

Chapter 3  
Rules of Origin

Article 38  
Definitions

For the purposes of this Chapter:

- (a) The term "certification body" means an entity or a body designated or authorized to issue a Certificate of Origin by the competent authority of a Party, in accordance with its laws and regulations;
- (b) The term "competent authority" means the authority that, in accordance with the laws and regulations of each Party, is responsible for the issuance of a Certificate of Origin or for the designation of certification bodies, for the authorization of approved exporters referred to in Article 58 and for the verification of information related to Proofs of Origin referred to in Article 66:
  - (i) in the case of Japan, the Ministry of Economy, Trade and Industry, or its successor; and
  - (ii) in the case of Peru, the Ministry of Foreign Trade and Tourism, or its successor;
- (c) The term "exporter" means a person located in the exporting Party from where a good is exported by such person;
- (d) The term "factory ships of the Party" or "vessels of the Party" respectively, means factory ships or vessels which:
  - (i) are registered in the Party;
  - (ii) sail under the flag of the Party; and
  - (iii) meet one of the following conditions:

- (A) they are at least 50 percent owned by nationals of the Parties; or
  - (B) they are owned by a juridical person which has its head office and its principal place of business in either Party and which does not own any vessel or ship registered in a non-Party;
- (e) The term "fungible goods" or "fungible materials" respectively, means goods or materials that are interchangeable for commercial purposes, whose properties are essentially identical;
- (f) The term "Generally Accepted Accounting Principles" means the recognized consensus or substantial authoritative support within a Party, at a particular time as to which economic resources and obligations should be recorded as assets and liabilities, which changes in assets and liabilities should be recorded, how the assets and liabilities and changes in them should be measured, what information should be disclosed and how it should be disclosed, and which financial statements should be prepared. These standards may be broad guidelines of general application as well as detailed practices and procedures;
- (g) The term "identical goods" means goods that are the same in all respects, including physical characteristics and quality, irrespective of minor differences in appearance that are not relevant to the determination of origin;
- (h) The term "importer" means a person located in the importing Party from where a good is imported by such person;
- (i) The term "material" means a good that is used in the production of another good, including any components, ingredients, raw materials or parts;
- (j) The term "non-originating material" means a material which does not qualify as an originating good under this Chapter;

- (k) The term "originating material" means a material that qualifies as originating under this Chapter;
- (l) The term "packing materials and containers for shipment" means goods that are used to protect a good during transportation and shipment, other than packaging materials and containers for retail sale referred to in Article 49;
- (m) The term "preferential tariff treatment" means the rate of customs duties applicable to an originating good of the exporting Party in accordance with paragraph 2 of Article 21;
- (n) The term "producer" means a person who engages in the production of goods or materials;
- (o) The term "production" means a method of obtaining goods including growing, raising, extracting, picking, gathering, breeding, mining, harvesting, fishing, trapping, capturing, collecting, hunting, manufacturing, processing and assembling; and
- (p) The term "relevant authority" means:
  - (i) in the case of Japan, the Ministry of Finance, or its successor; and
  - (ii) in the case of Peru, the Ministry of Foreign Trade and Tourism, or its successor.

Article 39  
Originating Goods

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

- (a) the good is wholly obtained or produced entirely in the Party, as defined in Article 40;
- (b) the good is produced entirely in the Party exclusively from originating materials of the Party; or

- (c) the good satisfies the product specific rules (change in tariff classification, qualifying value content or specific manufacturing or processing operation) set out in Annex 3, when the good is produced entirely in the Party using non-originating materials,

and meets all other applicable requirements of this Chapter.

#### Article 40 Wholly Obtained Goods

For the purposes of subparagraph (a) of Article 39, the following goods shall be considered as wholly obtained or produced entirely in a Party:

- (a) live animals, born and raised in the Party;
- (b) goods obtained from live animals in the Party;
- (c) goods obtained by hunting, trapping, fishing conducted within the baselines, or capturing in the Party;
- (d) plants and plant products harvested, picked or gathered in the Party;
- (e) minerals and other naturally occurring substances not included in subparagraphs (a) through (d) extracted or taken in the Party;
- (f) goods of sea-fishing and other goods taken from the sea by vessels of the Party;

Note 1: For the purposes of this Chapter, goods of sea-fishing and other goods taken from the sea by vessels of a Party within 200 nautical miles from the baselines of the other Party shall be regarded as originating goods of the latter Party.

