

3. The Working Group on Wine shall hold its first meeting on the date of entry into force of this Agreement.

## CHAPTER 3

### RULES OF ORIGIN AND ORIGIN PROCEDURES

#### SECTION A

##### Rules of origin

#### ARTICLE 3.1

##### Definitions

For the purposes of this Chapter:

- (a) "aquaculture" means the farming of aquatic organisms, including fish, molluscs, crustaceans, other aquatic invertebrates and aquatic plants from seed stock such as eggs, fry, fingerlings, larvae, parr, smolts or other immature fish at a post-larval stage by intervention in the rearing or growth processes to enhance production such as regular stocking, feeding or protection from predators;

- (b) "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;
- (c) "exporter" means a person, located in a Party, who, in accordance with the requirements laid down in the laws and regulations of that Party, exports or produces the originating product and makes out a statement on origin;
- (d) "importer" means a person who imports the originating product and claims preferential tariff treatment for it;
- (e) "material" means any matter or substance used in the production of a product, including any components, ingredients, raw materials or parts;
- (f) "non-originating material" means a material which does not qualify as originating under this Chapter, including a material whose originating status cannot be determined;
- (g) "preferential tariff treatment" means the rate of customs duties applicable to an originating good in accordance with paragraph 1 of Article 2.8;

- (h) "product" means any matter or substance resulting from production, even if it is intended for use as a material in the production of another product, and shall be understood as a good referred to in Chapter 2; and
- (i) "production" means any kind of working or processing including assembly.

## ARTICLE 3.2

### Requirements for originating products

1. For the purpose of the application of preferential tariff treatment by a Party to an originating good of the other Party in accordance with paragraph 1 of Article 2.8, the following products, if they satisfy all other applicable requirements of this Chapter, shall be considered as originating in the other Party:

- (a) wholly obtained or produced products as provided for in Article 3.3;
- (b) products produced exclusively from materials originating in that Party; or
- (c) products produced using non-originating materials provided they satisfy all applicable requirements of Annex 3-B.

2. For the purposes of this Chapter, the territorial scope of a Party does not include the sea, seabed and subsoil beyond its territorial sea.
3. If a product has acquired originating status, the non-originating materials used in the production of the product shall not be considered non-originating when that product is incorporated as material into another product.
4. The requirements set out in this Chapter relating to the acquisition of originating status shall be satisfied without interruption in a Party.

### ARTICLE 3.3

#### Wholly obtained products

1. For the purposes of Article 3.2, a product is wholly obtained in a Party if it is:
  - (a) a plant or plant product, grown, cultivated, harvested, picked or gathered there;
  - (b) a live animal born and raised there;
  - (c) a product obtained from a live animal raised there;

- (d) a product obtained from a slaughtered animal born and raised there;
- (e) an animal obtained by hunting, trapping, fishing, gathering or capturing there;
- (f) a product obtained from aquaculture there;
- (g) a mineral or other naturally occurring substance, not included in subparagraphs (a) to (f), extracted or taken there;
- (h) fish, shellfish or other marine life taken by a Party's vessel from the sea, seabed or subsoil beyond the territorial sea of each Party and, in accordance with international law, beyond the territorial sea of third countries;
- (i) a product produced exclusively from products referred to in subparagraph (h) on board a Party's factory ship beyond the territorial sea of each Party and, in accordance with international law, beyond the territorial sea of third countries;
- (j) a product other than fish, shellfish and other marine life taken by a Party or a person of a Party from the seabed or subsoil beyond the territorial sea of each Party, and beyond areas over which third countries exercise jurisdiction provided that that Party or a person of that Party has the right to exploit that seabed or subsoil in accordance with international law;

- (k) a product that is:
  - (i) waste or scrap derived from production there; or
  - (ii) waste or scrap derived from used products collected there, provided that those products are fit only for the recovery of raw materials; or
- (l) a product produced there, exclusively from products referred to in subparagraphs (a) to (k) or from their derivatives.

2. "A Party's vessel" in subparagraph 1(h) or "a Party's factory ship" in subparagraph 1(i) means respectively a vessel or a factory ship which:

- (a) is registered in a Member State of the European Union or in Japan;
- (b) flies the flag of a Member State of the European Union or of Japan; and
- (c) satisfies one of the following requirements:
  - (i) it is at least 50 per cent owned by one or more natural persons of a Party; or

- (ii) it is owned by one or more juridical persons<sup>1</sup>:
  - (A) which have their head office and their main place of business in a Party; and
  - (B) in which at least 50 per cent of the ownership belongs to natural persons or juridical persons of a Party.

