# CHAPTER 3
# RULES OF ORIGIN

## Article 3.1
## Definitions

For the purposes of this Chapter:

**"aquaculture"** including mariculture, means the farming of aquatic organisms including fish, molluscs, crustaceans, other aquatic invertebrates, and aquatic plants, from seed stock such as eggs, fry, fingerlings and larvae, by intervention in the rearing or growth processes to enhance production, such as, regular stocking, feeding, protection from predators;

**"carrier"** means any vehicle for air, sea, or land transport. However, the carriage of product can be made through multimodal transport;

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

**"competent authority"** refers to:

(a) for exports from India, the Department of Commerce or any other agency notified from time to time; and for imports into India, the Central Board of Indirect Taxes and Customs (CBIC) or any other agency notified from time to time; and

(b) for Oman, Ministry of Commerce, Industry and Investment Promotion; and Directorate General of Customs, Royal Oman Police or any other authority notified from time to time;

**"Customs Administration"** refers to:

(a) for India, the CBIC or its successor of such customs administration; and

(b) for Oman, Directorate General of Customs, Royal Oman Police or its successor of such customs administration;

**"customs value"** means the value of a product as determined in accordance with Article VII of the GATT 1994, including its notes and

supplementary provisions thereof, and the Customs Valuation Agreement;

**"Ex Works price"** means the price paid for the product ex-works to the producer in the Party where the last working or processing is carried out, provided the price includes the value of all the materials used;

**"Free-On-Board (FOB) value"** means the price actually paid or payable to the exporter for a product when loaded onto the carrier at the named port of exportation, including the cost of the product, and all costs necessary to bring the product onto the carrier;

**"Fungible products or materials"** means products or materials that are interchangeable for commercial purposes and whose properties are essentially identical;

**"generally accepted accounting principles (GAAP)"** means the recognised consensus of substantial authoritative support in the territory of a Party, with respect to the recording of revenues, expenses, costs, assets, and liabilities, the disclosure of information and the preparation of financial statements. These principles may encompass broad guidelines of general application as well as detailed standards, practices, and procedures;

**"indirect material"** means a material used in the production, testing, or inspection of a product, or a material used in the maintenance of buildings, or the operation of equipment associated with the production of a product but not physically incorporated into the product, including:

(a) fuel and energy;

(b) tools, dies and moulds;

(c) spare parts and materials used in maintenance of equipment and buildings;

(d) lubricants, greases, and compounding materials 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 of products;

(g) catalysts and solvents; and

(h) any other material that is not incorporated into the product but for which the use in the production of the products can be reasonably demonstrated to be a part of that production;

**"issuing authority"** refers to the government authority(ies) or agency(ies) identified and designated by the competent authority of each Party for issuance of the certificate of origin, notified before the entry into force of the Agreement and as amended from time to time;

**"juridical person"** means any legal entity duly constituted or otherwise organised under the applicable laws and regulations, whether for profit or otherwise, and whether privately-owned or government-owned, including any corporation, trust, partnership, joint venture, sole proprietorship, or association;

**"manufacture"** refers to any kind of working or processing, or specific operations;

**"material"** means any ingredient, raw input, component or part that is used in the production of a product or physically incorporated into it;

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

**"originating material"** means materials that qualify as originating in accordance with this Chapter;

**"preferential tariff treatment"** means the customs duty rate applicable to an originating product, pursuant to each Party's Schedule in Annex 2A (Schedule of Specific Tariff Commitments of India) and Annex 2B (Schedule of Specific Tariff Commitments of Oman);

**"producer"** means a person who engages in the production of a product;

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

**"production"** refers to growing, cultivating, raising, mining, harvesting, picking, breeding, extracting, gathering, collecting, fishing, farming, aquaculture, trapping, hunting, capturing, manufacturing and processing, assembling a product or any combination thereof;

**"tariff classification"** means the classification of a product according to the HS, including its General Interpretative Rules and Explanatory Notes thereof;

**"territorial sea"** means waters extending up to 12 nautical miles from the baseline as defined by the Parties, in accordance with the United Nations Convention on the Law of the Sea, 1982; and

**"value of non-originating materials"** means the customs value at the time of importation of the non-originating materials used, i.e., the CIF value or, if this is not known and cannot be ascertained, the first ascertainable price paid for the materials in the territory of a Party.

## Article 3.2
## Application and Interpretation

1. For the purposes of this Chapter:

   (a) the basis for tariff classification is the HS; and

   (b) any cost and value referred to in this Chapter,

   shall be recorded and maintained in accordance with the GAAP applicable in the territory of the Party in which the product is produced.

## Article 3.3
## Origin Criteria

1. For the purposes of this Agreement, a product shall be deemed as originating in a Party and shall be eligible for preferential treatment provided it:

   (a) is wholly obtained or produced in the territory of the Party as per Article 3.4 (Wholly Obtained or Produced Product); or

   (b) has undergone sufficient working or production as per the Product Specific Rules (PSR) in Annex 3B (Product Specific Rules).

