

Chapter 4  
Rules of Origin

Article 22  
Originating Goods

1. Except as otherwise provided for in this Chapter, a good shall be an originating good where:

- (a) the good is wholly obtained or produced entirely in the Area of one or both Parties, as defined in Article 38;
- (b) the good is produced entirely in the Area of one or both Parties exclusively from originating materials;
- (c) the good satisfies the requirements set out in Annex 4, as well as all other applicable requirements of this Chapter, when the good is produced entirely in the Area of one or both Parties using non-originating materials; or
- (d) except for a good provided for in Chapters 61 through 63 of the Harmonized System, the good is produced entirely in the Area of one or both Parties, but one or more of the non-originating materials that are used in the production of the good does not undergo an applicable change in tariff classification because:
  - (i) the good was imported into a Party in an unassembled or a disassembled form but was classified as an assembled good pursuant to Rule 2(a) of the General Rules for the Interpretation of the Harmonized System; or
  - (ii) the heading for the good provides for and specifically describes both the good itself and its parts and is not further subdivided into subheadings, or the subheading for the good provides for and specifically describes both the good itself and its parts;

provided that the regional value content of the good, determined in accordance with Article 23, is not less than 50 percent, unless otherwise provided for in Annex 4, and that the good satisfies all other applicable requirements of this Chapter.

2. For the purposes of this Chapter, the production of a good using non-originating materials that undergo an applicable change in tariff classification and satisfying other requirements, as set out in Annex 4, shall occur entirely in the Area of one or both Parties and every regional value content of a good shall be entirely satisfied in the Area of one or both Parties.

Article 23  
Regional Value Content

1. Except as provided for in paragraph 4 below and Article 26, the regional value content of a good shall be calculated on the basis of the transaction value method set out in paragraph 2 below.

2. For the purposes of calculating the regional value content of a good on the basis of the transaction value method, the following formula shall be applied:

$$\text{RVC} = \frac{\text{TV} - \text{VNM}}{\text{TV}} \times 100$$

where:

- RVC: the regional value content, expressed as a percentage;
- TV: transaction value of the good adjusted to a F.O.B. basis, except as provided for in paragraph 3 below; and
- VNM: value of non-originating materials used by the producer in the production of the good determined pursuant to Article 24.

3. For the purposes of paragraph 2 above, when the producer of the good does not export it directly, the transaction value of the good shall be adjusted to the point where the buyer receives the good from the producer in the Area of a Party where the producer is located.

4. In the event that there is no transaction value or the transaction value of the good is unacceptable under Article 1 of the Customs Valuation Code, the value of the good shall be determined in accordance with Articles 2 through 7 of the Customs Valuation Code.

5. A producer may average the regional value content for one or more goods classified in the same subheading under the Harmonized System that he produces in the same plant or in more than one plant in the Area of one Party, on the basis of either all the goods produced by the producer or only those goods exported to the other Party:

- (a) in its fiscal year or period; or
- (b) in any period of 1, 2, 3, 4 or 6 months.

Article 24  
Value of Materials

1. The value of a material:

- (a) shall be the transaction value of the material;  
or
- (b) in the event that there is no transaction value or the transaction value of the material is unacceptable under Article 1 of the Customs Valuation Code, shall be determined in accordance with Articles 2 through 7 of the Customs Valuation Code.

2. Where not included under subparagraph 1(a) or 1(b) above, the value of a material:

- (a) shall include freight, insurance, packing and all other costs incurred in transporting the material to the importation port in the Party where the producer of the good is located, except as provided for in paragraph 3 below; and
- (b) may include the cost of waste and spoilage resulting from the use of the material in the production of the good, less the value of reusable scrap or by-product.

3. The value of a non-originating material shall not include, where the producer acquires the material in the Area of the Party where the producer is located, freight, insurance, packing and all other costs incurred in transporting the material from the warehouse of the supplier of the material to the place where the producer is located; as well as any other known and ascertainable cost incurred in the Area of the producer of the good.

4. The value of non-originating materials used by the producer in the production of the good shall not include the value of the non-originating materials used by:

- (a) another producer in the production of an originating material which is acquired and used by the producer of the good in the production of such good; or
- (b) the producer of the good in the production of a self-produced originating material, which is designated by the producer as an intermediate material under Article 26.

Article 25  
*De Minimis*

1. A good shall be considered to be an originating good if the value of all non-originating materials used in the production of the good that do not undergo an applicable change in tariff classification set out in Annex 4 is not more than 10 percent of the transaction value of the good, adjusted to the basis set out in paragraph 2 or 3, as the case may be, of Article 23, and the good satisfies all other applicable requirements of this Chapter.

2. Where the good referred to in paragraph 1 above is also subject to a regional value content, the value of such non-originating materials shall be taken into account in determining the regional value of the good and the good shall be required to satisfy all other applicable requirements of this Chapter.

3. A good that is subject to a regional value content requirement pursuant to Annex 4 shall not be required to satisfy such requirement if the value of all non-originating materials is not more than 10 percent of the transaction value of the good, adjusted to the basis set out in paragraph 2 or 3, as the case may be, of Article 23.

4. Paragraph 1 above shall not apply to:

- (a) a good provided for in Chapters 50 through 63 of the Harmonized System; or
- (b) a good provided for in Chapters 1 through 27 of the Harmonized System, except where the non-originating material used in the production of the good is provided for in a different subheading to the good classified in Chapter 1, 4 through 15, or 17 through 27 of the Harmonized System for which the origin is being determined under this Article.

5. A good provided for in Chapters 50 through 63 of the Harmonized System that does not originate because certain fibers or yarns used in the production of the material that determines the tariff classification of the good do not undergo an applicable change in tariff classification set out in Annex 4, shall nonetheless be considered to originate if the total weight of all such fibers or yarns in that material is not more than 7 percent of the total weight of such material.