#### ARTICLE 3.4

##### Insufficient working or processing

1. Notwithstanding subparagraph 1(c) of Article 3.2, a product shall not be considered as originating in a Party if solely one or more of the following operations are conducted on non-originating materials in the production of the product in that Party:

- (a) preserving operations such as drying, freezing, keeping in brine and other similar operations where their sole purpose is to ensure that the product remains in good condition during transport and storage;

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<sup>1</sup> For the purposes of this Chapter, "juridical person" means any legal entity duly constituted or otherwise organised under the applicable law, whether for profit or otherwise, and whether privately-owned or governmentally-owned, including any corporation, trust, partnership, joint venture, sole proprietorship or association.

- (b) changes of packaging;
- (c) breaking-up or assembly of packages;
- (d) washing, cleaning or removal of dust, oxide, oil, paint or other coverings;
- (e) ironing or pressing of textiles and textile articles;
- (f) simple painting or polishing operations;
- (g) husking, partial or total bleaching, polishing or glazing of cereals and rice;
- (h) operations to colour or flavour sugar or form sugar lumps; partial or total milling of sugar in solid form;
- (i) peeling, stoning or shelling of fruits, nuts or vegetables;
- (j) sharpening, simple grinding or simple cutting;
- (k) sifting, screening, sorting, classifying, grading or matching including the making-up of sets of articles;

- (l) simple placing in bottles, cans, flasks, bags, cases or boxes, simple fixing on cards or boards and all other simple packaging operations;
- (m) affixing or printing marks, labels, logos and other like distinguishing signs on products or their packaging;
- (n) simple mixing of products<sup>1</sup>, whether or not of different kinds;
- (o) simple addition of water, dilution, dehydration or denaturation<sup>2</sup> of products;
- (p) simple collection or assembly of parts to constitute a complete or finished article, or an article falling to be classified as complete or finished pursuant to Rule 2(a) of the General Rules for the Interpretation of the Harmonized System; disassembly of products in parts; or
- (q) slaughter of animals.

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<sup>1</sup> For the purpose of this Article, simple mixing of products covers mixing of sugar.

<sup>2</sup> For the purpose of this Article, denaturation covers in particular making products unfit for human consumption by the addition of toxic or foul-tasting substances.

2. For the purpose of paragraph 1, operations shall be considered simple if neither special skills nor machines, apparatus or equipment especially produced or installed are needed for carrying out those operations.

## ARTICLE 3.5

### Accumulation

1. A product that qualifies as originating in a Party shall be considered as originating in the other Party if used as a material in the production of another product in the other Party.
2. Production carried out in a Party on a non-originating material may be taken into account for the purpose of determining whether a product is originating in the other Party.
3. Paragraphs 1 and 2 do not apply if the production carried out in the other Party does not go beyond one or more of the operations referred to in subparagraphs 1(a) to (q) of Article 3.4.
4. In order for an exporter to complete the statement on origin referred to in subparagraph 2(a) of Article 3.16 for a product referred to in paragraph 2, the exporter shall obtain from its supplier information as provided for in Annex 3-C.

5. The information referred to in paragraph 4 shall apply to a single consignment or multiple consignments for the same material that is supplied within a period that does not exceed 12 months from the date on which the information was provided.

## ARTICLE 3.6

### Tolerances

1. If a non-originating material used in the production of a product does not satisfy the requirements set out in Annex 3-B, the product shall be considered as originating in a Party, provided that:

- (a) for a product classified under Chapters 1 to 49 or Chapters 64 to 97 of the Harmonized System<sup>1</sup>, the value of all those non-originating materials does not exceed 10 per cent of the ex-works or free on board price of the product;
- (b) for a product classified under Chapters 50 to 63 of the Harmonized System, tolerances apply as stipulated in Notes 6 to 8 of Annex 3-A.

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<sup>1</sup> For greater certainty, the references to the tariff classification number of the Harmonized System in this Chapter are based on the Harmonized System, as amended on 1 January 2017.

2. Paragraph 1 does not apply if the value of non-originating materials used in the production of a product exceeds any of the percentages for the maximum value of non-originating materials as specified in the requirements set out in Annex 3-B.