2. The producer has the option to use either of the following two methods of computing the value addition criteria of a product in the PSR in Annex 3B (Product Specific Rules):

   (a) Build-down Method

$$VA = \frac{\text{(FOB value or Ex Works price)} - \text{(Value of Non Originating Materials)}}{\text{FOB value or Ex Works Price}} X\ 100$$

(b) Build-up Method

$$VA = \frac{\text{Value of Originating Material} + \text{direct labour cost} + \text{direct overhead cost}}{\text{FOB value or Ex Works Price}} X\ 100$$

"VA" means the value addition in a product, expressed as a percentage.

3. In case of build-down method, the value of the non-originating materials shall be:

   (a) the CIF value at the time of importation of the materials; or

   (b) the earliest ascertained price paid for the materials of undetermined origin in the territory of the Party where the working or processing takes place.

4. In case of build-up method:

   (a) value of originating material shall consist of:

      (i) cost of materials;

      (ii) freight and insurance.

   (b) direct labour cost shall include:

      (i) wages;

      (ii) remuneration;

      (iii) other employee benefits associated with the manufacturing process.

   (c) direct overhead cost shall include, but not limited to:

      (i) real property items associated with the production process (insurance, factory rent and leasing, depreciation on buildings, repair and maintenance, taxes, and interests on mortgage);

      (ii) leasing of and interest payments for plant and equipment;

      (iii) factory security;

      (iv) insurance (plant, equipment and materials used in the manufacture of the products);

      (v) utilities (energy, electricity, water and other utilities directly attributable to the production of the product);

      (vi) research, development, design and engineering;

(vii) dies, moulds, tooling and the depreciation, maintenance and repair of plant and equipment;

(viii) royalties or licenses (in connection with patented machines or processes used in the manufacture of the product or the right to manufacture the product);

(ix) inspection and testing of materials and the products;

(x) storage and handling in the factory;

(xi) disposal of recyclable wastes;

(xii) cost elements in computing the value of raw materials, i.e., port and clearance charges and import duties paid for the dutiable component.

5. Notwithstanding paragraph 1, the final manufacture before export must have occurred in the exporting Party.

**Article 3.4**
**Wholly Obtained or Produced Product**

1. For the purposes of this Chapter, the following products shall be considered as being wholly obtained or produced in the territory of a Party:

(a) plant and plant products, including fruits, flowers, vegetables, trees, seaweed, fungi, algae and live plants, grown, cultivated, harvested, picked or gathered there;

(b) live animals born and raised there;

(c) products obtained from live animals born or raised there;

(d) mineral products and natural resources extracted or taken from that Party's soil, waters, seabed or subsoil beneath the seabed;

(e) product obtained from hunting, trapping, fishing or aquaculture, gathering, or capturing conducted there;

(f) product of sea fishing and other marine products taken from outside its territorial sea by a vessel or produced by a factory ship registered, recorded or licensed with a Party and flying its flag;

(g) product, other than products of sea fishing and other marine products, taken or extracted from the seabed or the subsoil of the continental shelf or the exclusive economic zone of any of the Parties;

(h) waste or scrap (excluding precious metals) resulting from consumption or manufacturing operations conducted in the territory of that Party, fit only for disposal or recovery of raw materials; and

(i) product produced in the territory of that Party exclusively from product referred to in subparagraphs (a) through (h).

**Article 3.5**
**De Minimis**

1. Notwithstanding paragraph 1 of Article 3.3 (Origin Criteria), non-originating materials that do not meet the required change in tariff classification (CTC), if applicable in the product specific rule (PSR), shall be deemed originating if:

   (a) their total value does not exceed 10% of the FOB value or Ex Works price of the exported product; or

   (b) in the case of textiles and clothing under chapters 50-63 of the HS, the weight of the non-originating material is less than 10% of the total weight of the materials used in the production of the exported product or 10% of the FOB value or Ex Works price.

2. In the case of a wholly obtained product, a *de minimis* value not exceeding 10% of the FOB value or Ex Works price of the exported product is allowed.

3. For the purpose of paragraph 1, the *de minimis* availed under this Article shall be included in the determination of the value of non-originating materials for arriving at the applicable VA as set out in Annex 3B (Product Specific Rules).

**Article 3.6**
**Minimal or Insufficient Operations and Processes**

1. Notwithstanding any provisions in this Chapter, a product shall not be considered originating in a Party merely by undergoing any one or more of the following operations on non-originating materials in the territory of that Party:

   (a) operations to ensure the preservation of products in good condition during transport, and storage (such as drying, freezing or thawing, keeping in brine, removal of damaged parts) and other similar operations;

(b) changes of packaging and breaking up and assembly of packages;

(c) washing, cleaning, and removal of dust, oxide, oil, paint or other coverings;

(d) simple[1] combining operations, labelling, pressing, cleaning or dry cleaning, packaging operations, or any combination thereof;

(e) cutting to length or width and hemming, or stitching or over locking of fabrics which are readily identifiable as being intended for a particular commercial use;

(f) for textiles: trimming or joining together by sewing looping, linking or attaching accessory articles such as straps, bands, beads, cords, rings and eyelets; ironing or pressing;

(g) simple painting and polishing;

