

CHAPTER 3
RULES OF ORIGIN

Article 3.1
Definitions

For the purposes of this Chapter:

- (a) the term "authorised body" means a competent governmental authority or other entity that is responsible for the issuing of a Certificate of Origin referred to in paragraph 1 of Article 3.15;

Note: In the case of Japan:

- (i) the authorised body is the Ministry of Economy, Trade and Industry, or its successor; and
- (ii) the Ministry of Economy, Trade and Industry, as the authorised body of Japan, may designate other certification bodies for the issuing of a Certificate of Origin referred to in paragraph 1 of Article 3.15 (hereinafter referred to as "other certification bodies").
- (b) the term "factory ships of the Party" or "vessels of the Party" respectively means factory ships or vessels which:
- (i) are registered in the Party;
- (ii) sail under the flag of the Party; and
- (iii) meet one of the following conditions:
- (A) they are at least 50 per cent owned by the nationals of the Parties;
- (B) they are owned by a juridical person which has its head office and its principal place of business in the Party; or

- (C) they are authorised by the Government of the Party to operate under a bare boat charter contract only in the Area of the Party;
- (c) the term "fungible goods" or "fungible materials" respectively means goods or materials that are interchangeable as a result of being of the same kind and commercial quality, possessing the same technical and physical characteristics, and which cannot be distinguished from one another for origin purposes by virtue of any markings or mere visual examination;
- (d) the term "Generally Accepted Accounting Principles" means the recognised consensus or substantial authoritative support within a Party at a particular time as to which economic resources and obligations should be recorded as assets and liabilities, which changes in assets and liabilities should be recorded, how the assets and liabilities and changes in them should be measured, what information should be disclosed and how it should be disclosed, and which financial statements should be prepared. These standards may be broad guidelines of general application as well as detailed practices and procedures;
- (e) the term "importer" means a person who imports a good into the importing Party;
- (f) the term "indirect materials" means goods used in the production, testing or inspection of another good but not physically incorporated into the good, or goods used in the maintenance of buildings or the operation of equipment associated with the production of another good, including:
- (i) fuel and energy;
 - (ii) tools, dies and moulds;
 - (iii) spare parts and goods used in the maintenance of equipment and buildings;

- (iv) lubricants, greases, compounding materials and other goods 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 inspection;
 - (vii) catalysts and solvents; and
 - (viii) any other goods that are not incorporated into another good but whose use in the production of the good can reasonably be demonstrated to be a part of that production;
- (g) the term "material" means a good that is used in the production of another good;
 - (h) the term "originating material" means a material that qualifies as originating in accordance with the provisions of this Chapter;
 - (i) the term "packing materials and containers for transportation and shipment" means goods that are used to protect a good during transportation, other than packing materials and containers for retail sale referred to in Article 3.13;
 - (j) the term "preferential tariff treatment" means the application of customs duties to originating goods in accordance with paragraph 1 of Article 2.4 (Trade in Goods - Elimination or Reduction of Customs Duties); and
 - (k) the term "production" means a method of obtaining goods including manufacturing, assembling, processing, raising, growing, breeding, mining, extracting, harvesting, fishing, trapping, gathering, collecting, hunting and capturing.

Article 3.2
Originating Goods

For the purposes of this Agreement, a good shall qualify as an originating good of a Party if it:

- (a) is wholly obtained in the Party, as provided for in Article 3.3;
- (b) is produced entirely in the Party exclusively from originating materials of the Party;
- (c) satisfies the requirements of Article 3.4 as a result of processes performed entirely in one or both Parties by one or more producers, and the last process of production of the good, other than the operations provided for in Article 3.7, was performed in the exporting Party; or
- (d) otherwise qualifies as an originating good under this Chapter,

and meets all other applicable requirements of this Chapter.