3. Paragraph 1 does not apply to products wholly obtained in a Party within the meaning of Article 3.3. If Annex 3-B requires that the materials used in the production of a product are wholly obtained, paragraphs 1 and 2 apply.

## ARTICLE 3.7

### Unit of qualification

1. The unit of qualification for the application of the provisions of this Chapter shall be the particular product which is considered as the basic unit when classifying the product under the Harmonized System.

2. When a consignment consists of a number of identical products classified under the same heading of the Harmonized System, each individual product shall be taken into account when applying the provisions of this Chapter.

## ARTICLE 3.8

### Accounting segregation

1. Originating and non-originating fungible materials shall be physically segregated during storage in order to maintain their originating status.
2. For the purpose of this Article, "fungible materials" means materials that are of the same kind and commercial quality, with the same technical and physical characteristics, and which cannot be distinguished from one another once they are incorporated into the finished product.
3. Notwithstanding paragraph 1, originating and non-originating fungible materials may be used in the production of a product without being physically segregated during storage provided that an accounting segregation method is used.
4. The accounting segregation method referred to in paragraph 3 shall be applied in conformity with an inventory management method under accounting principles which are generally accepted in the Party.

5. A Party may require, under conditions set out in its laws and regulations, that the use of an accounting segregation method is subject to prior authorisation by the customs authority of that Party. The customs authority of the Party shall monitor the use of the authorisation and may withdraw the authorisation if the holder makes improper use of the accounting segregation method or fails to fulfil any of the other conditions laid down in this Chapter.

6. The accounting segregation method shall be any method that ensures that at any time no more materials receive originating status than would be the case if the materials had been physically segregated.

## ARTICLE 3.9

### Sets

A set, classified pursuant to Rules 3(b) and (c) of the General Rules for the Interpretation of the Harmonized System, shall be considered as originating in a Party when all of its components are originating under this Chapter. Where the set is composed of originating and non-originating components, it shall as a whole be considered as originating in a Party, provided that the value of the non-originating components does not exceed 15 per cent of the ex-works or free on board price of the set.

## ARTICLE 3.10

### Non-alteration

1. An originating product declared for home use in the importing Party shall not have, after exportation and prior to being declared for home use, been altered, transformed in any way or subjected to operations other than to preserve them in good condition or than adding or affixing marks, labels, seals or any other documentation to ensure compliance with specific domestic requirements of the importing Party.
2. Storage or exhibition of a product may take place in a third country provided that it remains under customs supervision in that third country.
3. Without prejudice to Section B, the splitting of consignments may take place in a third country if it is carried out by the exporter or under its responsibility and provided that they remain under customs supervision in that third country.
4. In case of doubt as to whether the requirements provided for in paragraphs 1 to 3 are complied with, the customs authority of the importing Party may request the importer to provide evidence of compliance, which may be given by any means, including contractual transport documents such as bills of lading or factual or concrete evidence based on marking or numbering of packages or any evidence related to the product itself.

## ARTICLE 3.11

### Returning products

If an originating product of a Party exported from that Party to a third country returns to that Party, it shall be considered as non-originating unless it can be demonstrated to the satisfaction of the customs authority of that Party that the returning product:

- (a) is the same as that exported; and
- (b) has not undergone any operation other than that necessary to preserve it in good condition while in that third country or while being exported.

## ARTICLE 3.12

### Accessories, spare parts, tools and instructional or other information materials

1. For the purposes of this Article, accessories, spare parts, tools and instructional or other information materials are covered if:

- (a) the accessories, spare parts, tools and instructional or other information materials are classified and delivered with, but not invoiced separately from, the product; and

(b) the types, quantities and value of the accessories, spare parts, tools and instructional or other information materials are customary for that product.

2. In determining whether a product is wholly obtained, or satisfies a production process or change in tariff classification requirement as set out in Annex 3-B, accessories, spare parts, tools and instructional or other information materials shall be disregarded.

3. In determining whether a product meets a value requirement set out in Annex 3-B, the value of 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 the calculation for the purpose of the application of the value requirement to the product.

4. A product's accessories, spare parts, tools and instructional or other information materials shall have the originating status of the product with which they are delivered.