(h) husking, partial or total bleaching, polishing, and glazing of cereals and rice;

(i) operations to colour sugar or form sugar lumps;

(j) peeling and removal of stones and shells from fruits, nuts and vegetables;

(k) unflaking, crushing, squeezing, slicing, macerating and removal of bones;

(l) sharpening, simple grinding or simple cutting and repackaging;

(m) simple operations such as removal of dust, sifting, screening, sorting, classifying, grading, matching, slitting, bending, coiling or uncoiling;

(n) simple placing in bottles, cans, flasks, bags, cases, boxes, fixing on cards or boards and all other simple packaging operations;

(o) affixing or printing marks, labels, logos and other like distinguishing signs on products or their packaging;

(p) simple mixing of products, whether or not of different kinds;

(q) mere dilution with water or another substance that does not materially alter the characteristics of the product;

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[1] For the purposes of this Article, "simple" describes an activity which needs neither special skills nor machines, apparatus or equipment especially produced or installed to carry out the activity.

(r) simple assembly of parts of articles to constitute a complete article or disassembly of products into parts;

(s) slaughter of animals; or

(t) simple testing, calibration, inspection or certification.

2. Operations or processes as set out in paragraph 1 of Article 3.3 (Origin Criteria) may be considered while determining eligibility of a product for preferential treatment to the extent sufficient working or production on a product includes operations or processes other than those listed in paragraph 1, or is in combination with operations or processes listed in paragraph 1.

3. Each Party shall provide that a product shall not be considered to be an originating product merely by reason of a production or pricing practice in respect of which it may be demonstrated, on the basis of a preponderance of evidence, that the object was to circumvent the provisions of this Chapter.

**Article 3.7**
**Bilateral Cumulation**

1. Originating products from the territory of a Party that are used in the production of a product in the territory of the other Party as materials for finished products shall be considered as materials originating in the territory of the other Party where the manufacture of the finished product has taken place.

2. Notwithstanding paragraph 1, the last production process should be beyond the minimal or insufficient operations as described in Article 3.6 (Minimal or Insufficient Operations and Processes).

**Article 3.8**
**Packages, Packing Materials and Containers**

1. The packages, packing materials and containers for retail sale in which a product is packed for retail sale, when classified together with the product according to Rule 5(b) of the General Rule for the Interpretation of the Harmonised System, shall be disregarded in determining whether all non-originating materials used in the manufacture of a product undergo a CTC applicable to the said product.

2. Wherever such a product is subject to value addition, the value of the packages, packing materials and containers for retail sale in which a

product is packed for retail sale shall be taken into account as originating or non-originating, as the case may be, in calculating the value addition for the product.

3. The containers and packing materials exclusively used for the transport or shipment of a product shall not be taken into account in determining the origin of the product.

**Article 3.9**
**Accessories, Spare Parts or Tools**

1. Each Party shall provide that accessories, spare parts, or tools classified and delivered with a product that forms a part of the product's standard accessories, spare parts, or tools as per standard trade practice, shall be considered as originating and part of the product in question. However, this is contingent on the following:

   (a) the accessories, spare parts, or tools are not invoiced separately from the product;

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

   (c) the value of the accessories, spare parts, or tools shall be taken into account as originating or non-originating materials, as the case may be, in calculating the value addition of the product in accordance with Article 3.3 (Origin Criteria).

**Article 3.10**
**Indirect Materials**

An indirect material shall be considered to be originating without regard to where it is produced.

**Article 3.11**
**Accounting Segregation**

1. Each Party shall provide that the determination of whether fungible products or materials are originating products shall be made ordinarily by physical segregation of each product or material; or, in case of any difficulty, an inventory management method, such as averaging, last-in, first-out, or first-in, first out, recognised in the GAAP of the Party in which

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

2. The inventory management method shall continue to be used for those fungible products or materials throughout the fiscal year of the Party and shall be recorded, applied and maintained in accordance with the GAAP applicable in the Party in which the product is manufactured. The inventory management method chosen must:

   (a) permit a clear distinction to be made between originating and non-originating materials including materials of undetermined origin acquired or kept in stock; and

   (b) guarantee over the relevant accounting period of 12 months that no more products receive originating status than would be the case if the materials had been physically segregated.

3. A producer using an inventory management system shall keep records of the operation of the system that are necessary for the competent authority of the Party concerned to verify compliance with the provisions of this Chapter.

4. The competent authority may require from its exporters that the application of the method for managing stocks as provided for in this Article will be subject to prior authorisation.

**Article 3.12**
**Direct Consignment**

1. The originating product of a Party shall be deemed to meet the direct consignment criteria under this Chapter when they are:

   (a) transported directly from the territory of that Party to the territory of the other Party; or

   (b) transported through the territory or territories of one or more non-Parties for the purpose of transit in such territory or territories, provided that:

      (i) the products remain under customs control in the territory of a non-Party and have not entered the trade or consumption in the non-Party;

      (ii) the products do not undergo operations other than unloading, reloading or operations necessary to preserve them in good condition; and

(iii) the transit entry is justified for geographical reason and by considerations related exclusively to transport requirements.