Note 2: Nothing in this Chapter shall be deemed to prejudice the positions of the respective Parties with respect to matters relating to the law of the sea.

- (g) goods produced on board factory ships of the Party from the goods referred to in subparagraph (f);
- (h) goods taken or extracted from the seabed or beneath the seabed outside the Party, provided that the Party has rights to exploit such seabed or subsoil in accordance with international law;
- (i) waste and scrap derived from:
  - (i) manufacturing or processing operations conducted in the Party; or
  - (ii) used goods collected in the Party, provided that such waste and scrap are fit only for the recovery of raw materials; and
- (j) goods obtained or produced in the Party exclusively from the goods referred to in subparagraphs (a) through (i).

Article 41  
Qualifying Value Content

1. For the purposes of calculating the qualifying value content (QVC) of a good, the following formula shall be applied:

$$\text{QVC} = \frac{\text{FOB} - \text{VNM}}{\text{FOB}} \times 100$$

where:

QVC: is the qualifying value content of a good, expressed as a percentage;

FOB: is, except as provided for in paragraph 2, the free-on-board value of a good payable by the buyer of the good to the seller of the good, regardless of the mode of shipment, not including any internal excise taxes reduced, exempted, or repaid when the good is exported; and

VNM: is the value of the non-originating materials used in the production of a good.

2. FOB referred to in paragraph 1 shall be:

- (a) substituted with the first ascertainable price paid for a good from the buyer to the producer of the good, if there is free-on-board value of the good, but it is unknown and cannot be ascertained; or
- (b) the value determined in accordance with Articles 1 through 8 of the Agreement on Customs Valuation, if there is no free-on-board value of a good.

3. For the purposes of paragraph 1, the value of the non-originating materials used in the production of a good in a Party shall be:

- (a) in the case of a material imported directly by the producer of a good: the CIF value; or
- (b) in the case of a material acquired by the producer in the Party:
  - (i) the CIF value; or
  - (ii) the transaction value, but may exclude all the costs incurred in the Party in transporting the material from the warehouse of the supplier of the material to the place where the producer is located such as freight, insurance and packing as well as any other known and ascertainable cost incurred in the Party in such transportation.

Note 1: For the purposes of this paragraph, the term "CIF value" means the customs value of the imported good in accordance with the Agreement on Customs Valuation and includes freight and insurance where appropriate, 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.

Note 2: For the purposes of this paragraph, the "transaction value" means the price actually paid or payable for a material with respect to a transaction of the producer of the material.

4. The Agreement on Customs Valuation shall apply, *mutatis mutandis*, for the purposes of calculating the value of a good or non-originating material referred to in subparagraphs 2(b) and 3(b).

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

#### Article 42 Non-Qualifying Operations

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

- (a) operations to ensure the preservation of goods in good condition during transport and storage (such as drying, freezing, keeping in brine) and other similar operations;
- (b) changes of packaging and breaking-up and assembly of packages;
- (c) placing in bottles, cases, boxes and other packaging operations, including packing, unpacking or repacking operations for retail sale purposes;
- (d) disassembly;
- (e) collection of parts and components classified as a good pursuant to Rule 2(a) of the General Rules for the Interpretation of the Harmonized System;
- (f) mere making-up of sets of articles; or
- (g) any combination of operations referred to in subparagraphs (a) through (f).

2. Paragraph 1 shall prevail over the product specific rules set out in Annex 3.

Article 43  
Accumulation

For the purposes of determining whether a good is an originating good of a Party:

- (a) an originating good of the other Party which is used as a material in the production of the good in the former Party may be considered as an originating material of the former Party;
- (b) the production in the other Party may be considered as that in the former Party; and
- (c) the production carried out at different stages by one or more producers within the Party or in the other Party may be taken into account, when the good is produced using non-originating materials,

provided that such good has undergone its last production process in the exporting Party and such production process goes beyond the operations provided for in Article 42.

