intermediate good in the subsequent production of another good.
2. The provisions of paragraph 1 shall not apply to self-produced materials.

#### Article 3.6: Accumulation

1. An originating good of a Party which is used in the processing or production in the territory of the other Party as material for finished goods shall be deemed as a material originating in the territory of the latter Party where the working or processing of the finished goods has taken place.
2. Notwithstanding paragraph 1, an originating good from a Party that does not undergo processing beyond the minimal or insufficient operations listed in Article 3.8 in the other Party shall retain its originating status of the former Party.
3. The Joint Committee may review this Article with a view to providing for other forms of accumulation for the purposes of qualifying goods as originating goods under this Agreement.

#### Article 3.7: Tolerance (*De Minimis*)

1. Notwithstanding Article 3.4, a good will be considered to have undergone a change in tariff classification if the value of all non-originating materials that are used in the production of the good and that do not undergo the applicable change in tariff classification does not exceed 15% of the Ex-Works value of the good.

2. The value of non-originating materials referred to in paragraph 1 shall be included in the value of the non-originating materials for any applicable value-added content requirement.

#### Article 3.8: Insufficient Operations and Processes (Minimum Operations and Processes)

1. Whether or not the requirements of Article 3.4 are satisfied, a good shall not be considered to be originating in the territory of a Party if the following operations are undertaken exclusively by itself or in combination in the territory of that Party:

- (a) slaughter of animals;
- (b) operations to ensure the preservation of products in good condition during transport and storage such as drying, freezing, ventilation, chilling and like operations;
- (c) sifting, simple classifying or sorting, washing, cutting, slitting, bending, coiling or uncoiling, sharpening, simple grinding, slicing;
- (d) cleaning, including removal of oxide, oil, paint or other coverings;
- (e) simple painting and polishing operations;
- (f) testing or calibration;
- (g) placing in bottles, cans, flasks, bags, cases, boxes, fixing on cards or boards and all other simple packaging operations;
- (h) simple mixing of goods, whether or not of different kinds;
- (i) simple assembly of parts of products to constitute a complete good or disassembly of products into parts;
- (j) changes of packing, unpacking or repacking operations, and breaking up and assembly of consignments;
- (k) affixing or printing marks, labels, logos and other like distinguishing signs on goods or their packaging;
- (l) husking, partial, or total bleaching, polishing and glazing of cereals and rice, and

- (m) mere dilution with water or another substance that does not materially alter the characteristics of the goods.
2. For the purposes of paragraph 1, the term “simple” will be defined as follows:
- (a) “simple” generally describes an activity which does not need special skills, machines, apparatus or equipment specially produced or installed for carrying out the activity.
  - (b) “simple mixing” generally describes an activity which does not need special skills, machine, apparatus or equipment specially produce or install for carrying out the activity. However, simple mixing does not include chemical reaction. Chemical reaction means a process, including a biochemical process, which results in a molecule with a new structure by breaking intramolecular bonds and by forming new intramolecular bonds, or by altering the spatial arrangement of atoms in a molecule.

#### Article 3.9: Indirect Materials

In order to determine whether a good originates, the following material used in the production of a good shall be treated as originating material, irrespective of whether such material is originated:

- (a) energy and fuel;
- (b) plant and equipment;
- (c) machines and tools, and
- (d) any other materials or goods 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, testing or inspection of a good.

#### Article 3.10: Accessories, Spare Parts, Tools

1. Accessories, spare parts, tools, and instructional or other information materials delivered with a good that form part of the good’s standard accessories, spare parts, tools, and instructional or other information materials, 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, and 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, and instructional or other information materials presented with the good are customary for the good.

2. Notwithstanding paragraph 1, if the goods are subject to RVC requirement, the value of the accessories, spare parts, tools and instructional or other information materials shall be taken into account as originating or non-originating materials, as the case may be, in calculating the regional value content of the goods.