Article 3.3
Wholly Obtained Goods

For the purposes of subparagraph (a) of Article 3.2, the following goods shall be considered as being wholly obtained in a Party:

- (a) live animals born and raised in the Area of the Party, excluding the sea outside the territorial sea of the Party;
- (b) animals obtained from hunting, trapping, fishing, gathering or capturing in the Area of the Party, excluding the sea outside the territorial sea of the Party;
- (c) goods obtained from live animals in the Area of the Party;
- (d) plants, fungi and algae, harvested, picked or gathered in the Area of the Party;

- (e) minerals and other naturally occurring substances, not included in subparagraphs (a) through (d), extracted or taken from the Area of the Party, excluding the seabed or subsoil beneath the seabed outside the territorial sea of the Party;
- (f) goods of sea-fishing and other goods taken by vessels of the Party from the sea outside the territorial sea of the Parties;
- (g) goods produced on board factory ships of the Party from the goods referred to in subparagraph (f);
- (h) goods taken by the Party or a person of the Party from the seabed or subsoil beneath the seabed outside the territorial sea of the Party, provided that the Party has rights to exploit such seabed or subsoil in accordance with international law;
- (i) articles collected in the Party which can no longer perform their original purpose nor are capable of being restored or repaired and which are fit only for disposal or for the recovery of raw materials;
- (j) scrap and waste derived from manufacturing or processing operations or from consumption in the Party and fit only for disposal or for the recovery of raw materials;
- (k) raw materials recovered in the Party from articles which can no longer perform their original purpose nor are capable of being restored or repaired; and
- (l) goods obtained or produced in the Area of the Party exclusively from the goods referred to in subparagraphs (a) through (k).

Article 3.4

Goods Produced Using Non-originating Materials

1. For the purposes of subparagraph (c) of Article 3.2, a good shall qualify as an originating good of a Party if it satisfies the applicable product specific rule set out in Annex 2 (Product Specific Rules).

2. For the purposes of paragraph 1, the rule requiring that the materials used have undergone a change in tariff classification or a specific manufacturing or processing operation, shall apply only to non-originating materials.

3. A good that does not undergo the required change in tariff classification or a specific manufacturing or processing operation shall be considered as an originating good of a Party if:

- (a) in the case of a good other than those specified in subparagraph (b), the total value of non-originating materials used in the production of the good that have not undergone the required change in tariff classification or a specific manufacturing or processing operation does not exceed 10 per cent of the F.O.B.; or
- (b) in the case of a good classified under Chapters 50 through 63 of the Harmonized System, the weight of all non-originating materials used in the production of the good that have not undergone the required change in tariff classification does not exceed 10 per cent of the total weight of the good,

provided that it meets all other applicable criteria set out in this Chapter for qualifying as an originating good.

4. Paragraph 3 shall not apply to a good provided for in Chapters 1 through 24 of the Harmonized System, except where the non-originating material used in the production of the good is provided for in a different subheading than the good for which origin is being determined under this Article.

5. The value of non-originating materials referred to in paragraph 3 shall, however, be included in calculating the value of non-originating materials used in the production of the good.

Article 3.5
Calculation of Qualifying Value Content

1. For the purposes of paragraph 1 of Article 3.4, the product specific rules set out in Annex 2 (Product Specific Rules) using the value-added method require that the qualifying value content of a good, calculated in accordance with paragraph 2, is not less than the percentage specified by the rule for the good.

2. For the purposes of calculating the qualifying value content of a good, the following formula shall be applied:

$$Q.V.C. = \frac{F.O.B. - V.N.M.}{F.O.B.} \times 100$$

where:

Q.V.C. is the qualifying value content of a good, expressed as a percentage;

F.O.B. is, except as provided for in paragraph 3, the free-on-board value of a good payable by the buyer of the good to the seller of the good, regardless of the mode of shipment, not including any internal excise taxes reduced, exempted, or repaid when the good is exported; and

V.N.M. is the value of non-originating materials used in the production of a good.

3. F.O.B. referred to in paragraph 2 shall be the value:

- (a) adjusted to the first ascertainable price paid for a good from the buyer to the producer of the good or determined in accordance with Articles 1 through 8 of the Agreement on Customs Valuation, if there is free-on-board value of the good, but it is unknown and cannot be ascertained; or

- (b) determined in accordance with Articles 1 through 8 of the Agreement on Customs Valuation, if there is no free-on-board value of a good.

4. For the purposes of paragraph 2, the value of a non-originating material used in the production of a good in a Party:

- (a) shall be determined in accordance with the Agreement on Customs Valuation, and shall include freight, insurance where appropriate, packing and all the other costs incurred in transporting the material to the importation port in the Party where the producer of the good is located; or
- (b) if such value is unknown and cannot be ascertained, shall be the first ascertainable price paid for the material in the Party, but may exclude all the costs incurred in the Party in transporting the material from the warehouse of the supplier of the material to the place where the producer is located such as freight, insurance and packing as well as any other known and ascertainable cost incurred in the Party.