2. Evidence that the conditions set out in paragraph 1 have been fulfilled shall be supplied to the customs authorities of the importing Party, on request, by the production of bill of lading/airway bill and any other relevant transport document covering the passage from the exporting Party to the importing Party, including through the country of transit where applicable.

3. An importer shall, upon request, provide a certificate issued by the customs authorities of the country of transit mentioning the following information:

(a) giving an exact description of the products;

(b) stating the dates of unloading and reloading of the products and, where applicable, the names of the ships, or the other means of transport used; and

(c) certifying that the products remained under customs control in the territory of the non-Party, and did not enter into trade or commerce in the non-Party.

**Article 3.13**
**Proof of Origin**

1. For products originating in a Party and otherwise fulfilling the requirements of this Chapter, the proof of origin of an exported product shall be provided through any of the following means:

(a) a Certificate of Origin in electronic or hard copy format issued by issuing authority referred to in Article 3.14 (Certificate of Origin and Certification Procedures), signed and stamped by the exporter, electronically or otherwise:

(i) till the system of electronic signing and stamping is instituted for the exporter by either party, the exporter should manually append the signature and stamp on the printed Certificate of Origin issued by the issuing authority; and

(ii) in case the electronic Certificate of Origin cannot be issued by the issuing authority due to technical difficulties, a printed Certificate of Origin, issued with the official stamp of the issuing authority;

(b) a fully digitised Certificate of Origin (e-certificate) issued by issuing authority and exchanged by a mutually developed electronic system in accordance with Article 3.33 (Exchange of Electronic Data on Origin); or

(c) an origin declaration, when agreed by the Parties, in accordance with Article 3.34 (Origin Declaration).

2. A Certificate of Origin shall be valid for 12 months from the date of issue in the exporting Party.

3. The Certificate of Origin shall be submitted to the Customs Administration of the importing Party in accordance with the procedures applicable in that Party.

**Article 3.14**
**Certificate of Origin and Certification Procedures**

1. The Certificate of Origin shall be as per the format in Annex 3C (Certificate of Origin Template).

2. The Certificate of Origin shall be in the English language.

3. The Certificate of Origin shall bear a unique, sequential serial number separate for each office of issuance and affixed by the issuing authority in the exporting Party. In case of issuance of electronic Certificate of Origin, it shall bear a QR code as well.

4. The Certificate of Origin will be issued by the issuing authority of each Party. It shall bear the official stamp of the issuing authority.

5. The Certificate of Origin shall be valid for only one import declaration and may include one or more products.

6. The number and date of the commercial invoice or any other relevant documents shall be indicated in the box reserved for this purpose in the Certificate of Origin.

7. The Certificate of Origin shall be submitted within its validity period.

8. In exceptional circumstances, the Certificate of Origin may be accepted by the Customs Administration of the importing Party for the purpose of granting preferential tariff treatment even after the expiry of its validity, provided that the failure to observe the time limit results from *force majeure* or other valid reasons beyond the control of the exporter and the products have been imported before the expiry of the validity period of the said Certificate of Origin.

9. The Certificate of Origin shall be forwarded by the exporter to the importer. The customs authorities may require the original copy in case of manual issuance of Certificate of Origin.

10. Neither erasures nor superimposition shall be allowed on the Certificate of Origin. A new certificate of origin may be issued to replace the erroneous one.

11. The Certificate of Origin shall be issued either prior to, or within 5 working days from the date of exportation. However, under exceptional cases, where a Certificate of Origin has not been issued prior to, or within 5 working days from the date of exportation due to involuntary errors or omissions, or any other valid reasons, the Certificate of Origin may be issued retrospectively, bearing the words "ISSUED RETROSPECTIVELY" in box 4 of the Certificate of Origin, with the issuing authority also recording the reasons in writing on the exceptional circumstances due to which the certificate was issued retrospectively. The Certificate of Origin can be issued retrospectively within 12 months from the date of shipment.

12. In the event of theft, loss or destruction of a physical copy of the Certificate of Origin, the producer, exporter or their authorised representative may apply in writing to the issuing authority for a certified true copy of the original Certificate of Origin made on the basis of the export documents in their possession bearing the endorsement of the words "CERTIFIED TRUE COPY" (in lieu of the original certificate) and the date of issuance of the original Certificate of Origin. The certified true copy of a Certificate of Origin shall be issued within the validity period of the original Certificate of Origin. The exporter shall immediately notify the theft, loss or destruction and undertake not to use the original Certificate of Origin for exports under this Agreement to the competent authority.

13. Minor discrepancies between the Certificate of Origin and the documents submitted to the Customs Administration at the port of importation for the purpose of carrying out the formalities for importing the products shall not *ipso facto* invalidate the Certificate of Origin, if such Certificate of Origin corresponds to the products under importation. Minor discrepancies include typing errors or formatting errors, subject to the condition that these minor errors do not affect the authenticity of the Certificate of Origin or the accuracy of the information included in the Certificate of Origin. For greater clarity, discrepancies in the specimen stamps of the issuing authority shall not be regarded as minor discrepancies.

