

**CHAPTER 3**  
**RULES OF ORIGIN**

**Article 3.1**  
**Definitions and Interpretation**

1. For the purposes of this Chapter:
  - (a) **“aquaculture”** including, but not limited to mariculture, means the farming of aquatic organisms including fish, molluscs, crustaceans, other aquatic invertebrates and aquatic plants from seed stock, including seed stock imported from non-parties, such as eggs, fry, fingerlings, or larvae, by intervention in the rearing or growth processes to enhance production such as regular stocking, feeding, or protection from predators;
  - (b) **“CIF value”** or **“Cost, Insurance and Freight value”** means the price actually paid or payable to the exporter for a good when the good is loaded out of the carrier, at the port of importation, including the cost of the good, insurance, and freight necessary to deliver the good to the named port of destination;
  - (c) **“competent authority”** means:
    - (i) for India, the Department of Commerce or its successors; and
    - (ii) for New Zealand, New Zealand Customs Service or its successors;
  - (d) **“customs administration”** means:
    - (i) for India, the Central Board of Indirect Taxes and Customs (CBIC) or its successors; and
    - (ii) for New Zealand, the New Zealand Customs Service or its successors;
  - (e) **“FOB value”** or **“Free-On-Board value”** means the price actually paid or payable to the exporter for a good when it is loaded onto the carrier at the named port of exportation, including the cost of the good and all costs necessary to bring the good onto the carrier;
  - (f) **“fungible goods”** means goods that are interchangeable for commercial purposes and whose properties are essentially identical;

- (g) **“Generally Accepted Accounting Principles”** means those principles recognised by consensus or with 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 for general application, as well as detailed standards, practices and procedures;
- (h) **“indirect materials”** means a material used in the production, testing or inspection of a good but not physically incorporated into the good; or a material used in the maintenance of buildings or the operation of equipment, associated with the production of a good, including:
- (i) fuel, energy, catalysts and solvents;
  - (ii) equipment, instruments, devices and supplies used to test or inspect the good;
  - (iii) gloves, glasses, footwear, clothing, safety equipment and supplies;
  - (iv) tools, dies and moulds;
  - (v) spare parts and materials used in the maintenance of equipment and buildings;
  - (vi) lubricants, greases, compounding materials and other materials used in production or used to operate equipment and buildings; and
  - (vii) any other material that is not incorporated into the good but the use of which in the production of the good can reasonably be demonstrated to be a part of that production;
- (i) **“issuing authority”** means the authority designated by each Party for issuance of Certificates of Origin, as notified from time to time;
- (j) **“material”** means a good that is consumed in the production, physically incorporated or used in the production of another good;
- (k) **“non-originating material”** means a material that does not qualify as originating in accordance with this Chapter, which includes a good or material of undetermined origin;
- (l) **“originating good”** or **“originating material”** means a good or material that qualifies as originating in accordance with this Chapter;

- (m) **“packing materials and containers for transportation and shipment”** means goods used to protect another good during its transportation, but does not include the packaging materials or containers in which a good is packaged for retail sale;
  - (n) **“producer”** means a person who engages in the production of a good;
  - (o) **“production”** means operations including growing, cultivating, raising, mining, harvesting, fishing, trapping, hunting, capturing, collecting, breeding, extracting, aquaculture, gathering, manufacturing, processing or assembling a good;
  - (p) **“preferential tariff treatment”** means the customs duty rate applicable to an originating good, pursuant to each Party’s respective Schedule of Tariff Commitments set out in Annex 2A (Schedules of Tariff Commitments);
  - (q) **“QVC”** is the qualifying value content of a good, expressed as a percentage;
  - (r) **“value of non-originating materials”** is the value of non-originating materials, including materials of undetermined origin, used in the production of the good; and
  - (s) **“value of originating materials”** is the value of originating materials used in the production of the good in the territory of one or both Parties.
2. For the purpose of this Chapter, any cost or value shall be recorded and maintained in accordance with the Generally Accepted Accounting Principles applicable in the territory of the Party in which the good is produced.

### **Article 3.2 Originating Goods**

Except as otherwise provided in this Chapter, a good shall be regarded as originating if it is:

- (a) wholly obtained or produced in the territory of one or both of the Parties, as provided for in Article 3.3 (Wholly Obtained or Produced Goods); or
- (b) satisfies all applicable requirements of the Product Specific Rules under Annex 3A (Product Specific Rules of Origin); and

meets all other requirements of the Chapter.