5. For the purposes of paragraph 2, the value of non-originating materials of a good shall not include the value of non-originating materials used in the production of originating materials of the Party which are used in the production of the good.

6. For the purposes of paragraph 2, the value of non-originating material produced in either Party may be limited to the value of materials contained therein that are not otherwise qualified as originating materials of either Party.

7. Paragraphs 5 and 6 may apply in calculating the value of any materials contained in a good as long as the documentary evidence of the value referred to therein is available.

8. For the purposes of subparagraph 3(b) or 4(a), in determining the value of a good or non-originating material, the Agreement on Customs Valuation shall apply *mutatis mutandis* to domestic acquisition of the good or the non-originating material including domestic transactions.

Article 3.6
Accumulation

For the purposes of determining whether a good qualifies as an originating good of a Party, an originating good of the other Party which is used as a material in the production of the good in the former Party may be considered to be an originating material of the former Party.

Article 3.7
Non-Qualifying Operations

1. A good shall not be considered to be an originating good of the exporting Party merely by reason of:

- (a) operations to ensure the preservation of products in good condition during transport and storage (such as drying, freezing, keeping in brine) and other similar operations;
- (b) changes of packaging and breaking up and assembly of packages;
- (c) disassembly;
- (d) placing in bottles, cases, boxes and other simple packaging operations;
- (e) collection of parts and components classified as a good in accordance with Rule 2(a) of the General Rules for the Interpretation of the Harmonized System;
- (f) mere making-up of sets of articles;
- (g) mere reclassification of goods without any physical change; or
- (h) any combination of operations referred to in subparagraphs (a) through (g).

2. Paragraph 1 shall prevail over the product specific rules set out in Annex 2 (Product Specific Rules).

Article 3.8
Consignment

A good shall not be considered to be an originating good if the good:

- (a) undergoes subsequent production or any other operation outside the Area of the exporting Party, other than repacking and relabelling for the purpose of satisfying the requirements of the importing Party, splitting up of the consignment, unloading, reloading, storing or any other operation necessary to preserve it in good condition or to transport the good to the importing Party during its transshipment and temporary storage; or
- (b) does not remain under customs control of one or more non-Parties while it is in those non-Parties.

Article 3.9
Unassembled or Disassembled Goods

1. Where a good satisfies the requirements of the relevant provisions of Articles 3.2 through 3.7 and is imported into a Party from the other Party in an unassembled or disassembled form but is classified as an assembled good in accordance with Rule 2(a) of the General Rules for the Interpretation of the Harmonized System, such a good shall be considered to be an originating good of the other Party.

2. A good assembled in a Party from unassembled or disassembled materials, which were imported into the Party and classified as an assembled good in accordance with Rule 2(a) of the General Rules for the Interpretation of the Harmonized System, shall be considered as an originating good of the Party, provided that the good would have satisfied the applicable requirements of the relevant provisions of Articles 3.2 through 3.7 had each of the non-originating materials among the unassembled or disassembled materials been imported into the Party separately and not in an unassembled or disassembled form.

Article 3.10
Fungible Goods and Materials

1. For the purposes of determining whether a good qualifies as an originating good of a Party, where fungible materials consisting of originating materials of the Party and non-originating materials that are commingled in an inventory are used in the production of the good, the origin of the materials may be determined pursuant to an inventory management method recognised in the Generally Accepted Accounting Principles in the Party.

2. Where fungible goods consisting of originating goods of a Party and non-originating goods are commingled in an inventory and, prior to exportation do not undergo any production process or any operation in the Party where they were commingled other than unloading, reloading or any other operation to preserve them in good condition, the origin of the good may be determined pursuant to an inventory management method recognised in the Generally Accepted Accounting Principles in the Party.

Article 3.11
Indirect Materials

Indirect materials used in the production of a good shall be treated as originating materials of the Party where the good is produced.

Article 3.12
Accessories, Spare Parts and Tools

1. In determining whether all the non-originating materials used in the production of a good undergo the applicable change in tariff classification or a specific manufacturing or processing operation set out in Annex 2 (Product Specific Rules), accessories, spare parts or tools delivered with the good that form part of the good's standard accessories, spare parts or tools, shall be disregarded, provided that:

- (a) the accessories, spare parts or tools are not invoiced separately from the good, whether or not they are separately described in the invoice; and

(b) the quantities and value of the accessories, spare parts or tools are customary for the good.