## Article 3.15
## Third-party Invoicing

1. An importing Party shall not deny a claim for preferential tariff treatment for the sole reason that an invoice was not issued by the exporter or producer of a product, provided that it meets the requirements in this Chapter.

2. The exporter of the products shall indicate "third-party invoicing" and such information as name, address, invoice date and number, and the country of the company issuing the invoice shall appear in box 7 of the Certificate of Origin as per the format in Annex 3C (Certificate of Origin Template).

## Article 3.16
## Authorities

1. The Certificate of Origin shall be issued by an issuing authority of a Party.

2. Each Party shall inform the competent authorities and the Customs Administration of the other Party of the names and addresses of the officials of the issuing authority designated to issue Certificates of Origin under this Chapter.

3. The Parties shall exchange specimen stamps of the authorities issuing the Certificate of Origin.

4. Each Party shall intimate the name, designation and contact details (address, phone number and e-mail) of its authorities:

   (a) to whom the specimen stamps of the issuing authorities of the other Party should be communicated:

      (i) India: CBIC, Department of Revenue, Government of India.

      (ii) Oman: Ministry of Commerce, Industry and Investment Promotion or any other relevant authority as notified by Oman.

   (b) to whom the references of verification of the Certificate of Origin issued by the Party, should be addressed:

      (i) India: Department of Commerce, Government of India.

      (ii) Oman: Ministry of Commerce, Industry and Investment Promotion.

(c) from whom the specimen stamps of the issuing authority of the other Party would be received:

(i) India: Department of Commerce, Government of India.

(ii) Oman: Ministry of Commerce, Industry and Investment Promotion.

(d) from whom references would emanate for verification of the Certificate of Origin issued by the other Party:

(i) India: CBIC, Department of Revenue, Government of India.

(ii) Oman: Ministry of Commerce, Industry and Investment Promotion.

5. Any change in the officials' stamps shall be promptly informed to the other Party.

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

7. Any changes in authorities or agencies shall be promptly notified to the other Party. Such changes shall come into effect after 30 days from the date of receipt of the notice by the other Party (the receiving Party). The receiving Party shall acknowledge the receipt of such notice within 7 days of the receipt of the notice.

**Article 3.17**
**Application for Certificate of Origin**

1. For the issuance of a Certificate of Origin, the final producer or exporter of the product shall present, or submit electronically to the issuing authority of the exporting Party, in accordance with the procedure laid down by each Party's laws and regulations, the following:

(a) an application to the issuing authority together with the appropriate supporting documents for proving origin;

(b) set of minimum information requirements referred to in Annex 3A (Minimum Required Information) in whichever form or format as

may be required by the issuing authority and in consonance with the description in the invoice;

(c) the corresponding commercial invoice or other documents necessary to establish the origin of the product; and

(d) the HS code, description, quantity and value of exported product if the same has already not been provided for.

2. Multiple items declared on the same Certificate of Origin, shall be allowed, provided that each item qualifies separately in its own right.

3. The issuing authority may apply a risk management system in order to selectively conduct pre-export verification of the minimum required information filed by an exporter or producer. The verification may, at the discretion of the issuing authority, include methods such as obtaining detailed cost sheets, and conducting a factory visit.

**Article 3.18**
**Record Keeping**

1. The issuing authorities shall keep the minimum required information and supporting documents for a period not less than 5 years from the date of issuance of the Certificate of Origin.

2. The importer shall keep records relevant to the importation in accordance with the laws and regulations of the importing Party. The application for Certificates of Origin and all documents related to such application shall be retained by the issuing authority for not less than 5 years from the date of issue.

3. The records in paragraphs 1 and 2 may include electronic records and shall be maintained in accordance with the laws and regulations of each Party.

**Article 3.19**
**Obligations of the Exporter or Producer**

1. The exporter or producer shall submit the minimum required information, as referred in paragraph 1(b) of Article 3.17 (Application for Certificate of Origin), and supporting documents for the issue of the Certificate of Origin as per the procedures followed by the issuing authority in the exporting Party only in cases where a product conforms to the Rules of Origin provided in this Chapter.

2. Any exporter or producer who falsely represents any material information relevant to the determination of origin of a product shall be liable to be penalised under the laws and regulations of the exporting Party.

3. The exporter or producer shall keep the minimum required information, as referred in subparagraph 1(b) of Article 3.17 (Application for Certificate of Origin), and supporting documents for a period not less than 5 years from the date of issuance of the Certificate of Origin or the date of export, whichever is earlier.

4. For the purpose of the determination of origin, the exporter or producer applying for a Certificate of Origin or Origin Declaration under this Chapter shall maintain appropriate commercial accounting records for the production and supply of products (as well as relevant records and documents from the suppliers) qualifying for preferential treatment and keep all commercial and customs documentation relating to the material used in the production of the product, including breakup of costs relating to material, labour, other overheads, and any other relevant elements such as profits and related components for at least 5 years from the date of issuance of the Certificate of Origin or the date of export, whichever is earlier. The exporter or producer shall promptly, upon request of the competent authority of the exporting Party, where the Certificate of Origin has been issued, make available records for inspection to enable verification of the origin of the product.