Article 44  
*De Minimis*

1. A good that does not satisfy a change in tariff classification requirement set out in Annex 3 shall be considered as an originating good of a Party if:

- (a) in the case of a good classified under Chapter 1, 4 through 15, or 17 through 24 of the Harmonized System, the total value of non-originating materials used in the production of the good that have not undergone the required change in tariff classification does not exceed 10 percent of the FOB value of the good, determined pursuant to Article 41, and the non-originating material used in the production of the good is provided for in a subheading which is different from that of the good for which the origin is being determined under this Article;



- (b) in the case of a good classified under Chapter 25 through 49, or 64 through 97 of the Harmonized System, the total value of non-originating materials used in the production of the good that have not undergone the required change in tariff classification does not exceed 10 percent of the FOB value of the good, determined pursuant to Article 41; or
- (c) in the case of a good classified under Chapter 50 through 63, of the Harmonized System, the total weight of non-originating materials used in the production of the good that have not undergone the required change in tariff classification does not exceed 10 percent of the total weight of the good,

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

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

#### Article 45 Unassembled or Disassembled Goods

1. Where a good satisfies the requirements of the relevant provisions of Articles 39 through 42 and is imported into a Party from the other Party in an unassembled or disassembled form but is classified as an assembled good pursuant to Rule 2(a) of the General Rules for the Interpretation of the Harmonized System, such a good shall be considered as an originating good of the other Party.

2. A good assembled in a Party from unassembled or disassembled materials, which were imported into the Party and classified as an assembled good pursuant to Rule 2(a) of the General Rules for the Interpretation of the Harmonized System, shall be considered as an originating good of the Party, provided that the good would have satisfied the applicable requirements of the relevant provisions of Articles 39 through 42 if each of the non-originating materials among the unassembled or disassembled materials had been imported into the Party separately and not as an unassembled or disassembled form.

#### Article 46 Fungible Goods or Materials

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

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

3. Once an inventory management method set out in paragraphs 1 and 2 has been chosen, it shall be used throughout the fiscal year or fiscal period of the person that selected the inventory management method.

Article 47  
Sets

1. Sets classified pursuant to Rule 3 of the General Rules for the Interpretation of the Harmonized System and goods specifically described as sets in the nomenclature of the Harmonized System shall qualify as originating goods of a Party, where every good contained in the set qualifies as originating under this Chapter.

2. Notwithstanding paragraph 1, a set shall be considered as an originating good, if the value of all non-originating goods used in the set does not exceed 10 percent of the FOB value of the set determined pursuant to Article 41, and such set satisfies all other applicable requirements of this Chapter.

3. Provisions of this Article shall prevail over the product specific rules set out in Annex 3.

Article 48  
Accessories, Spare Parts and Tools

Accessories, spare parts or tools delivered with a good at the time of importation that form part of the good's standard accessories, spare parts or tools:

- (a) shall be disregarded in determining whether all the non-originating materials used in the production of a good have undergone the applicable change in tariff classification or a specific manufacturing or processing operation set out in Annex 3; and
- (b) shall be considered as originating or non-originating materials, as the case may be, used in the production of the good in calculating the qualifying value content of the good,

provided that the accessories, spare parts or tools are not invoiced separately from the good, whether or not they are separately described in the invoice; and that the quantities and value of the accessories, spare parts or tools are customary for the good.

#### Article 49

##### Packaging Materials and Containers for Retail Sale

1. Packaging materials and containers for retail sale, which are classified with the good, pursuant to Rule 5 of the General Rules for the Interpretation of the Harmonized System, shall be disregarded in determining the origin of the good, provided that:

- (a) the good is wholly obtained or entirely produced as defined in subparagraph (a) of Article 39;
- (b) the good is produced exclusively from originating materials, as defined in subparagraph (b) of Article 39; or
- (c) the good has undergone the applicable change in tariff classification or a specific manufacturing or processing operation set out in Annex 3.

2. If a good is subject to a qualifying value content requirement, packaging materials and containers used for retail sale shall be considered as originating or non-originating materials of the good, as the case may be.