## ARTICLE 3.13

### Neutral elements

In order to determine whether a product is originating in a Party, it shall not be necessary to determine the originating status of the following elements:

- (a) fuel, energy, catalysts and solvents;
- (b) equipment, devices and supplies used to test or inspect the product;
- (c) gloves, glasses, footwear, clothing, safety equipment and supplies;
- (d) machines, tools, dies and moulds;
- (e) spare parts and materials used in the maintenance of equipment and buildings;
- (f) lubricants, greases, compounding materials and other materials used in production or used to operate equipment and buildings; and
- (g) any other material that is not incorporated into the product but the use of which in the production of the product can reasonably be demonstrated to be a part of that production.

## ARTICLE 3.14

### Packing materials and containers for shipment

Packing materials and containers for shipment that are used to protect a product during transportation shall be disregarded in determining the originating status of a product.

## ARTICLE 3.15

### Packaging materials and containers for retail sale

1. Packaging materials and containers in which a product is packaged for retail sale, if classified with the product, shall be disregarded in determining whether all the non-originating materials used in the production of the product have undergone the applicable change in tariff classification or a production process set out in Annex 3-B or whether the product is wholly obtained.
2. If a product is subject to a value requirement set out in Annex 3-B, the value of the packaging materials and containers in which the product is packaged for retail sale, if classified with the product, shall be taken into account as originating or non-originating, as the case may be, in the calculation for the purpose of application of the value requirement to the product.

## SECTION B

### Origin procedures

#### ARTICLE 3.16

##### Claim for preferential tariff treatment

1. The importing Party shall, on importation, grant preferential tariff treatment to a product originating in the other Party on the basis of a claim by the importer for preferential tariff treatment. The importer shall be responsible for the correctness of the claim for preferential tariff treatment and compliance with the requirements provided for in this Chapter.
2. A claim for preferential tariff treatment shall be based on:
  - (a) a statement on origin that the product is originating made out by the exporter; or
  - (b) the importer's knowledge that the product is originating.

3. A claim for preferential tariff treatment and its basis as referred to in subparagraph 2(a) or (b) shall be included in the customs import declaration in accordance with the laws and regulations of the importing Party. The customs authority of the importing Party may request, to the extent that the importer can provide such explanation, the importer to provide an explanation, as part of the customs import declaration or accompanying it, that the product satisfies the requirements of this Chapter.
4. The importer making a claim for preferential tariff treatment based on a statement on origin referred to in subparagraph 2(a) shall keep the statement on origin and, when required by the customs authority of the importing Party, provide a copy thereof to that authority.
5. Paragraphs 2 to 4 do not apply in the cases specified in Article 3.20.

## ARTICLE 3.17

### Statement on origin

1. A statement on origin may be made out by an exporter of a product on the basis of information demonstrating that the product is originating, including information on the originating status of materials used in the production of the product. The exporter is responsible for the correctness of the statement on origin and of the information provided.
2. A statement on origin shall be made out using one of the linguistic versions of the text set out in Annex 3-D on an invoice or on any other commercial document that describes the originating product in sufficient detail to enable its identification. The importing Party shall not require the importer to submit a translation of the statement on origin.
3. The customs authority of the importing Party shall not reject a claim for preferential tariff treatment due to minor errors or discrepancies in the statement on origin or for the sole reason that an invoice was issued in a third country.
4. A statement on origin shall be valid for 12 months from the date it was made out.

5. A statement on origin may apply to:

- (a) a single shipment of one or more products imported into a Party; or
- (b) multiple shipments of identical products imported into a Party within any period specified in the statement on origin not exceeding 12 months.

6. If, on request of the importer, unassembled or disassembled products within the meaning of Rule 2(a) of the General Rules for the Interpretation of the Harmonized System falling within Sections XV to XXI of the Harmonized System are imported by instalments, a single statement on origin for such products may be used in accordance with the requirements laid down by the customs authority of the importing Party.

## ARTICLE 3.18

### Importer's knowledge

The importer's knowledge that a product is originating in the exporting Party shall be based on information demonstrating that the product is originating and satisfies the requirements provided for in this Chapter.