#### Article 3.11: Packaging Materials and Containers for Retail Sale

1. Each Party shall provide that packaging materials and containers in which a good is packaged for retail sale, if classified with the good, according to Rule 5 of the General rules for the interpretation of the HS, shall be disregarded in determining whether all the non-originating materials used in the production of the good undergo the applicable change in tariff classification set out in any applicable product-specific rules.

2. If the good is subject to regional value content requirement, the value of such packaging materials and containers 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 3.12: Packaging Materials and Containers for Transportation and Shipment

Each Party shall provide that packing materials and containers for transportation and shipment are disregarded in determining whether a good is originating.

#### Article 3.13: Fungible Goods and Materials

1. Each Party shall provide that the determination of whether fungible goods or materials are originating shall be made through physical segregation of each good or material, or, in case of any difficulty, through the use of any inventory management method, such as averaging, last-in, first-out, or first-in, first out, recognised in the generally accepted



accounting principles of the Party in which the production is performed, or otherwise accepted by the Party in which the production is performed.

2. Each Party shall provide that an inventory management method selected under paragraph 1 for particular fungible goods or materials shall continue to be used for those fungible goods or materials throughout the fiscal year of the Party that selected the inventory management method.

#### Article 3.14: Sets of Goods

Sets, as defined in General Rule 3 of the HS, shall be regarded as originating when all component goods are originating. However, when a set is composed of originating and non-originating products, the set as a whole shall be regarded as originating, provided that the value of non-originating products does not exceed 15% of the Ex-Works Value of the set.

### **Section B: Territoriality and Transit**

#### Article 3.15: Principle of Territoriality

1. The conditions for acquiring originating status set out in Article 3.2 must be fulfilled without interruption in the territory of one or both Parties.

2. Where originating goods exported from the territory of a Party to a non-Party, return to the exporting Party, they must be considered as non-originating, unless it can be demonstrated to the satisfaction of the customs authorities that:

- (a) the returning goods are the same as those exported, and
- (b) the non-Party has not undergone any operation beyond that necessary to preserve them in good condition while in that non-Party or while being exported.

#### Article 3.16: Outward Processing

1. Notwithstanding Article 3.15, the acquisition of originating status set out in Article 3.2 shall not be affected by working or processing done outside a Party on materials exported from a Party and subsequently re-imported there, provided that:

- (a) those materials are wholly obtained in any of the Parties or have undergone working or processing beyond the operations referred to in Article 3.8 prior to being exported;
- (b) it can be demonstrated to the satisfaction of the customs authorities that:
  - (i) the re-imported goods have been obtained by working or processing the exported materials, and
  - (ii) the total added value acquired outside a Party by applying the provisions of this Article does not exceed 15% of the Ex-Works Value of the end product for which originating status is claimed;
- (c) the conditions set out in Article 3.7 shall not apply to the said material as referred to in subparagraph (a) when determining the origin of the final product, and
- (d) factual information relevant to this Article will be indicated in the certificate of Origin, in accordance with Annex 3B.

2. For the purposes of applying the provisions of paragraph 1, “total added value” means all costs arising outside the Parties, including the value of the materials incorporated there.

3. Any working or processing of the kind covered by the provisions of this Article and done outside the exporting Party shall be done under the outward processing arrangements, or similar arrangements.

#### Article 3.17: Transit and Transshipment

1. Each Party shall provide that an originating good retains its originating status if the good has been transported directly to the importing Party without passing through the territory of a non-Party.

2. Notwithstanding paragraph 1, each Party shall provide that an originating good retains its originating status if transited or is stored in a temporary warehousing through one or more intermediate non-Parties, provided that the good:

- (a) remained under customs control in the territory of a non-Party, and
- (b) have not undergone any operation there other than unloading, reloading, labelling, split from bulk or any operation required to keep them in good condition.

3. Upon request of the customs authorities of the importing Party, an importer shall supply appropriate evidence that the conditions set out in paragraph 2 have been fulfilled, taking into consideration whether the good is stored or not.