#### Article 50

##### Packing Materials and Containers for Shipment

Packing materials and containers for transportation and shipment of a good shall not be taken into account in determining the origin of the good.

#### Article 51

##### Indirect Materials

In order to determine whether a good qualifies as an originating good of a Party, it shall not be necessary to determine the origin of the following elements used in its production:

- (a) fuel and energy;
- (b) tools, dies and molds;

- (c) spare parts and goods used in the maintenance of equipment and buildings;
- (d) lubricants, greases, compounding materials and other goods used in production or used to operate equipment and buildings;
- (e) gloves, glasses, footwear, clothing, safety equipment and supplies;
- (f) equipment, devices and supplies used for testing or inspecting the good;
- (g) catalysts and solvents; and
- (h) any other goods that are not incorporated into another good but whose use in the production of the good can reasonably be demonstrated to be a part of that production.

Article 52  
Consignment Criteria

1. An originating good of a Party shall be deemed to meet the consignment criteria when it is transported:

- (a) directly from the exporting Party to the importing Party without passing through a non-Party; or
- (b) from the exporting Party to the importing Party through one or more non-Parties for the purpose of transit, transshipment or temporary storage in warehouses in such non-Parties, provided that:
  - (i) it does not undergo operations other than unloading, reloading and any other operation to preserve it in good condition; and
  - (ii) the good remains under control of the customs authorities in such non-Parties.

2. If an originating good of a Party does not meet the consignment criteria referred to in paragraph 1, that good shall no longer be considered as an originating good of the Party.

Article 53  
Proofs of Origin

For the purposes of this Chapter, the following documents shall be considered as Proofs of Origin:

- (a) a Certificate of Origin referred to in Article 54; and
- (b) an origin declaration referred to in Article 57.

Article 54  
Certificate of Origin

1. A Certificate of Origin shall be issued by the competent authority of the exporting Party on application having been made by the exporter or, under the exporter's responsibility, by his authorized representative.

2. For the purposes of this Article, the competent authority of the exporting Party may designate, under the authorization given in accordance with the applicable laws and regulations of that Party, certification bodies for the issuance of a Certificate of Origin.

3. Each Party shall establish its form for the Certificate of Origin, which shall conform to the specimen provided for in Annex 4. The Certificate of Origin shall be completed in English by the exporter or, under the exporter's responsibility, by his authorized representative in accordance with the instructions provided for in the Overleaf Note for the Certificate of Origin in Annex 4.

4. A Certificate of Origin shall be issued by the time of shipment, except as provided for in Article 55.

5. The exporter applying for the issuance of a Certificate of Origin for a good shall be prepared to submit at any time, at the request of the competent authority of the exporting Party or its certification bodies which issue the Certificate of Origin, all appropriate documents proving that the good qualifies as an originating good of the exporting Party.

6. Where the exporter of a good is not the producer of the good in the exporting Party, the exporter may request a Certificate of Origin on the basis of:

- (a) a declaration given by the exporter to the competent authority of the exporting Party or its certification bodies based on the information or a declaration provided by the producer of the good; or
- (b) a declaration voluntarily given by the producer of the good directly to the competent authority of the exporting Party or its certification bodies at the request of the exporter.

7. A Certificate of Origin for a good shall be issued by the competent authority of the exporting Party or its certification bodies if the good can be considered as an originating good of the exporting Party.

8. The competent authority of the exporting Party or its certification bodies shall take any steps necessary to verify the qualification of the goods as originating goods of the exporting Party. For this purpose, they shall have the right to call for any evidence and to carry out any inspection of the documents or information relating to the originating status of the goods held by the exporter or producer referred to in this Article or any other check considered appropriate. They shall also ensure that the form referred to in paragraph 3 is duly completed.

9. The competent authority of each Party or its certification bodies shall number correlatively the Certificates of Origin issued.

10. An exporter to whom a Certificate of Origin for a good has been issued, or a producer referred to in subparagraph 6(b), shall promptly send a notification in writing of any change that could affect the accuracy or validity of the Certificate of Origin to the competent authority of the exporting Party, when such exporter or producer has reasons to believe that the Certificate of Origin contains incorrect information. The competent authority of the exporting Party shall, if it receives such notification, promptly notify the relevant authority of the importing Party, except where the Certificate of Origin has been returned by the exporter to the competent authority of the exporting Party or its certification bodies without being used for the purposes of claiming preferential tariff treatment.