#### Article 26 Intermediate Materials

1. For the purposes of determining the regional value content of a good under Article 23, the producer of the good may designate as an intermediate material, any self-produced material used in the production of the good.

2. Where an intermediate material is subject to a regional value content requirement under subparagraph 1(d) of Article 22 or Annex 4, the value of the intermediate material shall be:

- (a) the total cost incurred with respect to all goods produced by the producer of the good which may be reasonably allocated to such intermediate material, in accordance with the Uniform Regulations referred to in Article 10; or
- (b) the sum of each cost which are part of the total cost incurred with respect to such intermediate material, in accordance with the Uniform Regulations referred to in Article 10.

In this case, the regional value content of such material shall be not less than the percentage set out in Annex 4 minus 5 percent.

#### Article 27 Accumulation

For the purposes of determining whether a good is an originating good, a producer of the good may accumulate his production with the production of one or more producers in the Area of one or both Parties, of materials incorporated in the good, in a manner that the production of the materials is considered to have been performed by that producer, provided that the provisions of Article 22 are satisfied.

Article 28  
Fungible Goods and Materials

1. For the purposes of determining whether a good is an originating good, where originating and non-originating fungible materials that are commingled in an inventory, are used in the production of a good, the origin of the materials may be determined pursuant to an inventory management method set out in paragraph 3 below.

2. Where originating and non-originating fungible goods are commingled in an inventory and, prior to exportation do not undergo any production process or any operation in the Area of the Party where they were commingled other than unloading, loading or any other operation necessary to preserve it in good condition or to transport the good to the other Party, the origin of the good may be determined pursuant to an inventory management method set out in paragraph 3 below.

3. The inventory management methods for fungible goods or materials shall be the following:

- (a) "FIFO method" (first in-first out) is the inventory management method by which the origin of the number of fungible goods or materials first received in the inventory is considered to be the origin of the same number of fungible goods or materials first withdrawn from the inventory;
- (b) "LIFO method" (last in-first out) is the inventory management method by which the origin of the number of fungible goods or materials last received in the inventory is considered to be the origin of the same number of fungible goods or materials first withdrawn from the inventory; or
- (c) "average method" is the inventory management method by which, except as provided for in paragraph 4 below, the origin of fungible goods or materials withdrawn from an inventory is based on the ratio, calculated under the following formula:

$$\text{ROM} = \frac{\text{TOM}}{\text{TONM}} \times 100$$

where:

ROM: ratio of originating fungible goods or materials;

TOM: total units of originating fungible goods or materials in the inventory prior to the shipment; and

TONM: total sum of units of originating and non-originating fungible goods or materials in the inventory prior to the shipment.

4. Where a good is subject to a regional value content requirement, the determination of value of non-originating fungible materials shall be made through the following formula:

$$\text{RNM} = \frac{\text{TNM}}{\text{TONM}} \times 100$$

where:

RNM: ratio of value of non-originating fungible materials;

TNM: total value of fungible non-originating materials in the inventory prior to the shipment; and

TONM: total value of originating and non-originating fungible materials in the inventory prior to the shipment.

5. Once an inventory management method set out in paragraph 3 above has been chosen, it shall be used through all the fiscal year or period.

#### Article 29 Sets, Kits or Composite Goods

1. Sets, kits and composite goods classified pursuant to Rule 3 of the General Rules for the Interpretation of the Harmonized System, and the goods specifically described as sets, kits or composite goods in the nomenclature of the Harmonized System, shall qualify as originating, where every good contained in the sets, kits or composite goods satisfies the applicable rule of origin for each of them under this Chapter.

2. Notwithstanding paragraph 1 above, a set, kit or composite good shall be considered as originating, if the value of all non-originating goods used in the collection of the set, kit or composite good does not exceed 10 percent of the transaction value of the set, kit or composite good, adjusted to the basis set out in paragraph 2 or 3, as the case may be, of Article 23, and such set, kit or composite good satisfies all other applicable requirements of this Chapter.

3. The provisions of this Article shall prevail over the specific rules of origin set out in Annex 4.

#### Article 30 Indirect Materials

Indirect materials shall be considered to be originating without regard to where they are produced and the value of such materials shall be their cost as reported in the accounting records of the producer of the good.

#### Article 31 Accessories, Spare Parts and Tools

1. 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 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 Annex 4, provided that:

- (a) the accessories, spare parts or tools are not invoiced separately from the good, without regard of whether they are separately detached in the commercial invoice; and
- (b) the quantities and value of the accessories, spare parts or tools are customary for the good.

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



## Article 32

### Packaging Materials and Containers for Retail Sale

1. Packaging materials and containers in which a good is packaged for retail sale shall, if classified with the good pursuant to Rule 5 of the General Rules for the Interpretation of the Harmonized System, 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 Annex 4.

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

## Article 33

### Packing Materials and Containers for Shipment

Packing materials and containers in which a good is packed for shipment shall be disregarded in determining whether:

- (a) all non-originating materials used in the production of the good undergo an applicable change in tariff classification set out in Annex 4; and
- (b) the good satisfies a regional value content requirement.

## Article 34

### Non-Qualifying Operations

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

- (a) dilution with water or another substance that does not materially alter the characteristics of the good;
- (b) simple operations for the maintenance of the good during transportation or storing, such as ventilation, refrigeration, removal of damaged parts, drying or addition of substances;
- (c) sieving, classification, selection;
- (d) packing, repacking or packaging for retail sale;

- (e) collection of goods to form sets, kits or composite goods;
- (f) application of stamps, labels or similar distinctive signs;
- (g) washing, including removal of dust, oxide, oil, paint or other coverings;
- (h) mere collection of parts and components classified as a good, according to Rule 2(a) of the General Rules for the Interpretation of the Harmonized System. Mere collection does not include the collection of parts and components of disassembled originating goods that were previously disassembled for consideration of packaging, handling or transportation; or
- (i) mere disassembly of the good into parts or components. Disassembling originating goods that were previously assembled, for consideration of packaging, handling or transportation, shall not be considered as mere disassembly.