#### Article 3.18: Free Economic Zones or Free Zones

1. Each Party shall take all necessary steps to ensure that originating goods traded under cover of a proof of origin which in the course of transport use a free zone situated in their territory, are not substituted by other goods, and do not undergo handling other than normal operations designed to prevent their deterioration.

2. Goods produced or manufactured in a free zone situated within a Party shall be considered as originating goods in that Party when exported to the other Party, provided that the treatment or processing is in conformity with the provisions of this Chapter and supported by a proof of origin.

#### Article 3.19: Third Party Invoicing

1. The customs authority in the importing Party shall not reject a certificate of origin only for the reason that the invoice was not issued by the exporter or producer of a good, provided that the good meets the requirements in this Chapter.

2. The exporter of the goods shall indicate “third party invoicing” and such information as name and country of the company issuing the invoice shall appear in the appropriate field as detailed in Annex 3B.

### **Section C: Origin Certification**

#### Article 3.20: Proof of Origin

1. Goods originating in a Party shall, on importation into the other Party, benefit from preferential tariff treatment under this Agreement on the basis of presenting a proof of origin at the time of importation.

2. Any of the following shall be considered as a proof of origin:

- (a) a paper format certificate of origin in scanned or hard copy issued by a competent authority as per Article 3.21;

- (b) an electronic certificate of origin (E-Certificate) issued by a competent authority and exchanged by a mutually developed electronic system as per Article 3.22;
- (c) an origin declaration made out by an approved exporter as per Article 3.23, or
- (d) self-certification of origin made out by the exporter, as per Article 3.24.

3 Each Party shall provide that a proof of origin shall be completed in the English language and shall remain valid for one year from the date on which it is issued.

#### Article 3.21: Certificate of Origin in Paper Format

1. A certificate of origin in paper format:
  - (a) shall be issued on International Organization for Standardization (ISO) A4 or letter size paper as per the attached Form set out in Annex 3B;
  - (b) may cover one or more goods under one consignment, and
  - (c) shall be in a printed format or such other medium including electronic format.
2. Each certificate of origin shall bear a unique serial reference number separately given by each place or office of issuance.
3. A certificate of origin shall bear an official seal of the competent authority. The official seal may be applied electronically.
4. In case the official seal is applied electronically, an authentication mechanism, such as QR code or a secured website, shall be included in the certificate for the certificate to be deemed as an original copy.

#### Article 3.22: Electronic Data Origin Exchange System

For the purposes of Article 3.20.2(b), the Parties shall endeavour to develop an electronic system for origin information exchange to ensure the effective and efficient implementation of this Chapter, particularly on transmission of electronic certificate of origin.

### Article 3.23: Origin Declaration

1. For the purposes of Article 3.20.2(c) the Parties shall, within one year from the date of entry into force of this Agreement, implement provisions allowing their competent authorities to recognize an origin declaration made by an approved exporter.
2. The customs or competent authorities of the exporting Party may authorise any exporter (hereinafter referred to as “approved exporter”) who exports goods under this Agreement, to make out Origin Declarations, a specimen of which appears in Annex 3C, irrespective of the value of the goods concerned.
3. An exporter seeking such authorisation must offer to the satisfaction of the customs or competent authorities of the exporting Party all guarantees necessary to verify the originating status of the goods as well as the fulfilment of the other requirements of this Chapter.
4. The customs or competent authorities of the exporting Party may grant the status of approved exporter, subject to any conditions which they consider appropriate.
5. The customs or competent authorities of the exporting Party shall share or publish the list of approved exporters and periodically update it.
6. An Origin Declaration, the text of which appears in Annex 3C, shall be made out by the approved exporter by typing, stamping or printing the declaration on the invoice, the delivery note or another commercial document which describes the products concerned in sufficient detail to enable them to be identified. The declaration may also be hand-written. If the declaration is hand-written, it shall be written in permanent ink in legible printed characters.
7. The approved exporter making out an Origin Declaration shall be prepared to submit at any time, at the request of the customs or competent authorities of the exporting Party, all appropriate documents proving the originating status of the goods concerned, as well as the fulfilment of the other requirements of this Chapter.