2. If a good is subject to a qualifying value content requirement, the value of the accessories, spare parts or tools shall be taken into account as the value of originating materials or non-originating materials, as the case may be, in calculating the qualifying value content of the good.

3. Where accessories, spare parts or tools are not customary for the good or are invoiced separately from the good, they shall be treated as separate goods for the purpose of origin determination.

Article 3.13 Packing Materials and Containers

1. Packing materials and containers for transportation and shipment of a good shall be disregarded 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 the good, shall be disregarded 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 set out in Annex 2 (Product Specific Rules).

3. If a good is subject to a qualifying value content requirement, 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 qualifying value content of the good.

Article 3.14 Documentary Evidence of Origin

For the purposes of this Chapter, the following documents shall be considered to be Documentary Evidence of Origin:

- (a) a Certificate of Origin referred to in Article 3.15; or
- (b) an origin certification document referred to in Article 3.16.

Article 3.15
Certificate of Origin

1. A Certificate of Origin shall be issued by an authorised body or other certification bodies of the exporting Party, following a written application submitted by an exporter, by a producer or, under the exporter's or producer's responsibility, by their authorised representative located in the exporting Party.

2. The Certificate of Origin shall:

- (a) specify that the goods described therein are originating goods;
- (b) be made in respect of one or more goods and may include a variety of goods;
- (c) be in a printed format or such other medium agreed by the Parties;
- (d) contain the data elements set out in Annex 3 (Data Elements for Documentary Evidence of Origin);
- (e) remain valid for one year from the date on which it was issued; and
- (f) be applicable to a single importation, unless the Parties otherwise agree.

3. Where an exporter in a Party is not the producer of the good, the exporter may apply for a Certificate of Origin on the basis of:

- (a) its knowledge that the good qualifies as an originating good based on the information provided by the producer;

- (b) a written or electronic declaration or statement that the good qualifies as an originating good, provided by the producer; or
- (c) a written or electronic declaration or statement that the good qualifies as an originating good, voluntarily provided by the producer of the good directly to the authorised body or other certification bodies of the exporting Party on request of the exporter.

4. Each Party shall provide that its authorised bodies or other certification bodies carry out proper examination of each application for a Certificate of Origin to ensure that:

- (a) goods described therein are originating goods; and
- (b) the data to be contained in the Certificate of Origin corresponds to that in supporting documents submitted.

5. A Certificate of Origin which is submitted to the customs administration of the importing Party after its expiration date may be accepted, in accordance with the laws and regulations or administrative procedures of the importing Party, when failure to observe the time-limit is due to *force majeure* or other valid causes beyond the control of the exporter, producer or importer.

6. On entry into force of this Agreement, each Party shall provide the other Party with a sample format of a Certificate of Origin, the names, addresses, specimen signatures of representatives, and impressions of the stamps or official seals and other details of its authorised bodies or other certification bodies that the Parties may agree. Any subsequent change shall be promptly notified.

Article 3.16
Origin Certification Document

1. An origin certification document referred to in subparagraph (b) of Article 3.14 may be completed, in accordance with this Article, by an importer, by an exporter, or by a producer of the good on the basis of:
 - (a) the importer's, exporter's or producer's information demonstrating that the good is an originating good;
 - (b) in the case of an origin certification document completed by an importer, reasonable reliance on the exporter's or, if the exporter is not a producer of the good, producer's written or electronic declaration or statement that the good is an originating good; or
 - (c) in the case of an origin certification document completed by an exporter, reasonable reliance on, if the exporter is not the producer of the good, the producer's written or electronic declaration or statement that the good is an originating good.

2. An origin certification document shall:
 - (a) specify that the goods described therein are originating goods;
 - (b) be made in respect of one or more goods and may include a variety of goods;
 - (c) be in a print format or an electronic format;
 - (d) contain the data elements set out in Annex 3 (Data Elements for Documentary Evidence of Origin);
 - (e) remain valid for one year from the date on which it was completed; and
 - (f) be applicable to a single importation, unless the Parties otherwise agree.

3. An origin certification document which is submitted to the customs administration of the importing Party after its

expiration date may be accepted, in accordance with the laws and regulations or administrative procedures of the importing Party, when failure to observe the time-limit is due to *force majeure* or other valid causes beyond the control of the exporter, producer or importer.