2. The provisions of this Article shall prevail over the specific rules of origin set out in Annex 4.

#### Article 35 Transshipment

1. An originating good shall be considered as non-originating, even if it has undergone production that satisfies the requirements of Article 22 if, subsequent to that production, outside the Areas of the Parties, the good:

- (a) undergoes further production, or operations other than unloading, reloading or any other operation necessary to preserve it in good condition or to transport it to the other Party; or
- (b) does not remain under surveillance of the customs authorities in one or more non-Parties where it undergoes transshipment or temporary storage in those non-Parties.

2. Evidence that an originating good has not lost its originating condition by means of paragraph 1 above shall be provided to the customs authority of the importing Party.

Article 36  
Application and Interpretation

1. For the purposes of this Chapter:
  - (a) the basis for tariff classification is the Harmonized System;
  - (b) the determination of transaction value of a good or of a material shall be made in accordance with the Customs Valuation Code; and
  - (c) all costs referred to in this Chapter shall be recorded and maintained in accordance with the Generally Accepted Accounting Principles applicable in the Party in which the good is produced.
  
2. For the purposes of this Chapter, in applying the Customs Valuation Code to determine the transaction value of a good or a material:
  - (a) the principles of the Customs Valuation Code shall apply to domestic transactions, with such modifications as may be required by the circumstances, as would apply to international transactions; and
  - (b) the provisions of this Chapter shall prevail over the Customs Valuation Code to the extent of any difference.

Article 37  
Sub-Committee, Consultation and Modifications

1. For the purposes of the effective implementation and operation of this Chapter and Chapter 5, a Sub-Committee on Rules of Origin, Certificate of Origin and Customs Procedures (hereinafter referred to in this Article as "the Sub-Committee") shall be established pursuant to Article 165.
  
2. The Sub-Committee shall meet at such venue and times as may be agreed by the Parties.
  
3. The functions of the Sub-Committee shall be:
  - (a) reviewing and making appropriate recommendations, as needed, to the Joint Committee on the implementation and operation of this Chapter and Chapter 5;

- (b) reviewing and making appropriate recommendations, as needed, to the Joint Committee on the:
  - (i) tariff classification and customs valuation matters relating to determinations of origin;
  - (ii) certificate of origin referred to in Article 39;
- (c) reviewing and making appropriate recommendations, as needed, to the Joint Committee on any modification to Annex 4, proposed by either Party, duly based on issues related with the determination of origin;
- (d) reviewing and making appropriate recommendations, as needed, to the Joint Committee on the Uniform Regulations referred to in Article 10;
- (e) considering any other matter as the Parties may agree related to this Chapter and Chapter 5;
- (f) reporting the findings of the Sub-Committee to the Joint Committee; and
- (g) carrying out other functions which may be delegated by the Joint Committee pursuant to Article 165.

4. The recommendation of the Sub-Committee shall be sent to the Joint Committee for necessary action under Article 165.

5. The Parties shall consult and cooperate to ensure that this Chapter and Chapter 5 are applied in an effective and uniform manner in accordance with the provisions, the spirit and the objectives of this Agreement.

6. Modifications to Annex 4 recommended by the Sub-Committee pursuant to subparagraph 3(c) above and proposed by both Parties may be adopted by the Joint Committee pursuant to subparagraph 2(e)(i) of Article 165. The adopted modifications shall be confirmed by an exchange of diplomatic notes and shall enter into force on the date specified in the said notes. The modified part of Annex 4 shall supersede the corresponding part provided for in Annex 4.

Article 38  
Definitions

For the purposes of this Chapter:

- (a) the term "Customs Valuation Code" means the Agreement on Implementation of Article VII of the General Agreement on Tariffs and Trade 1994 in Annex 1A to the WTO Agreement, as may be amended, including its interpretative notes;
- (b) the term "direct overhead" means overhead incurred during a period, directly related to the good, other than direct material costs and direct labor costs;
- (c) the term "factory ships of a Party" and "vessels of a Party" respectively means factory ships and vessels:
  - (i) which are registered in the Party;
  - (ii) which sail under the flag of that Party;
  - (iii) which are owned to an extent of at least 50 percent by nationals of that Party, or by an enterprise with its head office in that Party, of which the managers or representatives, chairman of the board of directors or the supervisory board, and the majority of the members of such boards are nationals of that Party, and of which, in addition, in the case of partnerships or limited companies, at least half the capital belongs to that Party or to public bodies or nationals or enterprises of that Party;
  - (iv) of which the master and officers are all nationals of that Party; and
  - (v) of which at least 75 percent of the crew are nationals of that Party;
- (d) the term "F.O.B." means free on board, regardless of the mode of transportation, at the point of direct shipment by the seller to the buyer;
- (e) the term "fungible goods" means goods that are interchangeable for commercial purposes, whose properties are essentially identical, not practical to distinguish by the naked eye;

- (f) the term "fungible materials" means materials that are interchangeable for commercial purposes and whose properties are essentially identical, not practical to distinguish by the naked eye;
- (g) the term "Generally Accepted Accounting Principles" means the recognized consensus or substantial authoritative support in a Party with respect to the recording of revenues, expenses, costs, assets and liabilities, the disclosure of information and the preparation of financial statements. These standards may be broad guidelines of general application as well as detailed standards, practices and procedures;
- (h) the term "goods wholly obtained or produced entirely in the Area of one or both Parties" means:
  - (i) mineral goods extracted in the Area of one or both Parties;
  - (ii) vegetable goods harvested in the Area of one or both Parties;
  - (iii) live animals born and raised in the Area of one or both Parties;
  - (iv) goods obtained from hunting or fishing in the Area of one or both Parties;
  - (v) fish, shellfish and other marine species taken by vessels of a Party from the sea outside the territorial seas of the Party;
  - (vi) goods produced on board factory ships of a Party from the goods referred to in subparagraph (v);
  - (vii) goods taken by a Party or a person of a Party from the seabed or beneath the seabed outside territorial seas of the Party, provided that the Party has rights to exploit such seabed;
  - (viii) waste and scrap derived from:
    - (AA) production in the Area of one or both Parties; or