## ARTICLE 3.19

### Record keeping requirements

1. An importer making a claim for preferential tariff treatment for a product imported into the importing Party shall, for a minimum of three years after the date of importation of the product, keep:
  - (a) if the claim was based on a statement on origin, the statement on origin made out by the exporter; or
  - (b) if the claim was based on the importer's knowledge, all records demonstrating that the product satisfies the requirements to obtain originating status.
2. An exporter who has made out a statement on origin shall, for a minimum of four years after the making out of that statement on origin, keep a copy of the statement on origin and all other records demonstrating that the product satisfies the requirements to obtain originating status.
3. The records to be kept in accordance with this Article may be held in electronic format.
4. Paragraphs 1 to 3 do not apply in the cases specified in Article 3.20.

## ARTICLE 3.20

### Small consignments and waivers

1. Products sent as small packages from private persons to private persons or forming part of travellers' personal luggage shall be admitted as originating products provided that such products are not imported by way of trade<sup>1</sup>, have been declared as satisfying the requirements of this Chapter and if there is no doubt as to the veracity of such a declaration.
  
2. Provided that the importation does not form part of importations that may reasonably be considered to have been made separately for the purpose of avoiding the requirement for a statement on origin, the total value of the products referred to in paragraph 1 shall not exceed:
  - (a) for the European Union, 500 euros in the case of small packages or 1,200 euros in the case of products forming part of travellers' personal luggage. The amounts to be used in other currency of a Member State of the European Union shall be the equivalent in that currency of the amounts expressed in euro as at the first working day of October of each year. The amounts shall be those published for that day by the European Central Bank, unless a different amount is communicated to the European Commission by 15 October of each year, and shall apply from 1 January of the following year. The European Commission shall notify Japan of the relevant amounts.

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<sup>1</sup> The imports which are occasional and consist solely of products for the personal use of the recipients or travellers or their families shall not be considered as imports by way of trade if it is evident from the nature and quantity of the products that no commercial purpose is in view.

(b) for Japan, 100,000 yen or such amount as Japan may establish.

3. Each Party may provide that the basis for the claim as referred to in paragraph 2 of Article 3.16 shall not be required for an importation of a product for which the importing Party has waived the requirements.

## ARTICLE 3.21

### Verification

1. For the purposes of verifying whether a product imported into a Party is originating in the other Party or whether the other requirements of this Chapter are satisfied, the customs authority of the importing Party may conduct a verification based on risk assessment methods, which may include random selection, by means of a request for information from the importer who made the claim referred to in Article 3.16. The customs authority of the importing Party may conduct a verification either at the time of the customs import declaration, before the release of products, or after the release of the products.

2. The information requested pursuant to paragraph 1 shall cover no more than the following elements:
- (a) if a statement on origin was the basis of the claim referred to in subparagraph 2(a) of Article 3.16, that statement on origin;
  - (b) the tariff classification number of the product under the Harmonized System and origin criteria used;
  - (c) a brief description of the production process;
  - (d) if the origin criterion was based on a specific production process, a specific description of that process;
  - (e) if applicable, a description of the originating and non-originating materials used in the production process;
  - (f) if the origin criterion was "wholly obtained", the applicable category (such as harvesting, mining, fishing and place of production);
  - (g) if the origin criterion was based on a value method, the value of the product as well as the value of all the non-originating or, as appropriate to establish compliance with the value requirement, originating materials used in the production;

- (h) if the origin criterion was based on weight, the weight of the product as well as the weight of the relevant non-originating or, as appropriate to establish compliance with the weight requirement, originating materials used in the product;
  - (i) if the origin criterion was based on a change in tariff classification, a list of all the non-originating materials including their tariff classification number under the Harmonized System (in two-, four- or six-digit format depending on the origin criteria); or
  - (j) the information relating to the compliance with the provision on non-alteration referred to in Article 3.10.
3. When providing the requested information, the importer may add any other information that it considers relevant for the purpose of verification.
4. If the claim for preferential tariff treatment was based on a statement on origin referred to in subparagraph 2(a) of Article 3.16, the importer shall inform the customs authority of the importing Party when the requested information may be provided in full or in relation to one or more data elements by the exporter directly.

5. If the claim for preferential tariff treatment was based on the importer's knowledge referred to in subparagraph 2(b) of Article 3.16, after having first requested information in accordance with paragraph 1 of this Article, the customs authority of the importing Party conducting the verification may request information from the importer if that customs authority considers that additional information is necessary in order to verify the originating status of the product. The customs authority of the importing Party may request the importer for specific documentation and information, if appropriate.