### **Article 3.3** **Wholly Obtained or Produced Goods**

For the purposes of subparagraph (a) of Article 3.2 (Originating Goods), the following goods shall be considered to be wholly obtained or produced in the territory of one or both of the Parties, if they are:

- (a) plant and plant goods, including fruit, flowers, vegetables, trees, seaweed, fungi, algae and live plants grown and harvested, picked, or gathered there;
- (b) live animals born and raised there;
- (c) goods obtained from live animals born and raised there;
- (d) goods obtained by hunting, trapping, fishing, aquaculture, gathering, or capturing there;
- (e) minerals and other naturally occurring substances, not included in subparagraphs (a) to (d), extracted or taken from the soil or waters, seabed or subsoil beneath the seabed there;
- (f) fish, shellfish, and other marine life extracted or taken from the sea, seabed or subsoil beyond the outer limits of the territories of each Party and, in accordance with international law, outside the territorial sea of non-Parties by vessels that are registered, listed or recorded with a Party and entitled to fly the flag of that Party;
- (g) goods produced on board a factory ship registered, listed or recorded with a Party and entitled to fly the flag of that Party from the goods referred to in subparagraph (f);
- (h) goods other than fish, shellfish and other marine life extracted or taken from the sea-bed or subsoil beneath the sea-bed outside the territorial sea of a Party, provided that the Party has rights to exploit such sea-bed or subsoil beneath the sea-bed in accordance with relevant international law;
- (i) waste and scrap, excluding precious metals, derived from production or consumption there, provided that such goods are fit only for the recovery of raw materials; and
- (j) goods produced in the territory of one or both Parties solely from goods referred to in subparagraphs (a) to (i) or from their derivatives at any stage of production.

### **Article 3.4 Bilateral Cumulation**

Each Party shall provide that an originating good or material in the territory of one Party, under the terms of Article 3.2 (Originating goods) and all the other applicable requirements of this Chapter, that is incorporated in the production of a good in the territory of the other Party is considered to originate in the territory of the other Party.

### **Article 3.5 Calculation of Qualifying Value Content**

Where a qualifying value content requirement is specified in this Chapter and its Annexes, to determine whether a good is originating, the qualifying value content shall be calculated using one of the following methods:

- (a) Build-Down Formula based on the value of non-originating materials:

$$QVC = \frac{\text{FOB Value} - \text{Value of Non Originating materials}}{\text{FOB Value}} \times 100$$

- (b) Build-up Formula: based on the value of originating materials:

$$QVC = \frac{\text{Value of Originating materials}}{\text{FOB Value}} \times 100$$

### **Article 3.6 Value of Materials Used in the Qualifying Value Content**

1. All values for the purposes of calculating qualifying value content shall be determined in accordance with the Customs Valuation Agreement.
2. All costs shall be recorded and maintained in conformity with the Generally Accepted Accounting Principles applicable in the territory of a Party where the good is produced.
3. If a non-originating material is used in the production of a good, the following may be added to the value of originating materials in determining whether the good meets the QVC requirement:
  - (a) the value of production of non-originating materials undertaken in the territory of one or both Parties; and
  - (b) the value of originating materials used in the production of the non- originating material in the territory of one or both Parties by one or more producers.

4. The value of the materials used in production shall be:
  - (a) for imported materials, the CIF value;
  - (b) for materials obtained within the territory of a Party:
    - (i) the price paid or payable by the producer in the Party where the producer is located;
    - (ii) the value as determined for an imported material in subparagraph (a); or
    - (iii) the earliest ascertainable price paid or payable in the territory of the Party; and
  - (c) for materials that are self-produced, all the costs incurred in the production of the material, which includes general expenses that can be reasonably allocated to the good.
5. For originating materials, the following expenses may be added to the value of the material, if not included under paragraph 4:
  - (a) the costs of freight, insurance, packing, and other transport-related costs incurred in transporting the good to the location of the producer of the good;
  - (b) duties, taxes, and customs brokerage fees on the material, paid in the territory of a Party, other than duties that are waived, refunded, refundable, or otherwise recoverable, which includes credit against duty or tax paid or payable; and
  - (c) the cost of waste and spoilage resulting from the use of the material in the production of the good, less the value of reusable scrap or by-product.
6. For non-originating materials or materials of undetermined origin, the following expenses may be deducted from the value of the material:
  - (a) the costs of freight, insurance, packing, and other transport-related costs incurred in transporting the material within the territories of the Parties to the location of the producer of the good;
  - (b) duties, taxes, and customs brokerage fees on the material, paid in the territory of a Party, other than duties that are waived, refunded, refundable, or otherwise recoverable, which includes credit against duty or tax paid or payable; and
  - (c) the cost of waste and spoilage resulting from the use of the material in the production of the good, less the value of reusable scrap or by-product.