5. The exporter or producer shall not deny any request for a verification visit, agreed between the competent authority of the exporting Party and the competent authority of the importing Party, under the terms of Article 3.21 (Verification of Certificates of Origin). Any failure to consent to a verification visit shall be grounds for a denial of preferential tariff treatment claimed under this Agreement.

6. If the exporter or producer has reason to believe that the Certificate of Origin is based on incorrect information that could affect the accuracy or validity of the Certificate of Origin, they shall be obliged to immediately notify the issuing authority or competent authority in writing of any change affecting the originating status of each product to which the Certificate of Origin applies.

**Article 3.20**
**Presentations of the Certificate of Origin**

1. For the purposes of claiming preferential tariff treatment, the importer or its authorised representative shall submit to the Customs Administration of the importing Party, at the time of filing import declaration, the

Certificate of Origin including supporting documentation and other documents as required, in accordance with the laws and regulations of the importing Party.

2. If a claim for preferential treatment is made without producing the original copy of the Proof of Origin as referred to in Article 3.14 (Certificate of Origin and Certification Procedures), the Customs Administration of the importing Party may deny preferential tariff treatment and request a guarantee in any of its modalities or may take any action necessary in order to preserve fiscal interests, as a pre-condition for the completion of the importation operations subject to and in accordance with the laws, regulations and procedures of the importing Party.

3. Each Party shall, in accordance with its laws and regulations, provide for a refund of any excess duties paid as a result of the product not having been accorded preferential treatment if a product would have qualified as an originating product when it was imported into the territory of that Party. The importer of the product may, within a period of 1 year from the date of importation or the period as specified by the laws of the importing Party, apply for a refund of any excess duties paid as a result of the product not having been accorded preferential treatment at the time of importation, provided that the importer formally declares to the Customs Administration of the importing Party that the product in question qualified as an originating product in accordance with the importing Party's laws and regulations.

4. Each Party shall provide that if the importer has reason to believe that the claim for preferential tariff treatment is based on incorrect information that could affect the accuracy or validity of the Certificate of Origin, the importer shall correct the importation document, and pay any customs duty and, if applicable, penalties owed.

**Article 3.21**
**Verification of Certificates of Origin**

1. For the purpose of determining the authenticity and the correctness of the information given in the Certificate of Origin, the importing Party may conduct verification by means of:

   (a) requests for information from the importer;

   (b) requests for assistance from the competent authority of the exporting Party as provided for in paragraph 2;

(c) written questionnaires to an exporter or a producer in the territory of the other Party through the competent authority of the exporting Party;

(d) in exceptional circumstances, visits to the premises of an exporter or a producer in the territory of the other Party; or

(e) such other procedures as the Parties may agree.

2. For the purposes of subparagraph 1(b), the competent authority of the importing Party, in accordance with its laws and regulations:

(a) may request, in writing, from the competent authority of the exporting Party to assist it in verifying:

(i) the authenticity of a Certificate of Origin;

(ii) the accuracy of any information contained in the Certificate of Origin; or

(iii) the authenticity and accuracy of the information and documents, including breakup of costs relating to material, labour, other overheads and any other relevant elements such as profits and related components which are relevant to the origin determination of the product under Article 3.3 (Origin Criteria);

(b) shall provide the competent authority of the exporting Party with:

(i) the reasons why such assistance is sought;

(ii) the Certificate of Origin, or a copy thereof; and

(iii) any information and documents as may be necessary for the purpose of providing such assistance.

3. In so far as possible, the competent authority of the importing Party conducting a verification shall seek necessary information or documents relating to the origin of imported product from the importer, in accordance with its laws and regulations, before making any request to the competent authority of the exporting Party for verification.

4. In cases where the competent authority of the importing Party deems it necessary to seek a verification from the competent authority of the exporting Party, it shall specify in its written request whether the verification is on a random basis, or the veracity of the information is in doubt. In case the determination of origin is in doubt, the competent authority of the importing Party shall provide detailed grounds for the doubt concerning the veracity of the Certificate of Origin.

5. The proceedings of verification of origin as provided in this Chapter shall also apply to the products already cleared for home consumption under preferential tariffs in accordance with this Agreement.

**Article 3.22**
**Procedure for Verification**

1. Any request made pursuant to Article 3.21 (Verification of Certificates of Origin) shall be in accordance with the procedures set forth in this Article and shall be conducted in a transparent, objective, and non-discriminatory manner.

2. In cases where the competent authority of the importing Party seeks to verify the veracity of the claim for preferential tariff treatment, including the basis of such claim, it shall make a written request or send a questionnaire seeking information from the importer of the product.

3. The importer shall respond to the verification request or questionnaire within 10 working days from the date of receipt of such request, if the request is on the ground of suspicion in respect of the claim for preferential tariff treatment in respect of the product and the information and documents which form the basis of such claim.