- (BB) used goods collected in the Area of one or both Parties, provided such goods are fit only for the recovery of raw materials; or
- (ix) goods produced in the Area of one or both Parties exclusively from goods referred to in subparagraphs (i) through (viii), or from their derivatives, at any stage of production;
- (i) the term "indirect material" means a good used in the production, testing or inspection of a good but not physically incorporated into the good, or a good used in the maintenance of buildings or the operation of equipment associated with the production of a good, including:
  - (i) fuel and energy;
  - (ii) tools, dies and molds;
  - (iii) spare parts and materials used in the maintenance of equipment and buildings;
  - (iv) lubricants, greases, compounding materials and other materials used in production or used to operate equipment and buildings;
  - (v) gloves, glasses, footwear, clothing, safety equipment and supplies;
  - (vi) equipment, devices and supplies used for testing or inspecting the goods;
  - (vii) catalysts and solvents; and
  - (viii) any other goods that are not incorporated into the good but whose use in the production of the good can reasonably be demonstrated to be a part of that production;
- (j) the term "indirect overhead" means overhead incurred during a period, other than direct overhead, direct labor costs and direct material costs;
- (k) the term "intermediate material" means a material that is self-produced and used in the production of a good, and designated pursuant to Article 26;

- (l) the term "material" means a good that is used in the production of another good;
- (m) the term "packing materials and containers for shipment" means goods that are used to protect a good during transportation, other than packaging materials and containers for retail sale;
- (n) the term "place where the producer is located" means in relation to a good, the production plant of that good;
- (o) the term "producer" means a person who conducts a production of a good or material;
- (p) the term "production" means methods of obtaining goods including manufacturing, assembling, processing, growing, mining, harvesting, fishing, and hunting;
- (q) the term "self-produced material" means a material that is produced by the producer of a good and used in the production of that good;
- (r) the term "total cost" means the sum of the following elements, calculated in accordance with the Generally Accepted Accounting Principles of the Party and the Uniform Regulations referred to in Article 10:
  - (i) the direct materials cost used in the production of the good;
  - (ii) the direct labor cost used in the production of the good; and
  - (iii) the amount of direct and indirect overhead of the good, reasonably allocated to the good, except for those not to be included in the cost of the good;
- (s) the term "transaction value of a good" means the price actually paid or payable for a good with respect to a transaction of the producer of the good, pursuant to the principles of Article 1 of the Customs Valuation Code, adjusted in accordance with the principles of paragraphs 1, 3 and 4 of Article 8 of the Customs Valuation Code, regardless of whether the good is sold for export. For the purposes of this definition, the seller referred to in the Customs Valuation Code shall be the producer of the good;



- (t) the term "transaction value of a material" means the price actually paid or payable for a material with respect to a transaction of the producer of the good, pursuant to the principles of Article 1 of the Customs Valuation Code, adjusted in accordance with the principles of paragraphs 1, 3 and 4 of Article 8 of the Customs Valuation Code, regardless of whether the material is sold for export. For the purposes of this definition, the seller referred to in the Customs Valuation Code shall be the supplier of the material, and the buyer referred to in the Customs Valuation Code shall be the producer of the good; and
- (u) the term "used" means used or consumed in the production of goods.

Chapter 5  
Certification of Origin and Customs Procedures

Section 1  
Certification of Origin

Article 39  
Proof of Origin

For the purposes of this Section and Section 2, the following documents shall be considered as proofs of origin:

- (a) a certificate of origin referred to in Article 39A; and
- (b) an origin declaration referred to in Article 39B.

Article 39A  
Certificate of Origin

1. For the purposes of this Section and Section 2, upon the date of entry into force of this Agreement, the Parties shall establish a format for the certificate of origin in the Uniform Regulations referred to in Article 10.

2. The certificate of origin referred to in paragraph 1 above will have the purpose of certifying that a good being exported from one Party into the other Party qualifies as an originating good.

3. The certificate of origin referred to in paragraph 1 above shall be issued by the competent governmental authority of the exporting Party on request having been made in writing by the exporter or, under the exporter's responsibility, by his authorized representative, in accordance with paragraph 4 below. The certificate of origin must be stamped and signed by the competent governmental authority of the exporting Party or its designees at the time of issue.

For the purposes of this Article, the competent governmental authority of the exporting Party may designate other entities or bodies to be responsible for the issuance of the certificate of origin, prior authorization given under its applicable laws and regulations.

Where the competent governmental authority of the exporting Party designates other entities or bodies to carry out the issuance of the certificate of origin, the exporting Party shall notify in writing the other Party of its designees.

The exporting Party shall revoke the designation, where the issuance of certificates of origin by a designee is not in conformity with the provisions provided for in this Section and the situation warrants the revocation. For this purpose, the exporting Party shall consider views expressed by the importing Party in deciding on revoking the designation.

4. Prior to the issuance of a certificate of origin, an exporter that requests a certificate of origin must prove to the competent governmental authority of the exporting Party or its designees, that the good to be exported qualifies as an originating good.

Where an exporter is not the producer of the good, the exporter may request a certificate of origin on the basis of a declaration voluntarily provided by the producer of the good that demonstrates that such producer has proved to the competent governmental authority or its designees, that the good concerned qualifies as an originating good. Nothing in this paragraph shall be construed to oblige the producer of the good to certificate that the good qualifies as an originating good. If the producer decides not to provide the declaration concerned, the exporter shall be required to prove to the competent governmental authority or its designees that the good to be exported qualifies as an originating good.