7. Where the costs or expenses listed in paragraphs 4 through 6 are unknown or evidence of the amount of the adjustment is not available, then no adjustment is allowed for those costs.

### **Article 3.7 Minimal Operations**

1. Notwithstanding any provisions of this Chapter, the following operations when undertaken on non-originating materials to produce a good shall be considered as insufficient working or processing to confer on that good the status of an originating good:
- (a) preserving operations to ensure that the good remains in good condition for the purposes of transport or storage;
  - (b) packaging or presenting goods for transportation or sale;
  - (c) simple<sup>1</sup> processes, consisting of sifting, screening, sorting, classifying, sharpening, cutting, slitting, grinding, bending, coiling, or uncoiling;
  - (d) for textiles: attaching accessory articles such as straps, beads, cords, rings and eyelets; ironing or pressing of textiles;
  - (e) affixing or printing of marks, labels, logos, or other like distinguishing signs on goods or their packaging;
  - (f) simple dilution with water or another substance that does not materially alter the characteristics of the good;
  - (g) simple assembly of parts of articles to constitute a complete article or disassembly of products into parts;
  - (h) slaughtering<sup>2</sup> of animals;
  - (i) simple painting and polishing operations;
  - (j) simple peeling, stoning, or shelling;
  - (k) simple mixing<sup>3</sup> of goods, whether or not of different kinds; or

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<sup>1</sup> For the purposes of this Article, "simple" describes activities which need neither special skills nor machines, apparatus or equipment specially produced or installed for carrying out the activity.

<sup>2</sup> For the purposes of this Article, "slaughtering" means the mere killing of animals.

<sup>3</sup> For the purposes of this Article, "simple mixing" describes activities which need neither special skills nor machines, apparatus or equipment specially produced or installed for carrying out the activity.

- (l) any combination of two or more operations referred to in subparagraphs (a) through (k).
2. All operations carried out in a Party on a given good shall be considered together when determining whether the working or processing undergone by that good is to be regarded as insufficient within the meaning of paragraph.

### **Article 3.8 De Minimis**

1. A good, except for those falling within Chapters 50 through 63 of the HS, that does not satisfy a change in tariff classification requirement pursuant to Annex 3A (Product Specific Rules of Origin) shall nonetheless be an originating good if the value of non-originating materials used in the production of the good that do not satisfy the change in tariff classification requirement does not exceed 10 per cent of the FOB value of the good as defined under Article 3.1 (Definitions and Interpretation) and the good meets all of the other applicable requirements in this Chapter.
2. A good classified in Chapters 50 through 63 of the HS that does not qualify as originating good because certain non-originating materials used in the production of the good do not fulfil the requirements set out in Annex 3A (Product Specific Rules of Origin), shall nonetheless be an originating good if the total weight/value of all such material does not exceed 10 per cent of the total weight/value of that good.
3. If a good described in paragraph 1 or 2 is also subject to a qualifying value content requirement, the value of those non-originating materials shall be included in the value of non-originating materials for the applicable qualifying value content requirement.
4. A good classified as Wholly Obtained (WO) under Article 3.3 (Wholly Obtained or Produced Goods) or Annex 3A (Product Specific Rules of Origin) that does not qualify as an originating good, because certain non-originating materials of other chapters of the HS are used in the production of that good, shall nonetheless be an originating good if the total weight or value of all such non-originating material does not exceed 1 per cent of the total weight or value of that good.

### **Article 3.9 Treatment of Packaging Materials and Containers for Retail Sale**

1. Packaging materials and containers in which a good is packaged for retail sale, if classified with the good, shall be disregarded in determining whether the non-originating materials used in the

production of the good have satisfied the applicable process or change in tariff classification requirement set out in Annex 3A (Product Specific Rules of Origin), or whether the good is wholly obtained or produced.