### Article 3.24: Self-Certification of Origin

For the purposes of Article 3.20.2 (d), the Parties shall endeavour to develop and implement a self-certification system based on exporter knowledge, to be approved by the Joint Committee.

### Article 3.25: Application and Examination of Application for a Certificate of Origin

1. Certificates of Origin shall be issued by the competent authority of the exporting Party, either upon an electronic application or an application in paper form, having been made by the exporter or under the exporter's responsibility by his or her authorized representative, in accordance with the laws and regulations of the exporting Party.
2. The exporter applying for the issuance of a Certificate of Origin shall be prepared to submit at any time, at the request of the competent authority of the exporting Party, all appropriate documents proving the originating status of the goods concerned, as well as the fulfilment of the other requirements of this Chapter.
3. The competent authority shall, to the best of its competence and ability, carry out proper examination to ensure that:
  - (a) the application and the Certificate of Origin is duly completed and signed by the authorised signatory;
  - (b) the origin of the good is in conformity with the provisions of this Chapter, and
  - (c) HS Code, description, gross weight or other quantity and value conform to the good to be exported.

### Article 3.26: Certificate of Origin Issued Retrospectively

1. The Certificate of Origin shall be issued by the competent authority of the exporting Party prior to or at the time of shipment.
2. In exceptional cases where a Certificate of Origin has not been issued prior to or at the time of shipment, due to involuntary errors or omissions or other valid causes, the Certificate of Origin may be issued retroactively, but with a validity no longer than one year from the date of shipment, in which case it is necessary to indicate "Issued Retroactively" in the appropriate field as detailed in Annex 3B.
3. This Article shall be applied to goods which comply with the provisions of this Agreement, and which on the date of its entry into force, are either in transit or are in the territory of the Parties in temporary storage under customs control. This shall be subject to the submission to the customs authorities of the importing Party, within six months from the said date, of a Certificate of Origin issued retrospectively by the competent authority of the exporting Party together with documents, showing that the goods have been transported directly in accordance with the provisions of Article 3.17.

#### Article 3.27: Loss of the Certificate of Origin

1. The certified true copy of the original certificate of origin shall be endorsed with an official signature and seal and bear the words “Certified True Copy” and the date of issuance of the original certificate of origin in appropriate field as detailed in Annex 3B, the certified true copy of a certificate of origin shall be issued within the same validity period of the original certificate of origin.
2. The exporter shall immediately notify the loss to the competent authority and undertake not to use the original certificate of origin for exports under this Agreement.

#### Article 3.28: Importation by Instalments

Where, at the request of the importer and on the conditions laid down by the customs authorities of the importing Party, dismantled or non-assembled products within the meaning of General Rule 2(a) of the HS are imported by instalments, a single proof of origin for such products shall be submitted to the customs authorities upon importation of the first instalment.

#### Article 3.29: Treatment of Erroneous Declaration in the Certificate of Origin

Neither erasures nor superimposition shall be allowed on the certificate of origin. Any alterations shall be made by issuing a new certificate of origin to replace the erroneous one. The reference number of the corrected certificate of origin should be indicated in the appropriate field on the newly issued certificate of origin as detailed in Annex 3B. The validity of the replacement certificate will be the same as the original.

#### Article 3.30: Treatment of Minor Discrepancies

1. The discovery of minor discrepancies 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.
2. Obvious formal errors on a proof of origin, such as typing errors, should not cause this document to be rejected if these errors are not such as to create doubts concerning the correctness of the statements made in this document.

### Article 3.31: Waiver of Certification of Origin

A Party may not require a certification of origin if:

- (a) the customs value of the importation does not exceed US \$500 or the equivalent amount in the importing Party's currency, or any higher amount as the importing Party may establish, or
- (b) it is a good for which the importing Party has waived the requirement or does not require the importer to present a certification of origin,

provided that the importation does not form part of a series of importations carried out or planned for the purpose of evading compliance with the importing Party's laws governing claims for preferential tariff treatment under this Agreement.