5. The competent governmental authority or its designees shall issue a certificate of origin after the exportation of a good when it is requested by the exporter in accordance with paragraph 4 above. The certificate of origin issued retrospectively must be endorsed with the phrase set out in the Uniform Regulations referred to in Article 10.

6. In the event of theft, loss or destruction of a certificate of origin, the exporter may request to the competent governmental authority or its designees which issued it a duplicate made out on the basis of the export documents in their possession. The duplicate issued in this way must be endorsed with the phrase set out in the Uniform Regulations referred to in Article 10.

7. The certificate of origin for a good imported into the importing Party shall be completed in the English language. If the certificate of origin is not completed in the English language, a translation into the official language of the importing Party shall be attached thereto. If the certificate of origin is completed in the English language, a translation into the Spanish or the Japanese language shall not be required.

8. Each Party shall provide that a valid certificate of origin that fulfills the requirements of this Section and that is applicable to a single importation of a good, shall be accepted by the customs authority of the importing Party for 1 year or another period that the Parties may agree, after the date on which the certificate was issued.

9. The competent governmental authority of the exporting Party shall:

- (a) determine the administrative mechanisms for the issuing of the certificate of origin;
- (b) provide, at the request of the importing Party in accordance with Article 44, information relating to the origin of the goods for which preferential tariff treatment was claimed; and
- (c) provide the other Party with specimen impressions of stamps used in the offices of the competent governmental authority or its designees for the issue of the certificate of origin.

Article 39B  
Origin Declaration

1. An origin declaration referred to in paragraph (b) of Article 39, may be produced in accordance with this Article, only by an approved exporter provided for in paragraph 2 below.

2. The competent governmental authority of the exporting Party may grant the status of approved exporter to an exporter in the exporting Party, in order to authorize him to produce the origin declaration referred to in paragraph 1 above, on condition that:

- (a) the exporter makes frequent shipments of originating goods; and
- (b) the exporter fulfills the conditions set out in the laws and regulations of the exporting Party, including offering to the competent governmental authority of the exporting Party all guarantees necessary to verify the originating status of the goods.

3. The competent governmental authority of the exporting Party shall allocate to the approved exporter an authorization number which shall appear on the origin declaration.

4. Where an approved exporter is not the producer of the good, the approved exporter may produce origin declaration for the good on the basis of information or a declaration voluntarily provided by the producer of the good that the good concerned qualifies as an originating good. The producer providing such declaration shall provide to the competent governmental authority of the exporting Party all necessary information that the good qualifies as an originating good, when required.

5. The Parties shall establish the text for the origin declaration in the Uniform Regulations referred to in Article 10. An origin declaration shall be produced by an approved exporter by typing, stamping or printing on any commercial document (such as the invoice or the delivery note) which describes the good concerned in sufficient detail to enable it to be identified. The origin declaration does not have to bear the signature of the approved exporter in manuscript, provided that he gives the competent governmental authority of the exporting Party a written undertaking that he accepts full responsibility for any origin declaration which identifies him as if it had been signed in manuscript by him.

The origin declaration shall be considered to be produced on the date of issuance of such commercial document.

6. An origin declaration for a good may be produced by the approved exporter at the time of or after the exportation of the good.

7. The competent governmental authority of the exporting Party may verify the proper use of the authorization as approved exporter. The competent governmental authority of the exporting Party may withdraw the authorization at any time. It shall do so in accordance with the laws and regulations of the exporting Party where the approved exporter no longer fulfills the conditions referred to in this Article or otherwise makes improper use of the authorization.

8. Each Party shall provide that a valid origin declaration that fulfills the requirements of this Section and that is applicable to a single importation of a good, shall be accepted by the customs authority of the importing Party for 1 year or another period that the Parties may agree, after the date on which the declaration was produced.

9. The competent governmental authority of the exporting Party shall provide the importing Party with information on the composition of the authorization number and the names, addresses and authorization numbers of approved exporters and the dates from which the authorization comes into effect. Each Party shall notify the other Party of any changes, including the date from which such changes come into effect.

#### Article 39C Validity of Proof of Origin

Proofs of origin which are submitted to the customs authority of the importing Party after the final date for submission may be accepted when failure to observe the time-limit is due to *force majeure* beyond the control of the exporter or importer.

#### Article 40 Obligations Regarding Importations

1. Except as otherwise provided for in this Section, each Party shall require an importer that claims preferential tariff treatment for a good imported from the other Party to:

- (a) make a written declaration, based on a valid proof of origin, that the good qualifies as an originating good;
- (b) have the proof of origin in its possession at the time the declaration is made;
- (c) provide the proof of origin on the request of the customs authority; and
- (d) promptly make a corrected declaration and pay any duties owing where the importer has reason to believe that a proof of origin on which a declaration was based contains information that is not correct.

Notwithstanding the provisions of Article 39, the importer shall submit a Certificate of Origin for claiming preferential tariff treatment for the originating goods specified as "Specifically Described Goods" in Annex 2-B of the Uniform Regulations referred to in Article 10.

2. Where an importer claims preferential tariff treatment for a good imported into a Party from the other Party, the customs authority of the importing Party may deny preferential tariff treatment to the good if the importer fails to comply with any requirement under this Article.

3. Each Party shall ensure that, in the case that the importer at the time of importation does not have in its possession a proof of origin, the importer of the good may, in accordance with the domestic laws and regulations of the importing Party, provide the proof of origin and if required such other documentation relating to the importation of the good at a later stage, within a period not exceeding 1 year after the time of importation.