6. If the customs authority of the importing Party decides to suspend the granting of preferential tariff treatment to the product concerned while awaiting the results of the verification, release of the product shall be offered to the importer subject to appropriate precautionary measures including guarantees. Any suspension of preferential tariff treatment shall be terminated as soon as possible after the originating status of the product concerned or the fulfilment of the other requirements of this Chapter has been ascertained by the customs authority of the importing Party.

## ARTICLE 3.22

### Administrative cooperation

1. In order to ensure the proper application of this Chapter, the Parties shall cooperate, through the customs authority of each Party, in verifying whether a product is originating and in compliance with the other requirements provided for in this Chapter.

2. If the claim for preferential tariff treatment was based on a statement on origin referred to in subparagraph 2(a) of Article 3.16, after having first requested information in accordance with paragraph 1 of Article 3.21, the customs authority of the importing Party conducting the verification may also request information from the customs authority of the exporting Party within a period of two years after the importation of the products if the customs authority of the importing Party conducting the verification considers that additional information is necessary in order to verify the originating status of the product. The request for information should include the following information:

- (a) the statement on origin;
- (b) the identity of the customs authority issuing the request;
- (c) the name of the exporter;

- (d) the subject and scope of the verification; and
- (e) if applicable, any relevant documentation.

In addition to this information, the customs authority of the importing Party may request the customs authority of the exporting Party for specific documentation and information, where appropriate.

3. The customs authority of the exporting Party may, in accordance with its laws and regulations, request documentation or examination by calling for any evidence or by visiting the premises of the exporter to review records and observe the facilities used in the production of the product.

4. Without prejudice to paragraph 5, the customs authority of the exporting Party receiving the request referred to in paragraph 2 shall provide the customs authority of the importing Party with the following information:

- (a) the requested documentation, where available;
- (b) an opinion on the originating status of the product;
- (c) the description of the product subject to examination and the tariff classification relevant to the application of this Chapter;
- (d) a description and explanation of the production process sufficient to support the originating status of the product;

- (e) information on the manner in which the examination was conducted; and
- (f) supporting documentation, if appropriate.

5. The customs authority of the exporting Party shall not provide the information referred to in paragraph 4 to the customs authority of the importing Party if that information is deemed confidential by the exporter.

6. Each Party shall notify the other Party of the contact details, including postal and email addresses, and telephone and facsimile numbers of the customs authorities and shall notify the other Party of any modification regarding such information within 30 days after the date of the modification.

### ARTICLE 3.23

#### Mutual assistance in the fight against fraud

In case of a suspected breach of the provisions of this Chapter, the Parties shall provide each other with mutual assistance, in accordance with the CMAA.

## ARTICLE 3.24

### Denial of preferential tariff treatment

1. Without prejudice to paragraph 3, the customs authority of the importing Party may deny preferential tariff treatment, if:
  - (a) within three months after the date of the request for information pursuant to paragraph 1 of Article 3.21:
    - (i) no reply is provided; or
    - (ii) if the claim for preferential tariff treatment was based on the importer's knowledge as referred to in subparagraph 2(b) of Article 3.16, the information provided is inadequate to confirm that the product is originating;
  - (b) within three months after the date of the request for information pursuant to paragraph 5 of Article 3.21:
    - (i) no reply is provided; or
    - (ii) the information provided is inadequate to confirm that the product is originating;

- (c) within 10 months after the date of the request for information pursuant to paragraph 2 of Article 3.22:
    - (i) no reply is provided; or
    - (ii) the information provided is inadequate to confirm that the product is originating; or
  - (d) following a prior request for assistance pursuant to Article 3.23 and within a mutually agreed period, in respect of products which have been the subject of a claim as referred to in paragraph 1 of Article 3.16:
    - (i) the customs authority of the exporting Party fails to provide the assistance; or
    - (ii) the result of that assistance is inadequate to confirm that the product is originating.
2. The customs authority of the importing Party may deny preferential tariff treatment to a product for which an importer claims preferential tariff treatment where the importer fails to comply with requirements of this Chapter other than those relating to the originating status of the products.