4. Where the importer fails to provide requisite information and documents by the prescribed due date in subparagraph 3 or where the information and documents received from the importer are found to be insufficient to conclude that the origin criteria prescribed in the respective rules of origin have been met, the competent authority of the importing Party shall request the competent authority of the exporting Party:

   (a) by providing a copy of the Certificate of Origin and any supporting document such as an invoice, packing list, bill of lading or airway bill, etc.

   (b) by specifying whether it requires a verification of the genuineness of the Certificate of Origin to rule out any forgery, seeks the minimum required information with the supporting documents or seeks to verify the determination of origin.

5. In cases where the competent authority of the importing Party seeks to verify the authenticity of the Certificate of Origin, accuracy of the information contained in the certificate or a copy of the minimum required information set out in Annex 3A (Minimum Required Information), along with supporting documents based on which origin was claimed, the competent authority of the importing Party shall send a written request for the same to the competent authority of the exporting Party.

6. In cases where the Customs Administration of the importing Party seeks to verify the determination of origin, the competent authority of the importing Party shall send a questionnaire to the competent authorities of the exporting Party, which shall be passed on to the exporter or producer, for such inquiry or documents, as necessary.

7. The competent authority of the exporting Party shall provide the information and documentation requested by the Customs Administration of the importing Party, within the following time periods from the date of receipt of the request:

   (a) 15 days, where the request pertains to the authenticity of the Certificate of Origin, including the stamp of the issuing authority;

   (b) 30 days, where the request seeks a copy of the relevant document with the minimum required information; or

   (c) 90 days, where the request is on the grounds of suspicion of the accuracy of the determination of origin of the product. This period may be extended by mutual consultation between the Customs Administration of the importing Party and the issuing authority of the exporting Party for a period not more than 60 days.

8. If, upon receiving the results of the verification questionnaire pursuant to paragraphs 5 and 6, the competent authority of the importing Party has reasons to believe and therefore deems it necessary to request further investigative actions or information, the competent authority of the importing Party shall communicate the fact to the competent authority of the exporting Party in writing. The term for the execution of such new actions, or for the presentation of additional information, shall not be more than 90 days from the date of the receipt of the request for the additional information.

9. If, upon receiving the results of the verification pursuant to paragraphs 5 and 6, the competent authority of the importing Party deems it necessary to conduct a verification visit, it may deliver a written request to the competent authority of the exporting Party to facilitate a visit to the premises of the exporter or producer with a view to examining the records, production processes, as well as the equipment and tools utilised in the manufacture of the product under verification.

10. The request for a verification visit shall be made no later than 30 days of the receipt of the verification report referred to in paragraphs 5 and 6. The requested Party shall promptly inform the dates of the visit, but no later than 45 days of the receipt of request and give a notice of at least 21 days to the requesting Party and exporter or producer so as to enable arrangements for the visit.

11. The competent authorities of the exporting Party shall accompany the authorities of the importing Party during the verification visit. Such visits may include the participation of specialists acting as observers. Each Party can designate specialists, who shall be neutral and have no interest whatsoever in the verification. Each Party may deny the participation of such specialists whenever the latter represent the interests of the companies involved in the verification.

12. Participants in the visit shall subscribe to a "Record of Visit" within 60 days of the conclusion of the visit. The said record shall contain the following information:

(a) date and place of the visit;

(b) identification of the Certificate of Origin which led to the verification;

(c) identification of the products under verification;

(d) identification of the participants, including the institutions they represent; and

(e) a record of the proceedings.

**Article 3.23**
**Release of Products**

Upon reasonable suspicion regarding the origin of the products, the importing Party, subject to and in accordance with its laws and regulations, may as a condition for the release of the products:

(a) request the importer to provide a guarantee in any of its modalities; or

(b) take any action necessary in order to preserve fiscal interests as a pre-condition for the completion of the importation operations.

**Article 3.24**
**Confidentiality**

1. The information obtained by the competent authority of the importing Party may be used for the purpose of at a decision regarding the determination of origin in respect of the product under verification or during legal proceedings concerning issues under this Chapter and in accordance with each Party's respective laws and regulations.

2. Each Party shall protect such information from any unauthorised disclosure, in accordance with its respective laws and regulations.

**Article 3.25**
**Denial of Preferential Treatment**

1. Except as otherwise provided in this Chapter, the importing Party may deny a claim for preferential tariff treatment, if:

   (a) the importing party determines that the products do not meet the requirements of this Chapter;

   (b) the importer, exporter or producer fails to comply with the relevant requirements of this Chapter including those in Article 3.18 (Record Keeping), Article 3.19 (Obligations of the Exporter or Producer) or Article 3.22 (Procedure for Verification);

   (c) the Certificate of Origin does not meet the requirements of this Chapter; or

   (d) the exporting Party refuses or fails to respond to the competent authority of the importing Party in accordance with Article 3.22 (Procedure for Verification).

2. In cases where the Certificate of Origin is rejected by the Customs Administration of the importing Party, after following the due process provided under its laws, a copy of the decision, containing the grounds of rejection, shall be notified to the importer.

**Article 3.26**
**Products Complying with Rules of Origin**

If a verification conducted under Article 3.21 (Verification of Certificates of Origin), determines that the products comply with the rules of origin under this Chapter, the importer shall be promptly refunded the duties paid in excess of the preferential duty or release guarantees obtained in accordance with importing Party's laws and regulations.