Article 41  
Obligations Regarding Exportations

1. Each Party shall ensure that an exporter having completed and signed a certificate of origin or a producer referred to in paragraph 4 of Article 39A that becomes to have reasons to believe that the certificate contains incorrect information, or the approved exporter referred to in paragraph 2 of Article 39B having produced an origin declaration that becomes to have reasons to believe that the good indicated in the origin declaration does not qualify as an originating good, shall promptly notify in writing, of any change that could affect the accuracy or validity of the certificate of origin or the origin declaration to all persons to whom he gave the certificate or the declaration, as well as to its competent governmental authority or its designees and to the customs authority of the importing Party. The notification shall be sent in the manner specified in the Uniform Regulations referred to in Article 10. If this is done prior to the commencement of a verification referred to in Article 44 and if the exporter or producer or the approved exporter demonstrates that at time of issuance of the certificate of origin or production of the origin declaration he possessed facts upon which he could reasonably rely to the effect that the good qualified as an originating good, the exporter or producer or the approved exporter shall not be subject to penalties for having submitted an incorrect certificate or the declaration.

2. Each Party shall ensure that the exporter referred to in paragraph 3 of Article 39A, the producer referred to in paragraph 4 of Article 39A, the producer who provides declaration under paragraph 4 of Article 39B or the approved exporter referred to in paragraph 2 of Article 39B, as the case may be, shall be prepared to submit at any time, at the request of the competent governmental authority or its designees of the exporting Party, all appropriate documents proving the originating status of the goods concerned as well as the fulfillment of other requirements under this Agreement.

Article 42  
Exceptions

Each Party shall ensure that a proof of origin shall not be required for:

- (a) a commercial importation of a good whose value does not exceed 1,000 United States dollars or its equivalent amount in the Party's currency, or such higher amount as it may establish, provided that it may require that the invoice accompanying the importation includes a statement indicating that the good qualifies as an originating good;
- (b) a non-commercial importation of a good whose value does not exceed 1,000 United States dollars or its equivalent amount in the Party's currency, or such higher amount as it may establish; or
- (c) an importation of a good for which the importing Party has waived the requirement for a proof 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 purposes of avoiding the certification requirements of Articles 39A, 39B and 40.

Section 2  
Administration and Enforcement

Article 43  
Records

1. Each Party shall ensure that an exporter referred to in paragraph 3 of Article 39A or a producer of the good referred to in paragraph 4 of Article 39A that has the documentation that proves that the good qualifies as an originating good for the purposes of requesting a certificate of origin shall maintain in that Party, for 5 years after the date on which the certificate was issued or for such longer period as the Party may specify, the records relating to the origin of a good for which preferential tariff treatment was claimed in the other Party, including records associated with:

- (a) the purchase of, cost of, value of, and payment for, the good that is exported;
- (b) the purchase of, cost of, value of, and payment for, all materials, including indirect materials, used in the production of the good that is exported; and



- (c) the production of the good in the form in which the good is exported.

2. Each Party shall ensure that the approved exporter who has produced an origin declaration shall keep a copy of the commercial document on which the origin declaration was produced as well as the documents referred to in paragraph 2 of Article 41 for 5 years after the date on which the origin declaration was produced.

3. Each Party shall ensure that the producer of a good who provides declaration under paragraph 4 of Article 39B shall keep the records relating to the origin of the good for 5 years, or a longer period where it is specified in the laws and regulations of the exporting Party, after the date on which the declaration referred to in paragraph 4 of Article 39B was given by the producer to the approved exporter, as specified in the laws and regulations of the exporting Party.

4. Each Party shall ensure that an importer claiming preferential tariff treatment for an imported good shall maintain for 5 years after the date of importation of the good or for such longer period as the Party may specify, such documentation as the Party may require relating to the importation of the good.

5. Each Party shall ensure that the competent governmental authority or its designees shall keep a record of the certificate of origin issued for a minimum period of 5 years after the date on which the certificate was issued. Such record will include all antecedents, which were presented to prove the qualification as an originating good.

#### Article 44 Origin Verifications

1. For the purposes of determining whether a good imported from the other Party under preferential tariff treatment qualifies as an originating good, the importing Party may conduct a verification through its customs authority, by means of:

- (a) request of information relating to the origin of a good to the competent governmental authority of the exporting Party on the basis of a proof of origin;
- (b) written questionnaires to an exporter or a producer of the good, referred to in Article 43, in the other Party;

(c) request to the exporting Party to collect information, including that contained in the documents maintained pursuant to Article 43, that demonstrate the compliance with Chapter 4 and to check, for that purpose, the facilities used in the production of the good, through a visit by its competent governmental authority along with the customs authority of the importing Party to the premises of an exporter or a producer of the good, referred to in Article 43, in the exporting Party, and to provide the collected information in the English language to the customs authority of the importing Party; or

(d) such other procedure as the Parties may agree.

2. Where the customs authority of the importing Party has initiated a verification in accordance with this Article, the provisions of Annex 5 shall be applied as appropriate.

3. For the purposes of subparagraph 1(a), the competent governmental authority of the exporting Party shall provide the information requested, in a period not exceeding 6 months, after the date of the request.

If the customs authority of the importing Party considers necessary, it may require additional information relating to the origin of the good. If additional information is requested by the customs authority of the importing Party, the competent governmental authority of the exporting Party shall provide the information requested in a period not exceeding 3 months after the date of the request.

If the competent governmental authority of the exporting Party fails to respond to the request within the period specified therein, the customs authority of the importing Party shall determine that the good subject to the verification does not qualify as an originating good, therefore considering the proof of origin as not valid, and shall deny it preferential tariff treatment.

4. The customs authority of the importing Party shall send the questionnaires referred to in subparagraph 1(b), to the exporters or producers in the exporting Party, in the manner specified in the Uniform Regulations referred to in Article 10.

5. The provisions of paragraph 1 above shall not prevent the customs authority or the competent governmental authority, as the case may be, of the importing Party from exercising its powers to take action in that Party, in relation with the compliance with its domestic laws and regulations by its own importers, exporters, or producers.

6. The exporter or producer who receives a questionnaire pursuant to subparagraph 1(b) shall have 45 days from the date of its receipt to answer such questionnaire and return it.