3. If the customs authority of the importing Party has sufficient justification to deny preferential tariff treatment under paragraph 1, in cases where the customs authority of the exporting Party has provided an opinion pursuant to subparagraph 4(b) of Article 3.22 confirming the originating status of the products, the customs authority of the importing Party shall notify the customs authority of the exporting Party of its intention to deny the preferential tariff treatment within two months after the date of receipt of that opinion. If such notification is made, consultations shall be held on request of a Party, within three months after the date of the notification. The period for consultation may be extended on a case by case basis by mutual agreement between the Parties. The consultation may take place in accordance with the procedure set out by the Committee on Rules of Origin and Customs-Related Matters established pursuant to Article 22.3. Upon the expiry of the period for consultation, the customs authority of the importing Party may deny the preferential tariff treatment solely on the basis of sufficient justification and after having granted the importer the right to be heard.

## ARTICLE 3.25

### Confidentiality

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

2. Information obtained by the authorities of the importing Party pursuant to this Chapter may only be used by those authorities for the purposes of this Chapter.
3. Confidential business information obtained from the exporter by the customs authority of the exporting Party or of the importing Party through the application of Articles 3.21 and 3.22 shall not be disclosed, unless otherwise provided for in this Chapter.
4. Information obtained by the customs authority of the importing Party pursuant to this Chapter shall not be used by the importing Party in any criminal proceedings carried out by a court or a judge, unless permission to use such information is granted by the exporting Party in accordance with its laws and regulations.

#### ARTICLE 3.26

##### Administrative measures and sanctions

Each Party shall impose administrative measures and, where appropriate, sanctions, in accordance with its laws and regulations, on any person who draws up a document, or causes a document to be drawn up, which contains incorrect information provided for the purpose of obtaining preferential tariff treatment for a product, who does not comply with the requirements set out in Article 3.19, or who does not provide the evidence or refuses the visit referred to in paragraph 3 of Article 3.22.

## SECTION C

### Miscellaneous

#### ARTICLE 3.27

##### Application of this Chapter to Ceuta and Melilla

1. For the purposes of this Chapter, in the case of the European Union, "Party" does not include Ceuta and Melilla.
2. Products originating in Japan, when imported into Ceuta or Melilla, shall in all respects be subject to the same customs treatment under this Agreement as that which is applied to products originating in the customs territory of the European Union under Protocol 2 of the Act of Accession of the Kingdom of Spain and the Portuguese Republic to the European Union. Japan shall apply to imports of products covered by this Agreement and originating in Ceuta and Melilla the same customs treatment under this Agreement as that which is applied to products imported from and originating in the European Union.
3. The rules of origin and origin procedures under this Chapter apply *mutatis mutandis* to products exported from Japan to Ceuta and Melilla and to products exported from Ceuta and Melilla to Japan.

4. Article 3.5 applies to the import and export of products between the European Union, Japan and Ceuta and Melilla.
5. Ceuta and Melilla shall be considered as a single territory.
6. The customs authority of the Kingdom of Spain shall be responsible for the application of this Article in Ceuta and Melilla.

#### ARTICLE 3.28

##### Committee on Rules of Origin and Customs-Related Matters

1. The Committee on Rules of Origin and Customs-Related Matters established pursuant to Article 22.3 (hereinafter referred to in this Chapter as "the Committee") shall be responsible for the effective implementation and operation of this Chapter, in addition to the other responsibilities specified in paragraph 1 of Article 4.14.

2. For the purposes of this Chapter, the Committee shall have the following functions:
  - (a) reviewing and making appropriate recommendations, as necessary, to the Joint Committee on:
    - (i) the implementation and operation of this Chapter; and
    - (ii) any amendments of the provisions of this Chapter proposed by a Party;
  - (b) adopting explanatory notes to facilitate the implementation of the provisions of this Chapter;
  - (c) setting the consultation procedure referred to in paragraph 3 of Article 3.24; and
  - (d) considering any other matter related to this Chapter as the representatives of the Parties may agree.

## ARTICLE 3.29

### Transitional provisions for products in transit or storage

The provisions of this Agreement may be applied to products which comply with the provisions of this Chapter and which on the date of entry into force of this Agreement are either in transit from the exporting Party to the importing Party or under customs control in the importing Party without payment of import duties and taxes, subject to the making of a claim for preferential tariff treatment referred to in Article 3.16 to the customs authority of the importing Party, within 12 months of that date.

## CHAPTER 4

### CUSTOMS MATTERS AND TRADE FACILITATION

## ARTICLE 4.1

### Objectives

The objectives of this Chapter are to:

- (a) promote trade facilitation for goods traded between the Parties while ensuring effective customs controls, taking into account the evolution of trade practices;