### Article 3.32: Customs Duty Refund

If at the time of importation of a good the importer does not claim or is unable to claim preferential tariff treatment, the importer may, within one year from the date of importation, or within a longer period if provided for by a Party in its laws and regulations, apply for a refund of any excess customs duty paid on production of:

- (a) a proof of origin and, where appropriate, other evidence that the good qualifies as an originating good, and
- (b) other documentation relating to the importation of the good as the customs administration of the importing Party may require.

## **Section D: Cooperation And Origin Verification**

### Article 3.33: Denial of Preferential Tariff Treatment

1. Except as otherwise provided in this Chapter, the customs authority of the importing Party may deny a claim for preferential tariff treatment or recover unpaid duties, in accordance with its laws and regulations, when:

- (a) the good does not meet the requirements of this Chapter;



- (b) the importer, exporter, or producer of the good failed to comply with any of the relevant requirements of this Chapter for obtaining preferential tariff treatment;
- (c) the customs authority of the importing Party has not received sufficient information to determine that the good is originating, or
- (d) the competent or customs authority of the exporting Party does not comply with the requirements of verification in accordance with Article 3.35 or Article 3.36.

2. If the customs authority of the importing Party denies a claim for preferential tariff treatment, it shall provide the decision in writing to the importer that includes the reasons for the decision.

3. Upon being communicated the grounds for denial of preferential tariff treatment, the importer may, within the period provided for in the custom laws of the importing Party, file an appeal against such decision with the appropriate authority under the customs laws and regulations of the importing Party.

#### Article 3.34: Treatment of Subsequent Imports

1. In cases of disqualification of the product's origin, the customs authority of the importing Party may deny preferential treatment for the customs clearance of new imports concerning the identical product from the same producer until it is demonstrated that the conditions have been modified for it to be considered originating under the terms provided by this Chapter.

2. Once the competent authority of the exporting Party has provided the necessary information to demonstrate that the conditions have been modified for the product to be considered originating under the terms provided by this Chapter, the competent authority of the importing Party shall have 60 days from the date of receipt of such information to communicate a decision on the matter, or up to a maximum of 90 days if a new on-site verification visit to the producer's facilities is necessary in accordance with Article 3.35 or Article 3.36.

#### Article 3.35: Verification

1. The customs authority of the importing Party may request a verification at random or when it has reasonable doubt as to the authenticity of the document or as to the accuracy of the information regarding the true origin of the goods in question or of certain parts thereof.

2. For the purpose of paragraph 1, the custom authority of the importing Party may conduct the checking process by issuing a written request for additional information from the customs or competent authority of the exporting Party;
3. The request shall be accompanied with the copy of proof of origin concerned and shall specify the reasons and any additional information suggesting that the particulars given on the said proof of origin may be inaccurate, unless the verification is requested on a random basis.
4. The customs authority of the importing Party may suspend the provisions on preferential treatment while awaiting the result of verification. However, it 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.
5. Pursuant to paragraph 2, the concerned Party receiving a request for verification shall respond to the request promptly and reply not later than 90 days after the receipt of the request.
6. When a reply from the concerned Party is not obtained within 90 days after the receipt of the request pursuant to paragraph 5, the customs authority of the importing Party may deny preferential tariff treatment to the good referred to in the said proof of origin that would have been subject to the verification and recover unpaid duties.

#### Article 3.36: Verification Visits

1. Pursuant to Article 3.35.2, if the customs authority of the importing Party is not satisfied with the outcome of the verification, it may, under exceptional circumstances for justifiable reasons, request to conduct a verification visit to the producer or exporter premises including inspection of the exporter's or producer's accounts, records or any other check considered appropriate.
2. Prior to conducting a verification visit pursuant to paragraph 1, the customs authority of the importing Party shall deliver a written notification to the customs or competent authority of the exporting Party requesting the verification visit and whether the importing Party or exporting Party will be conducting the visit.
3. The written notification mentioned in paragraph 2 shall be as comprehensive as possible and shall include, among others:
  - (a) the producer or exporter whose premises are to be visited;

- (b) justification for the unsatisfactory outcome of the verification conducted by the competent or customs authority of the exporting Party, and
- (c) the coverage of the proposed verification visit, including reference to the good subject to the verification, and evidence of fulfilling the requirements of this Chapter.