4. On entry into force of this Agreement, each Party shall provide the other Party with a sample format of an origin certification document. Any subsequent change shall be promptly notified.

Article 3.17

Claim for Preferential Tariff Treatment

1. A claim for preferential tariff treatment shall be supported by Documentary Evidence of Origin.
2. Unless otherwise provided for in this Chapter, the importing Party shall grant preferential tariff treatment to a good imported from the exporting Party, provided that:
 - (a) the importer requests preferential tariff treatment at the time of importation;
 - (b) the good qualifies as an originating good of the exporting Party; and
 - (c) the importer provides, on request of the customs administration of the importing Party, Documentary Evidence of Origin and, where appropriate, other evidence that the good qualifies as an originating good, in accordance with the laws and regulations of the importing Party.

Note 1: Without prejudice to the authority of the customs administration of the importing Party to require the importer to provide the original of the Certificate of Origin, for the purposes of claiming preferential tariff treatment, the importer may present a copy of the Certificate of Origin on request of the customs administration of the importing Party, provided that the original of the Certificate of Origin is in possession of the importer.

Note 2: Without prejudice to the authority of the customs administration of the importing Party to require the importer to provide the original of the origin certification document, for the purposes of claiming preferential tariff treatment, the importer may present a copy of the origin certification document on request of the customs administration of the importing Party.

3. An importer should promptly make a corrected customs import declaration in a manner required by the customs administration of the importing Party and pay any duties owing where the importer has reason to believe that the Documentary Evidence of Origin on which a claim was based contains information that is not correct.

4. Where an originating good of the exporting Party is imported through one or more non-Parties, the importing Party may require importers that claim preferential tariff treatment for the good to submit evidence that the good meets the requirements for an originating good specified in Article 3.8 in accordance with the applicable laws and regulations of the importing Party.

5. Each Party shall provide that the importer may, in accordance with the laws and regulations of the importing Party, apply for:

- (a) in the case of Australia, where the importer does not claim preferential tariff treatment at the time of importation of the good, a refund of any excess customs duties paid as a result of the good not having been granted preferential tariff treatment, provided that the requirements in subparagraphs 2(b) and (c) are met; or

- (b) in the case of Japan, where the importer does not have Documentary Evidence of Origin in its possession at the time of importation of an originating good, the temporary deferment of the presentation of Documentary Evidence of Origin by paying the deposit for preferential tariff treatment, which will be released upon the presentation of Documentary Evidence of Origin to the customs administration of the importing Party.

Article 3.18

Waiver of Documentary Evidence of Origin

Each Party shall provide that Documentary Evidence of Origin shall not be required for:

- (a) an importation of a good whose customs value does not exceed, in the case of Australia, 1,000 Australian Dollars or, in the case of Japan, 100,000 Yen, or such amount as each Party may establish; or
- (b) an importation of a good for which the importing Party has waived the requirement for Documentary Evidence of Origin,

provided that the importation does not form part of a series of importations that may reasonably be considered to have been undertaken or arranged for the purpose of avoiding the Documentary Evidence of Origin requirements of Articles 3.15, 3.16 and 3.17.

Article 3.19

Measures Regarding an Erroneous or False Documentary Evidence of Origin

Each Party shall establish or maintain, in accordance with its laws and regulations, appropriate measures to prevent an erroneous or false Documentary Evidence of Origin from being used or circulated.

Article 3.20
Record-Keeping Requirements

1. Each Party shall provide that:
 - (a) an exporter or a producer that has been issued a Certificate of Origin or completed an origin certification document or provided a written or electronic declaration or statement referred to in subparagraph 3(b) or (c) of Article 3.15 or in subparagraph 1(b) or (c) of Article 3.16, shall maintain, for five years, in accordance with relevant laws and regulations of the exporting Party, all records necessary to demonstrate that the good for which the Documentary Evidence of Origin was issued or completed was an originating good;
 - (b) an importer claiming preferential tariff treatment:
 - (i) that is supported by a Certificate of Origin or an origin certification document completed by an exporter or a producer, shall maintain, for a period required under relevant laws and regulations of the importing Party, such documentation, including an original or copy of the Certificate of Origin or an original or copy of the origin certification document, as the importing Party may require relating to the importation of the good; or
 - (ii) that is supported by an origin certification document completed by the importer, shall maintain, for a period required under relevant laws and regulations of the importing Party, such documentation, including an original or copy of the origin certification document and all other records necessary to demonstrate that the good for which the origin certification document was completed was an originating good, as the importing Party may require relating to the importation of the good; and

- (c) an authorised body or other certification bodies of the exporting Party shall maintain, for five years, in accordance with relevant laws, regulations or accreditation requirements of the exporting Party, all relevant documents pertaining to a Certificate of Origin.