#### Article 55

#### Certificate of Origin Issued Retrospectively

1. A Certificate of Origin may exceptionally be issued after shipment of the goods to which it relates if:
  - (a) it was not issued at the time of shipment because of errors or involuntary omissions or exceptional cases; or
  - (b) it is demonstrated to the satisfaction of the competent authority of the exporting Party that a Certificate of Origin was issued but was not accepted at importation for technical reasons.
2. Such Certificate of Origin shall bear the phrase "ISSUED RETROSPECTIVELY" in the Field 9.



## Article 56

### Issuance of a Duplicate Certificate of Origin

In the event of theft, loss or destruction of a Certificate of Origin before the expiration of its validity, the exporter may apply to the competent authority of the exporting Party or the certification body which issued it for a duplicate of the original Certificate of Origin on the basis of the export documents in their possession. The Certificate of Origin issued in this way shall bear in the Field 9 the phrase "DUPLICATE OF THE ORIGINAL CERTIFICATE OF ORIGIN NUMBER\_DATED\_". The duplicate Certificate of Origin shall be valid during the term of the validity of the original Certificate of Origin.

## Article 57

### Origin Declaration

1. An origin declaration referred to in subparagraph (b) of Article 53 may be made out, in accordance with this Article, only by an approved exporter provided for in Article 58.
2. An origin declaration may be made out only if the good concerned can be considered as an originating good of the exporting Party.
3. Where the approved exporter is not the producer of the good located in the exporting Party, an origin declaration for the good may be made out by the approved exporter on the basis of:
  - (a) information provided by the producer of the good to the approved exporter; or
  - (b) a declaration, given by the producer of the good to the approved exporter, that the good qualifies as an originating good of the exporting Party.
4. An approved exporter shall be prepared to submit at any time, at the request of the competent authority of the exporting Party, all appropriate documents proving that the good for which the origin declaration was made out qualifies as an originating good of the exporting Party.

5. The text of an origin declaration shall be as provided for in Annex 4. An origin declaration shall be made out in English by an approved exporter by typing, stamping or printing on the invoice, the delivery note or any other commercial document which describes the good concerned in sufficient detail to enable it to be identified. The origin declaration shall be considered to be made out on the date of the issuance of such commercial document.

6. An origin declaration for a good may be made out by the approved exporter by the time of or after the shipment of the good.

7. An approved exporter who has made out an origin declaration for a good shall promptly notify in writing to the competent authority of the exporting Party, when such approved exporter realizes that the good does not qualify as an originating good of the exporting Party. The competent authority of the exporting Party shall, if it receives such notification, promptly notify the relevant authority of the importing Party.

#### Article 58 Approved Exporter

1. The competent authority of the exporting Party may authorize an exporter located in the Party to make out an origin declaration as an approved exporter on condition that:

- (a) the exporter makes frequent shipments of originating goods of the exporting Party;
- (b) the exporter has sufficient knowledge and capability to make out an origin declaration appropriately and fulfils the conditions set out in the laws and regulations of the exporting Party; and
- (c) the exporter gives the competent 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.

2. The competent authority of the exporting Party shall allocate to the approved exporter an authorization number which shall appear on the origin declaration. The origin declaration does not have to be signed by the approved exporter.

3. The competent authority of the exporting Party shall ensure the proper use of the authorization by the approved exporter.

4. The competent 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 paragraph 1 or otherwise makes an incorrect use of the authorization.

#### Article 59 Notifications

1. Upon entry into force of this Agreement, each Party shall provide the other Party with:

- (a) the form of its Certificate of Origin; and
- (b) a register of the names of the certification bodies and officials accredited to issue Certificates of Origin, as well as of the specimen signatures and impressions of stamps used in the offices of the competent authority or its certification bodies for the issuance of Certificates of Origin.

2. Any change to the register shall be notified in writing to the other Party. The change shall enter into force five days after the date of notification or in another later date indicated in such notification.