2. If the good referred to in paragraph 1 is subject to the qualifying value content requirement, the value of such packaging materials and containers shall be taken into account as value of the originating or non-originating materials, as the case may be, in calculating the qualifying value content of the good.

### **Article 3.10**

#### **Treatment of Packing Materials and Containers for Transportation and Shipment**

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

### **Article 3.11**

#### **Accessories, Spare Parts and Tools**

1. The origin of the accessories, spare parts or tools presented with a good:
  - (a) shall be disregarded if the good is subject to a change in tariff classification requirement or production process requirements for origin specified in Annex 3A (Product Specific Rules of Origin), and
  - (b) shall be taken into account as originating or non-originating materials, as the case may be, in calculating the qualifying value content of the good, if the good is subject to a qualifying value content requirement.
2. Paragraph 1 of this Article shall only apply where:
  - (a) the accessories, spare parts, tools and instructional or other information materials presented with the good are not invoiced separately from the originating good; and
  - (b) the quantities and value of the accessories, spare parts, tools and instructional or other information materials presented with the good are customary for that good.

**Article 3.12**  
**Indirect Materials**

An indirect material shall be considered as neither originating nor non-originating when the qualifying value addition is calculated in accordance with Article 3.5 (Calculation of Qualifying Value Content).

**Article 3.13**  
**Fungible Goods**

1. Fungible goods shall be treated as originating based on the:
  - (a) physical separation of the good; or
  - (b) use of any inventory management method recognised in the Generally Accepted Accounting Principles of the Party where the production is performed, if originating and non-originating fungible goods are comingled, provided that the inventory management method selected is used throughout the fiscal year of the person that selected the inventory management method.
2. An inventory management system under subparagraph 1(a) must ensure that no more goods or materials receive originating status than would have been the case if the fungible goods had been physically segregated.

**Article 3.14**  
**Consignment**

1. A good shall retain its originating status as determined under Article 3.2 (Originating Goods) if either of the following conditions have been met:
  - (a) the good has been transported directly from the exporting Party to the importing Party; or
  - (b) the good has been transported through one or more non-Parties provided that the good has not undergone any subsequent production or other operation outside the territories of the Parties other than unloading, reloading, storing, repacking, relabelling in accordance with the laws and regulations of the importing Party, splitting up of loads, consolidation of loads or any other operation necessary to preserve it in good condition or to transport the good to the territory of a Party and the good has remained under customs control in the non-Parties.

2. Compliance with subparagraph 1(b) shall be evidenced by presenting the customs administration of the importing Party either with customs documents of the non-Parties, or with any other appropriate documentation on request of the customs administration of the importing Party.
3. Appropriate documentation referred to in paragraph 2 may include commercial shipping or freight documents such as airway bills, bills of lading, multimodal or combined transport documents, a non-manipulation certificate, or other relevant supporting documents as may be requested by the customs administration of the importing Party.

### **Article 3.15 Proof of Origin**

1. Each Party shall provide that a claim for preferential tariff treatment is based on an applicable Proof of Origin:
  - (a) a Certificate of Origin issued by an issuing authority; or
  - (b) an origin declaration completed by:
    - (i) in India, a status holder;
    - (ii) in New Zealand, an approved exporter; or
    - (iii) subject to a review under paragraph 12, an exporter or producer.
2. A Certificate of Origin shall bear an authorised signature and official seal of the issuing body or authority, as appropriate. The signature and seal shall be applied manually or electronically.
3. A Proof of Origin shall:
  - (a) be in the English language;
  - (b) bear a unique certification number or unique identification number, as the case may be;
  - (c) specify that the good is originating and meets the requirements of this Chapter;
  - (d) contain information as set out in Annex 3B (Certificate of Origin Template) for Certificate of Origin and as set out in Annex 3C (Origin Declaration Template) for an origin declaration by an approved exporter or status holder;