**Article 3.27**
**Prospective Restoration of Preferential Benefits**

1. Where preferential treatment for a product has been denied by the Customs Administration of the importing Party prospectively or retrospectively, the exporter or producer may take recourse to the

procedure in paragraph 2 in respect of future exports to the importing Party.

2. Such exporter or producer shall clearly demonstrate to the satisfaction of the competent authority of the exporting Party that the manufacturing conditions were modified so as to fulfil the origin requirements of the rules of origin under this Chapter.

3. The competent authority of the exporting Party shall send the information to the competent authority of the importing Party explaining the changes carried out by the exporter or producer in the manufacturing conditions as a consequence of which the products fulfil the origin criterion.

4. If deemed necessary, the competent authority of the importing Party, shall within 45 days from the date of the receipt of the information, request for a verification visit to the producer's premises, for satisfying itself of the veracity of the claims of the exporter or producer referred in paragraph 2.

5. The prospective restoration of preferential benefits would be granted by the competent authority of the importing Party, if the veracity of the claims of the exporter or producer are established.

6. If the competent authorities of the Parties fail to agree on the fulfilment of the rules of origin under this Chapter subsequent to the modification of the manufacturing conditions, they may refer the matter to the Subcommittee established under Article 3.31 (Cooperation) for a decision.

**Article 3.28**
**Temporary Suspension of Preferential Treatment**

1. The importing Party may suspend the preferential tariff treatment in respect of a product originating in the exporting Party when the suspension is justified due to persistent failure to comply with the provisions of this Chapter by an exporter or producer in the exporting Party or a persistent failure on the part of the competent authority of the exporting Party to respond to a request for verification.

2. The importing Party shall, within 90 days from the date of suspension of the preferential tariff treatment for a product, notify the exporting Party in writing of the reasons for such suspension.

3. Upon receipt of the notification of the suspension, the competent authority of the exporting Party may request consultations.

4. The consultations may be conducted by electronic means, including, video conference, or by in-person meetings, as mutually agreed, and may also involve joint verification.

5. Pursuant to the consultations between the Parties, and such measures as they may mutually agree, the Parties shall resolve to:

   (a) restore preferential tariff treatment to the product with retrospective effect;

   (b) restore preferential tariff treatment to the product with prospective effect, subject to implementation of any mutually agreed measures by one or both Parties; or

   (c) continue with the suspension of preferential tariff treatment to the product, subject to remedies available under Article 3.27 (Prospective Restoration of Preferential Benefits).

**Article 3.29**
**Non-Compliance of Products with Rules of Origin and Penalties**

1. If the verification under Article 3.21 (Verification of Certificates of Origin) establishes the non-compliance of products with the rules of origin, duties shall be levied in accordance with the laws and regulations of the importing Party.

2. Each Party shall also adopt or maintain measures that provide for the imposition of sanctions for violations of its customs laws and regulations, including those governing rules of origin and the entitlement to preferential tariff treatment under this Agreement.

**Article 3.30**
**Relevant Dates**

The time periods set out in this Chapter shall be calculated on a consecutive day basis from the day following the fact or event to which they refer.

**Article 3.31**
**Cooperation**

1. The Parties hereby establish a Subcommittee on Rules of Origin to oversee the implementation of this Chapter, under the CTG.

2. The Subcommittee on Rules of Origin shall comprise of officials of the competent authorities, the Customs Administration and the issuing authorities of the Parties.

3. The Subcommittee on Rules of Origin shall meet at least once annually for the furtherance of the objectives of this Chapter, including to enhance mutual capacity building to facilitate the smooth implementation of the procedures under this Chapter and to explore ways and means for utilising information technology-enabled services for the issuance and verification of the Certificate of Origin.

4. The Subcommittee on Rules of Origin will also evaluate and decide on whether to continue with the issuance of the Certificate of Origin by the issuing authority of each Party, or to switch to self-certification procedures. If either Party is not ready to switch to self-certification during the first regular review session, the issue shall be deferred to subsequent reviews until such time where both Parties can agree to adopt the self-certification procedures.

5. The Subcommittee on Rules of Origin may refer any matter to the Joint Committee.

**Article 3.32**
**Consultation and Modifications**

1. The Parties shall consult and cooperate through the Subcommittee on Rules of Origin as appropriate to:

   (a) ensure that this Chapter is applied in an effective and uniform manner; and

   (b) discuss necessary amendments to this Chapter, taking into account developments in technology, production processes, and other related matters.

**Article 3.33**
**Exchange of Electronic Data on Origin**

The Parties endeavour to develop an electronic system for information exchange on origin to ensure the effective and efficient implementation of this Chapter particularly on transmission of electronic Certificate of Origin.

## Article 3.34
## Origin Declaration

For the purposes of subparagraph 1(c) of Article 3.13 (Proof of Origin), the Parties endeavour to negotiate, agree on, and implement provisions allowing each competent authority to recognise an origin declaration made by an approved exporter.