3. The competent 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 any changes, including the date from which such changes come into effect.

Article 60  
Claim for Preferential Tariff Treatment

1. The importing Party shall grant preferential tariff treatment in accordance with this Agreement to an originating good of the exporting Party on the basis of a Proof of Origin submitted, when it is required, by the importer who claims preferential tariff treatment at the time of importation, in accordance with the procedures applicable in the importing Party.

2. Notwithstanding paragraph 1, the importing Party shall not require a Proof of Origin from importers for:

- (a) an importation of originating goods of the exporting Party whose aggregate customs value does not exceed US\$ 1,500 or its equivalent amount in the Party's currency, or such higher amount as may be established by the importing Party, 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 Proof of Origin; or
- (b) an importation of an originating good of the exporting Party, for which the importing Party has waived the requirement for a Proof of Origin.

3. Where an originating good of the exporting Party is imported through one or more non-Parties, the importing Party may require importers who claim preferential tariff treatment for that good to submit:

- (a) in the case of Japan:
  - (i) a copy of the through bill of lading; or
  - (ii) a certificate or any other information given by the customs authority of such non-Parties or other relevant entities, which evidences that the good has not undergone operations other than unloading, reloading and any other operation to preserve it in good condition in those non-Parties; and
- (b) in the case of Peru:

- (i) in the case of transit or transshipment: the transportation documents, such as the air waybill, the bill of lading, or the multimodal or combined transportation document, that certify the transport from the exporting Party to the importing Party, as the case may be; and
- (ii) in the case of storage: the transportation documents, such as the air waybill, the bill of lading, or the multimodal or combined transportation document, that certify the transport from the exporting Party to the importing Party, as the case may be, as well as, the documents issued by the customs authority or other competent authority of the non-Party that authorized this operation, according to its domestic legislation.

Article 61  
Obligations Related to Importations

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

- (a) make a written statement in the customs declaration, based on a valid Proof of Origin, that the good qualifies as an originating good of the exporting Party;
- (b) have the Proof of Origin in its possession at the time the statement referred to in subparagraph (a) is made;
- (c) have in its possession the documents referred to in paragraph 3 of Article 60, where applicable;
- (d) submit the Proof of Origin, as well as the documents indicated in subparagraph (c) on the request of the customs authority; and

- (e) 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.

2. Where an importer of an originating good at the time of importation does not have in his possession a Proof of Origin, the importer may, in accordance with the laws and regulations of the importing Party, apply for a refund of any excess customs duties paid or deposit imposed as a result of the goods not having been granted preferential tariff treatment, on presentation to the customs authority of the importing Party of the Proof of Origin issued or made out in accordance with Article 54 or Article 57 and, if required, such other documentation relating to the importation of the good, within a period not exceeding one year after the time of importation.

Note: Notwithstanding this paragraph, in the case of importation into Japan, refund of any excess duties paid shall not be applicable.

3. Paragraph 2 shall not be applicable in the case where the importer failed to declare to the customs authority of the importing Party, at the time of importation, that the good was an originating good under this Agreement, even though a valid Proof of Origin was provided to the customs authority subsequently.

4. Where an importer claims preferential tariff treatment for a good, the importing Party may deny preferential tariff treatment to the good where the good does not qualify as an originating good of the exporting Party or where the importer fails to comply with any of the relevant requirements of this Chapter.

## Article 62 Validity of Proof of Origin

1. A Proof of Origin shall be valid for 12 months from the date on which it is issued or made out, and shall be submitted for a single importation covered under one or more customs declarations within such period, when it is required by the customs authority of the importing Party.

2. In the event that the good is temporarily admitted or stored under control of the customs authority of the importing Party, the validation period of the Proof of Origin may be extended by the amount of time the customs authority has authorized such operations.

3. Proofs of Origin which are submitted to the customs authority of the importing Party after the final date for submission specified in paragraph 1 may be accepted for the purpose of granting preferential tariff treatment, where the failure to submit these documents by the final date set is due to exceptional circumstances.