- (e) remain valid for 12 months from the date on which it is completed in the case of an origin declaration, or, issued in the case of a Certificate of Origin; and
  - (f) apply to single importation of one or multiple goods provided that each good qualifies as an originating good separately in its own right; and
4. For New Zealand, a Proof of Origin may apply to importations of multiple shipments of identical goods within any period specified in the Proof of Origin, where such period does not exceed 12 months.
  5. A Proof of Origin may indicate two or more invoices for goods contained in a single importation.
  6. Proof of Origin shall be submitted to the customs administration of the importing Party in accordance with the procedures applicable in that Party.
  7. A Proof of Origin shall be forwarded by the exporter, producer, approved exporter, or status holder to the importer. The customs administration may require the original copy.
  8. Neither erasures nor superimposition shall be allowed on a Proof of Origin. Any alterations shall be made by striking out the erroneous material and making any addition(s) that may be required. In case of Certificates of Origin, such alterations may be approved by a person authorised to issue the certificate. In case of Origin Declaration, a new Proof of Origin may be completed by the approved exporter or status holder.
  9. Each Party shall provide that a Proof of Origin shall be issued or completed prior to or at the time of importation.
  10. Notwithstanding paragraph 9, under exceptional circumstances, a Proof of Origin may be issued or completed after importation, bearing the words "ISSUED RETROSPECTIVELY" in the Proof of Origin, and include an explanation to this effect. A Proof of Origin can be issued retrospectively no later than 12 months after the date of importation.
  11. In cases of theft, loss or accidental destruction of a Certificate of Origin, the exporter, producer or an authorised representative thereof may, within the term of validity of the original Certificate of Origin, make a written request to the issuing body or authority that issued the original certificate for a certified copy. The certified copy shall bear the words "CERTIFIED TRUE COPY". The certified copy shall have the same term of validity as the original Certificate of Origin.
  12. The Parties shall commence a review of this Article on completion of five years from the date of entry into force of this Agreement. This

review will consider the introduction of a Declaration of Origin by an exporter or producer as a Proof of Origin.

**Article 3.16**  
**Application for Certificate of Origin**

1. For the issue of a Certificate of Origin, the exporter or producer of the goods shall present, or submit electronically through the approved channel, to the issuing body or authority of the exporting Party the following:
  - (a) an application, together with appropriate supporting information and documents for proving origin; and
  - (b) the corresponding commercial invoice and other documents necessary to establish the origin of the good.
2. Multiple items declared on the same Certificate of Origin shall be allowed, provided that each item must qualify separately in its own right.
3. Each Party may, in accordance with its domestic procedures and if it deems appropriate, allow its issuing body or authority to apply a risk management system to selectively conduct pre-export verification of the application and supporting information filed by an exporter or producer.
4. The issuing body or authority, as appropriate, shall carry out proper examination of each application for a Certificate of Origin to ensure that:
  - (a) the application has been duly completed and signed by the authorised signatory;
  - (b) the origin of the good is in conformity with the requirements of this Chapter; and
  - (c) the information furnished in the Certificate of Origin corresponds to supporting information and documents submitted.
5. If the exporter or producer has reason(s) to believe that a 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 importer, the issuing body or authority and the customs administration of the importing Party in writing of any change affecting the originating status of each good to which the Certificate of Origin applies.

**Article 3.17**  
**Non-Party Invoicing**

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, producer, approved exporter, or status holder, or was issued in a third country, provided that the goods meet the requirements of this Chapter.

**Article 3.18**  
**Authorities**

1. The Certificate of Origin shall be issued by an issuing body or authority, as appropriate.
2. Each Party shall within 30 days of the date of entry into force of this Agreement inform the customs administration of the other Party of the issuing body or authority, as appropriate, and contact details of the authorised persons of such body or authority, designated to issue Certificates of Origin under this Agreement.
3. The Parties shall exchange specimen seals and signatures of the authorised signatories issuing Certificate of Origin.
4. Each Party shall promptly notify the other Party of any change to its issuing body or authority, as appropriate, and the names, designations, addresses, specimen signatures of authorised persons or seals of such issuing body or authority.

**Article 3.19**  
**Status Holder**

1. The competent authority in India may, subject to its laws and regulations, grant a status holder certificate to an eligible exporter (hereinafter referred to as "status holder") established in India to self-certify their Origin Declaration, provided that the status holder accepts full responsibility for declaration of origin of the export product.
2. The competent authority in India shall after a due process grant status holder certificate to an exporter established in India.
3. The competent authority in India shall maintain a system to monitor the proper use of status holder certificate. The status holder certificate may be withdrawn if the status holder no longer fulfils the requirements or makes improper use of their status holder certificate.
4. The competent authority in India shall notify the competent authority in New Zealand of their status holders, their certificate numbers, and any modifications to the list of status holders.