2. The records to be kept in accordance with this Article may include electronic records.

Article 3.21 Origin Verification

1. In order to ensure the proper application of this Chapter, the Parties shall, subject to available resources, assist each other to carry out verification of the information related to Documentary Evidence of Origin, in accordance with this Agreement and their respective laws and regulations.

2. For the purposes of determining whether a good imported into one Party from the other Party qualifies as an originating good, the customs administration of the importing Party may conduct a verification action by means of:

- (a) written requests for information from the importer;
- (b) written requests to the authorised body or customs administration of the exporting Party to verify the validity of Documentary Evidence of Origin subject to available resources of the exporting Party;
- (c) written requests for information from the exporter or producer referred to in subparagraph 1(a) of Article 3.20 in the exporting Party; or
- (d) verification visits to the premises of the exporter or producer referred to in subparagraph 1(a) of Article 3.20 in the exporting Party in accordance with Article 3.22.

3. For the purposes of subparagraphs 2(b) and (c), the customs administration of the importing Party shall allow the exporter, producer, authorised body or customs administration of the exporting Party a period of 45 days from the date of receipt of the written request to respond or any other time period agreed upon by the Parties.

4. The customs administration of the importing Party shall endeavour to complete any action under paragraph 2 to verify eligibility for preferential tariff treatment within six months. Upon the completion of the action under paragraph 2, the customs administration of the importing Party shall provide written notification of its decision as well as the legal basis and findings of fact on which the decision was made to:

- (a) where a written request for information under subparagraph 2(a), (b) or (c) was made, the importer, exporter, producer, authorised body or customs administration of the exporting Party who was requested to provide information; and
- (b) where a verification visit under subparagraph 2(d) was undertaken, the exporting Party and the exporter and the producer whose premises were visited.

Article 3.22 Verification Visit

1. A verification visit referred to in subparagraph 2(d) of Article 3.21 shall be conducted under the conditions set out by the exporting Party.

2. Prior to the verification visit referred to in paragraph 1:

- (a) the importing Party shall provide a request to the exporting Party in writing on the verification visit to the premises of the exporter or producer at least 40 days in advance of the proposed date of the visit; and

- (b) the exporting Party shall respond to the importing Party in writing on whether the requested verification visit is accepted or refused, within 30 days from the receipt by the exporting Party of the request referred to in subparagraph (a). The exporting Party shall request the written consent of the exporter or producer whose premises are to be visited.

3. The written request referred to in subparagraph 2(a) shall include:

- (a) the identity of the customs administration issuing the request;
- (b) the name of the exporter or producer to whom the request is addressed;
- (c) the date on which the written request is made;
- (d) the proposed date and place of the visit;
- (e) the objective and scope of the requested visit, including specific reference to the good subject to verification referred to in the Documentary Evidence of Origin; and
- (f) the names and titles of the officials of the customs administration of the importing Party who will participate in the visit.

Article 3.23

Denial of Preferential Tariff Treatment

1. The importing Party may deny a claim for preferential tariff treatment where:

- (a) the good does not meet the requirements of this Chapter;
- (b) the exporter, producer or importer of the good fails or has failed to comply with any of the relevant requirements for obtaining preferential tariff treatment;

- (c) the exporting Party fails to respond to the importing Party in writing on the requested verification visit in accordance with subparagraph 2(b) of Article 3.22, or provides a written response indicating that the requested verification visit has been refused;
- (d) in the case that a claim for preferential tariff treatment is supported by a Certificate of Origin or by an origin certification document completed by an exporter or producer, the importer and, either one of the exporter, producer or authorised body of the exporting Party fails to provide sufficient information requested by the customs administration of the importing Party in accordance with Article 3.21 which demonstrates that the good is an originating good; or
- (e) in the case that a claim for preferential tariff treatment is supported by an origin certification document completed by the importer, the information provided to the customs administration of the importing Party in accordance with subparagraph 2(a) of Article 3.21 is not sufficient to prove that the good qualifies as an originating good.