### Article 63 Supporting Documents

The documents referred to in paragraph 5 of Article 54 and paragraph 4 of Article 57 used for the purposes of proving that the goods covered by a Proof of Origin qualify as originating goods of the exporting Party may consist of, *inter alia*, the following:

- (a) direct evidence of the processes carried out by the exporter or producer to obtain the goods concerned;
- (b) documents proving the originating status of the materials used in a Party, where the documents are used in accordance with its laws and regulations;
- (c) documents proving the working or processing of materials in a Party, where these documents are used in accordance with its laws and regulations;  
or
- (d) Proofs of Origin stating the originating status of the materials used, issued or made out in a Party.

Article 64  
Preservation of Documents and Records

1. The exporter to whom a Certificate of Origin was issued shall keep the documents referred to in paragraph 5 of Article 54 for at least five years after the date on which the Certificate of Origin was issued.

2. The competent authority of the exporting Party or its certification bodies issuing a Certificate of Origin shall keep a record of the Certificate of Origin, as well as the supporting information required for the certification, for at least five years after the date on which the Certificate of Origin was issued.

3. The approved exporter who has made out an origin declaration shall keep a copy of the origin declaration as well as the documents referred to in paragraph 4 of Article 57 for at least five years after the date on which the origin declaration was made out.

4. The producer of a good who provides a declaration referred to in subparagraphs 6(a) and 6(b) of Article 54 shall keep the records relating to the origin of the good for at least five years after the date on which the Certificate of Origin was issued or after the date on which the declaration referred to in subparagraph 6(a) of Article 54 was given by the producer to the exporter, except where the Certificate of Origin is not issued based on the declaration provided by the producer.

5. The producer of a good referred to in subparagraph 3(b) of Article 57 shall keep the records relating to the origin of the good for at least five years after the date on which the declaration referred to in subparagraph 3(b) of Article 57 was given by the producer to the approved exporter, except where the origin declaration is not made out based on the declaration provided by the producer.

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



Article 65  
Minor Errors

The customs authority of the importing Party shall disregard minor errors, such as slight discrepancies or omissions, typing errors or protruding from the designated field, provided that these minor errors are not such as to create doubts concerning the accuracy of the information included in the Proof of Origin.

Article 66  
Verifications Process

1. In order to ensure the proper application of this Chapter, the Parties shall assist each other to carry out verification of the information related to the Proof of Origin, in accordance with this Agreement and their respective laws and regulations.
  
2. For the purpose of determining whether a good imported from the other Party meets the requirements of this Chapter, the importing Party may conduct a verification through its relevant authority by means of:
  - (a) request of information relating to a Proof of Origin from the importer;
  
  - (b) request of information relating to a Proof of Origin from the competent authority of the exporting Party on the basis of the Proof of Origin;
  
  - (c) request of information relating to a Proof of Origin from the exporter, the approved exporter or the producer, keeping documents and records in accordance with Article 64 through the competent authority of the exporting Party; and

- (d) request to the exporting Party to check the facilities used in the production of the good, through a visit by the competent authority of the exporting Party along with the relevant authority of the importing Party as an observer to the premises of the exporter, the approved exporter or the producer, keeping documents and records in accordance with Article 64 and to provide the collected information after the visit.

3. For the purposes of paragraph 2, the relevant authority of the importing Party shall return a copy of the Proof of Origin to the competent authority of the exporting Party giving the reasons for the request for the verification. Any documents or information obtained suggesting that the information given in the Proof of Origin is incorrect shall be forwarded to the competent authority of the exporting Party in support of such request.

4. (a) For the purposes of subparagraphs 2(b) and 2(c), the competent authority of the exporting Party shall provide the information requested in a period not exceeding three months after the date of receipt of the request.

(b) If the relevant authority of the importing Party considers necessary, it may require additional information relating to the Proof of Origin. If additional information is requested by the relevant authority of the importing Party, the competent authority of the exporting Party shall provide the information requested in a period not exceeding two months after the date of receipt of the request.

5. (a) When requesting the exporting Party to conduct a visit pursuant to subparagraph 2(d), the relevant authority of the importing Party shall deliver a written communication with such request to the exporting Party at least 30 days before the proposed date of the visit, the receipt of which is to be confirmed by the exporting Party.