7. Where the importing Party has received the answer to the questionnaire referred to in subparagraph 1(b) within the period specified in paragraph 6 above, and considers that it requires more information to determine whether the good subject to the verification qualifies as an originating good, it may, through its customs authority, request additional information from the exporter or producer, by means of a subsequent questionnaire, in which case, the exporter or producer shall have 45 days from the date of its receipt to answer and return it.

8. (a) If the response by the exporter or producer to any of the questionnaires referred to in paragraph 6 or 7 above does not contain sufficient information to determine that the good is originating, the customs authority of the importing Party may determine that the good subject to the verification does not qualify as an originating good and may deny it preferential tariff treatment, upon written determination under paragraph 22 below.

(b) If the response to the questionnaire referred to in paragraph 6 above is not returned within the period specified therein, the customs authority of the importing Party shall determine that the good subject to the verification does not qualify as an originating good, therefore considering the proof of origin as not valid, and shall deny it preferential tariff treatment.

9. The conducting of a verification in accordance with one of the methods set forth in paragraph 1 above shall not preclude the use of another verification method provided for in paragraph 1 above.

10. When requesting the exporting Party to conduct a visit pursuant to subparagraph 1(c), the importing Party shall deliver a written communication with such request to the exporting Party, the receipt of which is to be confirmed by the latter Party, at least 30 days in advance of the proposed date of the visit. The competent governmental authority of the exporting Party shall request the written consent of the exporter or producer whose premises are to be visited.

11. The communication referred to in paragraph 10 above shall include:

- (a) the identity of the customs authority issuing the communication;
- (b) the name of the exporter or producer whose premises are requested to be visited;
- (c) the proposed date and place of the visit;
- (d) the object and scope of the proposed visit, including specific reference to the good or goods subject of the verification referred to in the proof of origin; and
- (e) the names and titles of the officials of the customs authority of the importing Party to be present during the visit.

12. Any modification to the information referred to in paragraph 11 above shall be notified in writing, prior to the proposed date of the visit referred to in subparagraph 11(c).

If the proposed date referred to in subparagraph 11(c) is to be modified, this shall be notified in writing at least 10 days prior to the date of the visit.

13. The exporting Party shall respond in writing to the importing Party, within 20 days of the receipt of the communication referred to in paragraph 10 above, if it accepts or refuses to conduct a visit requested pursuant to subparagraph 1(c).

14. Where the exporting Party refuses to conduct a visit, or that Party fails to respond to the communication referred to in paragraph 10 above within the period referred to in paragraph 13 above, the customs authority of the importing Party shall determine that the good or goods that would have been the subject of the visit do not qualify as originating goods, therefore considering the proof of origin as not valid, and shall deny them preferential tariff treatment.

15. The competent governmental authority of the exporting Party shall provide, within 45 days, or any other mutually agreed period, from the last day of the visit, to the customs authority of the importing Party the information obtained through the visit.

16. It is confirmed by both Parties that during the course of a verification referred to in paragraph 1 above, the customs authority of the importing Party may request information necessary for determining the origin of a material used in the production of the good.

17. For the purposes of obtaining information on the origin of the material used in the production of the good, the exporter or producer of the good referred to in paragraph 1 above may request a producer of the material to provide voluntarily the former with information relating to the origin of such material. In case the producer of such material desires, such information may be sent to the competent governmental authority of the exporting Party for the provision to the customs authority of the importing Party, without the involvement of the exporter or producer of the good.

18. Where the customs authority of the importing Party requests information relating to the origin of a material pursuant to paragraph 16 above, during the course of a verification in accordance with the method set forth in subparagraph 1(a), the information shall be provided by the competent governmental authority of the exporting Party in accordance with paragraph 3 above.

Where the customs authority of the importing Party requests information relating to the origin of a material pursuant to paragraph 16 above, during the course of a verification in accordance with the method set forth in subparagraph 1(b), the information shall be provided by the exporter or producer of the good or the competent governmental authority of the exporting Party, as the case may be, in accordance with paragraph 6 or 7 above, as appropriate and *mutatis mutandis*, provided that in case the information is provided by the competent governmental authority, the 45 day period referred to in paragraph 6 or 7 above shall mean the period beginning on the date of the receipt of the questionnaire by that exporter or producer.

Where the customs authority of the importing Party requests information relating to the origin of a material pursuant to paragraph 16 above, during the course of a verification in accordance with the method set forth in subparagraph 1(c), the information shall be provided by the competent governmental authority of the exporting Party in accordance with paragraph 15 above.

19. The requesting of information relating to the origin of a material pursuant to paragraph 16 above during the course of a verification in accordance with one of the methods set forth in paragraph 1 above shall not preclude the requesting of information relating to the origin of a material during the course of a verification in accordance with another verification method provided for in paragraph 1 above.

20. The customs authority of the importing Party shall determine that a material used in the production of the good is a non-originating material where the exporter or producer of the good or the competent governmental authority of the exporting Party, as the case may be, does not provide the information that demonstrates that the material in question qualifies as originating, or where the information provided is not sufficient to determine whether that material is originating. Such a determination shall not necessarily lead to a decision that the good itself is not originating.

21. Each Party shall, through its customs authority, conduct a verification of a regional value content requirement in accordance with the Generally Accepted Accounting Principles applied in the Party from which the good was exported.

22. After carrying out the verification procedures outlined in paragraph 1 above, the customs authority of the importing Party shall in the manner specified in the Uniform Regulations referred to in Article 10, provide the exporter or producer whose good is subject to the verification, a written determination of whether or not the good qualifies as an originating good under Chapter 4, including findings of fact and the legal basis for the determination.

23. Where the customs authority of the importing Party denies preferential tariff treatment to the good in question in the cases of paragraph 3, 8(b) or 14 above, a written determination thereof shall be sent to the exporter or producer, in the manner specified in the Uniform Regulations referred to in Article 10.