2. The importing Party may suspend or deny the application of preferential tariff treatment to a good that is the subject of an origin verification action under Article 3.21 for the duration of that action. However, the suspension of preferential tariff treatment shall not be a reason to stop the release of the good, provided any applicable deposit, fees, charges or duties are paid.

3. The importing Party may suspend or deny the application of preferential tariff treatment on any subsequent import of a good where the relevant authority had already determined that an identical good from the same producer was not eligible for such treatment, until it is demonstrated that the good complies with the provisions under this Chapter.

Article 3.24
Non-Party Invoices

The customs administration of the importing Party shall not reject Documentary Evidence of Origin only for the reason that the invoice was issued in a non-Party.

Article 3.25
Confidentiality

1. Each Party shall maintain, in accordance with its laws and regulations, the confidentiality of information provided to it as confidential pursuant to this Chapter, and shall protect that information from disclosure.

2. Information obtained by the customs administration of the importing Party pursuant to this Chapter:

- (a) may only be used by such authority for the purposes of this Chapter; and
- (b) shall not be used by the importing Party for presentation in criminal proceedings carried out by a court or a judge, unless such information was provided for use in criminal proceedings on request of the importing Party, through diplomatic channels or other channels established in accordance with the laws and regulations of the exporting Party.

3. This Article shall not preclude the use or disclosure of information to the extent such use or disclosure is required by the laws and regulations of the importing Party receiving the information. The importing Party shall, wherever possible, give advance notice of any such disclosure to the exporting Party.

Article 3.26
Penalties

Each Party shall adopt or maintain appropriate penalties or other measures against violations of its laws and regulations relating to the provisions of this Chapter.

Article 3.27

Transitional Provisions for Goods in Transport or Storage

1. Within four months after the date of entry into force of this Agreement, or such longer period as allowed by the importing Party, the customs administration of the importing Party shall grant preferential tariff treatment for an originating good of the exporting Party which, on the date of entry into force of this Agreement:

- (a) is in the process of being transported from the exporting Party to the importing Party; or
- (b) has not been released from customs control, including from temporary storage in a warehouse regulated by the customs administration of the importing Party.

2. For the purpose of paragraph 1, the provisions of Article 3.17 shall apply, and for the purpose of this Article, a Certificate of Origin may be issued retrospectively.

Article 3.28

Sub-Committee on Rules of Origin

1. For the purposes of the effective implementation and operation of this Chapter, the Parties hereby establish a Sub-Committee on Rules of Origin (hereinafter referred to in this Article as "the Sub-Committee").

2. The functions of the Sub-Committee shall be:

- (a) reviewing and making appropriate recommendations, as necessary, to the Joint Committee on:
 - (i) the implementation and operation of this Chapter;
 - (ii) any amendments to Annex 2 (Product Specific Rules) including amendments to reflect periodic amendments to the Harmonized System, and to Annex 3 (Data Elements for Documentary Evidence of Origin), proposed by either Party; and

- (iii) Chapter 2 of the Implementing Agreement referred to in Article 1.12 (General Provisions - Implementing Agreement);
- (b) considering any other matter as the Parties may agree related to this Chapter;
- (c) reporting the findings of the Sub-Committee to the Joint Committee; and
- (d) carrying out other functions as may be delegated by the Joint Committee.

3. The Sub-Committee shall commence a review of this Chapter, within one year following entry into force of this Agreement. This review will focus on improvements to the origin certification system. The review will also give consideration to the inclusion of additional product specific rules relating to specific manufacturing or processing operations and to extending applicable rules to goods exempted from their application at entry into force of this Agreement. The Sub-Committee will ensure that the rules as set out in subsequent agreements to which both Parties are party are, as appropriate and at the agreement of Parties, incorporated into this Agreement.

4. The Sub-Committee shall be composed of and co-chaired by representatives of the Governments of the Parties.

5. The Sub-Committee shall meet at such venues and times and by such means as may be agreed by the Parties.

Article 3.29 Amendments to Annexes 2 and 3

1. Without prejudice to the legal procedures of each Party with respect to the conclusion and amendment of international agreements, amendments relating to:

- (a) Annex 2 (Product Specific Rules); or
- (b) Annex 3 (Data Elements for Documentary Evidence of Origin),

may be made by diplomatic notes exchanged between the Governments of the Parties.

2. Any amendment pursuant to paragraph 1 shall enter into force on the date to be agreed by the Parties.