(b) The communication referred to in subparagraph 5(a) shall include:

- (i) the identity of the relevant authority of the importing Party issuing the communication;
  - (ii) the name of the exporter, the approved exporter or the producer, keeping documents and records in accordance with Article 64 in the exporting Party, whose premises are requested to be visited;
  - (iii) the proposed date and place of the visit;
  - (iv) the objective and scope of the proposed visit, including specific reference to the good subject of the verification referred to in the Proof of Origin; and
  - (v) the names and titles of the officials of the relevant authority of the importing Party to be present during the visit.
- (c) The exporting Party shall respond in writing to the importing Party, within 30 days after the receipt of the communication referred to in subparagraph 5(a), if it accepts or refuses to conduct the visit requested pursuant to subparagraph 2(d).
- (d) The exporting Party shall provide within 60 days or any other mutually agreed period after the last day of the visit, to the relevant authority of the importing Party the information obtained pursuant to subparagraph 2(d).

6. The relevant authority of the importing Party shall, within 12 months after the exporting Party receives the request for verification, provide the competent authority of the exporting Party with a written determination of whether or not the good meets the requirements of this Chapter, including findings of fact and the legal basis for the determination.

7. (a) The relevant authority of the importing Party may deny preferential tariff treatment to a good where the importer of the good does not respond to a request for information related to a Proof of Origin from the relevant authority of the importing Party pursuant to subparagraph 2(a).
- (b) The relevant authority of the importing Party may deny preferential tariff treatment, and a written determination thereof shall be sent to the competent authority of the exporting Party, where:
- (i) the requirements to provide the information within the period referred to in paragraph 4 or subparagraph 5(d) or to respond to the communication referred to in subparagraph 5(a) within the period referred to in subparagraph 5(c) are not met;
  - (ii) the request referred to in subparagraph 2(d) is refused; or
  - (iii) the information provided to the relevant authority of the importing Party pursuant to subparagraphs 2(b), 2(c) and 2(d) is not sufficient to prove that the good meets the requirements of this Chapter.
- (c) The customs authority of the importing Party may suspend preferential tariff treatment to the goods covered by the Proof of Origin concerned while awaiting the results of the verification. However, the suspension of the preferential tariff treatment shall not be a reason to stop the release of the goods.
- (d) A Party may suspend preferential tariff treatment to an importer on any subsequent import of a good when the relevant authority had already determined that an identical good from the same producer was not eligible for such treatment, until it is demonstrated that the good complies with the provisions under this Chapter.

Article 67  
Penalties

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

Article 68  
Confidentiality

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

2. Information obtained by the relevant authority of the importing Party pursuant to this Chapter:

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

Article 69  
Sub-Committee on Rules of Origin

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

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

- (a) reviewing and making appropriate recommendations, as necessary, to the Commission on:

- (i) the effective, uniform and consistent administration of this Chapter, including its interpretation, application and enhancement of cooperation in this regard;
  - (ii) any amendments to Annex 3, taking into account the amendment of the Harmonized System, as well as Annex 4 proposed by either Party; and
  - (iii) the Operational Procedures referred to in Article 70;
- (b) considering any other matter related to this Chapter, such as tariff classification and customs valuation related to the determination of origin, calculation of the qualifying value content, and development of an electronic certification system, as the Parties may agree;
  - (c) reporting the findings of the Sub-Committee to the Commission; and
  - (d) other functions assigned by the Commission.

3. The Sub-Committee shall hold meetings at such times and venues or by means, as may be agreed by the Parties.

#### Article 70 Operational Procedures

Upon entry into force of this Agreement, the Commission may adopt Operational Procedures that provide detailed guidelines regarding the provisions of this Chapter.

#### Article 71 Miscellaneous

Communications between the importing Party and the exporting Party shall be conducted in the English language.

## Article 72

### Transitional Provisions for Goods in Transit or Storage

This Agreement may be applied to goods 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 in temporary storage in a bonded warehouse under customs control. Such application shall be subject to the submission to the customs authority of the importing Party, within four months after the date of entry into force of this Agreement, of a Certificate of Origin issued retrospectively or an origin declaration, together with the documents pursuant to Article 60 showing that the goods comply with the consignment criteria established in Article 52.