24. When the Party conducting a verification referred to in paragraph 1 above determines, based on the information obtained during the verification, that a good does not qualify as an originating good, and provides the exporter or producer with a written determination pursuant to paragraph 22 above, it shall grant the exporter or producer whose good was the subject of the verification, 30 days from the date of receipt of the written determination, to provide any comments or additional information before denying preferential tariff treatment to the good, and shall issue a final determination after taking into consideration any comments or additional information received from the exporter or producer during the above mentioned period, and shall send it to the exporter or producer in the manner specified in the Uniform Regulations referred to in Article 10.

25. Where the verification completed by the customs authority of the importing Party indicates that an exporter or a producer has repeatedly made false representations that a good imported into the Party qualifies as an originating good, the customs authority of the importing Party may withhold preferential tariff treatment to identical goods exported or produced by such person until that person establishes compliance with Chapter 4 to that authority. In taking such an action, the customs authority of the importing Party shall notify the person who completed and signed the certificate of origin or produced an origin declaration and the competent governmental authority of the exporting Party.

26. Communications from the importing Party to an exporter or producer in the exporting Party as well as the response to the questionnaire referred to in subparagraph 1(b) to the importing Party shall be conducted in the English language.

#### Article 45 Confidentiality

1. Each Party shall maintain, in accordance with its domestic laws and regulations, the confidentiality of information provided to it as confidential pursuant to Section 1 and this Section and shall protect that information from disclosure that could prejudice the competitive position of the persons providing the information.

2. Information obtained pursuant to Section 1 and this Section may only be disclosed, for the purposes of Section 1 and this Section, to those competent authorities of the Parties responsible for the administration and enforcement of determinations of origin and of customs duties and other indirect taxes on imports, and shall not be used by a Party in any criminal proceedings carried out by a court or a judge, unless the information is requested to the other Party and provided to the former Party, in accordance with the applicable laws of the requested Party or appropriate international cooperation agreements to which both Parties are parties.

Article 46  
Penalties

Each Party shall ensure that criminal, civil or administrative penalties or other appropriate sanctions against its importers, exporters and producers for committing illegal acts in connection with a proof of origin, including providing false declarations or documents relating to Section 1 and this Section to its customs authority, competent governmental authority or its designees, shall be established or maintained.

Article 47  
Review and Appeal

Each Party shall ensure that its importers have access to:

- (a) at least one level of administrative review of a decision by its customs authority, provided that such review is done by an official or office different from the official or office making the decision subject to review; and
- (b) judicial or quasi-judicial review of the decision referred to in subparagraph (a),

in accordance with its domestic laws and regulations.

Article 48  
Goods in Transit or Storage

The provisions of this Agreement may be applied to goods which comply with the provisions of Chapter 4 and Section 1, and which on the date of entry into force of this Agreement are in transit, in Japan or Mexico, or in temporary storage in bonded area, subject to the submission to the customs authority of the importing Party in accordance with the domestic laws and regulations of that Party, within 4 months of that date, of a certificate of origin issued retrospectively, in accordance with paragraph 5 of Article 39A, by the competent governmental authority or its designees of the exporting Party together with the documents showing that the goods have been transported directly.

Article 49  
Definitions

1. For the purposes of Section 1 and this Section:



- (a) the term "authorized representative" means the person designated in accordance with its domestic laws and regulations by the exporter to be responsible for completing and signing the certificate of origin on his behalf;
- (b) the term "commercial importation" means the importation of a good into a Party for the purposes of sale, or any commercial, industrial or other like use;
- (c) the term "competent governmental authority" means the authority that, according to the legislation of each Party, is responsible for the issuing of the certificate of origin, for the designation of the certification entities or bodies, or for granting the status of approved exporter referred to in Article 39B. In the case of Japan, the Minister of Economy, Trade and Industry or his authorized representative, and in the case of Mexico, the Ministry of Economy;
- (d) the term "customs authority" means the authority that, according to the legislation of each Party, is responsible for the administration of its customs laws and regulations. In the case of Japan, the Minister of Finance or his authorized representative, and in the case of Mexico, the Ministry of Finance and Public Credit;
- (e) the term "determination of origin" means a determination whether a good qualifies as an originating good in accordance with Chapter 4;
- (f) the term "exporter" means a person located in an exporting Party who exports a good from the exporting Party;
- (g) the term "identical goods" means goods that are the same in all respects, including physical characteristics, quality and reputation, irrespective of minor differences in appearance that are not relevant to a determination of origin;
- (h) the term "importer" means a person located in an importing Party who imports a good into the importing Party;
- (i) the term "preferential tariff treatment" means the duty rate applicable to an originating good in accordance with this Agreement;

- (j) the term "producer" means "producer", as defined in Article 38, located in a Party;
- (k) the term "valid certificate of origin" means a certificate of origin in the format referred to in paragraph 1 of Article 39A, completed and signed by the exporter and stamped and signed by the competent governmental authority of the exporting Party or its designees, in accordance with the provisions of Section 1 and with the instructions indicated in the format;
- (l) the term "valid origin declaration" means a declaration produced by an approved exporter in accordance with the provisions of Section 1;
- (m) the term "valid proof of origin" means a valid certificate of origin or a valid origin declaration; and
- (n) the term "value" means the value of a good or material for the purposes of applying Chapter 4.

2. Except as otherwise defined in this Article, the definitions of Chapter 4 shall apply.

Section 3  
Customs Cooperation for Trade Facilitation

Article 50  
Customs Cooperation for Trade Facilitation

For prompt customs clearance of goods traded between the Parties, each Party, recognizing the significant role of customs authorities and the importance of customs procedures in promoting trade facilitation, shall make cooperative efforts to:

- (a) make use of information and communications technology;
- (b) simplify its customs procedures; and
- (c) make its customs procedures conform, as far as possible, to relevant international standards and recommended practices such as those made under the auspices of the Customs Cooperation Council.