4. The customs or competent authority of the exporting Party shall obtain the written consent of the producer or exporter whose premises are to be visited.

5. When a written consent from the producer or exporter is not obtained within 30 days from the date of receipt of the verification visit notification, the customs authority of the importing Party may deny preferential tariff treatment to the good referred to in the said certificate of origin that would have been subject to the verification visit.

6. The Party conducting the verification visit shall provide the producer or exporter whose good is subject to such verification with a written determination of whether or not the good subject to such verification qualifies as an originating good.

7. Upon the issuance of the written determination referred to in paragraph 6 that the good qualifies as an originating good, the customs authority of the importing Party shall immediately restore preferential benefits, and promptly refund the duties paid in excess of the preferential duty or release guarantees obtained in accordance with the laws and regulations of the Parties.

8. Upon the issuance of the written determination referred to in paragraph 6 that the good does not qualify as an originating good, the producer or exporter shall be allowed 30 days from the date of receipt of the written determination to provide comments or additional information in writing regarding the eligibility of the good for preferential tariff treatment. The final written determination shall be communicated to the producer or exporter within 30 days from the date of receipt of the comments or additional information.

9. The verification visit process, including the actual visit and the determination under paragraph 6, shall be carried out and its results communicated to the authorities of the Parties within a maximum period of six months from the date on which the initial verification visit was requested. While the process of verification is being undertaken, Article 3.35.4 shall be applied.

### Article 3.37: Record Keeping Requirement

1. For the purposes of the verification process pursuant to Articles 3.35 and 3.36, each Party shall require that:

- (a) the manufacturer, producer or exporter retain, for a period not less than five years from the date of issuance of the proof of origin, or a longer period in accordance with its laws and regulations, all supporting records necessary to prove that the good for which the proof of origin was issued was originating;
- (b) the importers shall retain, for a period not less than five years from the date of importation of the good, or a longer period in accordance with its laws and regulations, all records to prove that the good for which preferential tariff treatment was claimed was originating, and
- (c) the competent authority or issuing authority retain, for a period not less than five years from the date of issuance of the proof of origin, or a longer period in accordance with its laws and regulations, all supporting records of the application for the proof of origin.

2. The records referred to in paragraph 1 may be maintained in any medium that allows for prompt retrieval, including but not limited to, digital, electronic, optical, magnetic, or written form.

### Article 3.38: Confidentiality

Each Party shall ensure that all information collected pursuant to this Chapter shall not be used for purposes other than the administration and enforcement of decisions and determinations relating to origin and to customs matters, except with the permission of the person or Party who provided the information.

### Article 3.39: Contact Points

Each Party shall, within 30 days of the date of entry into force of this Agreement, designate one or more contact points within its competent authority for the implementation of this Chapter, and notify the other Party of the contact details. Each Party shall promptly notify the other Party of any change to those contact points.

#### Article 3.40: Mutual Assistance

The competent authorities of both Parties shall provide each other the following information:

- (a) a specimen impression of the official stamps and signatures used in their offices for the issue of certificate of origin;
- (b) name and address of the competent authorities responsible for verifying the proof of origin, and
- (c) secured web address for the QR codes and electronic certificates authentications.

### **Section E: Consultation and Modifications**

#### Article 3.41: Consultation and Modifications

The Parties shall consult and cooperate as appropriate through the Joint Committee to:

- (a) ensure that this Chapter is applied in an effective and uniform manner, and
- (b) discuss necessary amendments to this Chapter, taking into account developments in technology, production processes, and other related matters.