**Article 3.20**  
**Approved Exporter**

1. The competent authority in New Zealand may, subject to its laws and regulations, authorise an eligible exporter (hereinafter referred to as “approved exporter”) established in New Zealand to self-certify their Origin Declaration, provided that the approved exporter accepts full responsibility for declaration of origin of the export product.
2. The competent authority in New Zealand, after due process, shall grant an authorisation number to an approved exporter operating in New Zealand. The authorisation number must be unique for every approved exporter.
3. The competent authority in New Zealand shall maintain a system to monitor the proper use of an authorisation. The authorisation may be withdrawn if the approved exporter no longer fulfils the requirements or makes improper use of the authorisation.
4. The competent authority in New Zealand shall notify the competent authority in India of their approved exporters, their authorisation numbers, and any modifications to the list of approved exporters.

**Article 3.21**  
**Claims for Preferential Tariff Treatment**

1. Except as otherwise provided in Article 3.26 (Denial of Preferential Tariff Treatment), each Party shall grant preferential tariff treatment in accordance with this Chapter to an originating good on the basis of a Proof of Origin.
2. Unless otherwise provided in this Chapter, for the purposes of claiming preferential tariff treatment, an importing Party shall provide that an importer:
  - (a) make a declaration that the good qualifies as an originating good;
  - (b) have a valid Proof of Origin in its possession at the time the declaration referred to in subparagraph (a) is made and provide the same if requested by the importing customs administration; and
  - (c) if required by an importing Party, demonstrate that the requirements in Article 3.14 (Consignment) have been satisfied.

3. An importing Party may require that an importer who claims preferential tariff treatment shall provide documents and other information to support the claim.
4. If a claim for preferential tariff treatment is made without producing the Proof of Origin, the customs administration of the importing Party may deny the preferential tariff treatment or request a guarantee in any of its modalities or may take action necessary in order to preserve fiscal interests, as a pre-condition for the completion of importation operations subject to and in accordance with the laws, regulations and procedures of the importing Party.

### **Article 3.22 Record Keeping Requirements**

1. Each Party shall require that:
  - (a) its exporters, producers, approved exporter, or status holders and issuing bodies or authorities, as appropriate, retain for at least 5 years from the date of issuance or completion of the Proof of Origin or a longer period in accordance with its relevant laws and regulations, all records<sup>4</sup> necessary to prove that the good for which the Proof of Origin was issued was originating; and
  - (b) its importers retain, for at least 5 years from the date of importation of the good, or a longer period in accordance with its relevant laws and regulations, all records necessary to prove that the good for which preferential tariff treatment was claimed was originating.
2. The original Proof of Origin document must be retained in a hard copy written format. All other supporting records may be maintained in any medium that allows for prompt retrieval, including in digital, electronic or written form, in accordance with that Party's laws and regulations.
3. The exporter, producer, approved exporter, or status holders, shall, upon request of the issuing body or authority, of the exporting Party or the customs administration of the importing Party, make available records for inspection to enable verification of the origin of the good.

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<sup>4</sup> For greater clarity these records shall include commercial accounting and customs documentation relating to the material(s) used in the production of the good, including but not limited to breakup of costs relating to material(s), labour, other overheads and any other relevant elements such as profits and related components, where these are applicable to the origin criteria.

**Article 3.23**  
**Waiver of Proof of Origin**

A Party shall not require a Proof of Origin if the importing Party has waived the requirement or does not require the importer to present a Proof of Origin in accordance with its law.

**Article 3.24**  
**Post Importation Claim for Preferential Tariff Treatment**

1. Each Party shall provide for an importer of a Party to apply for preferential tariff treatment and a refund of any excess duties paid for a good if the importer did not make a claim for preferential tariff treatment at the time of importation, provided that the good would have qualified for preferential tariff treatment when it was imported into its territory.
2. As a condition for preferential tariff treatment under paragraph 1, the importing Party may require that the importer, not later than 12 months after the date of importation or a longer period if specified in the importing Party's laws and regulations, to:
  - (a) make a claim for preferential tariff treatment;
  - (b) where applicable, provide a copy of Proof of Origin; and
  - (c) provide such other documentation relating to the importation of the good as the importing Party may require.
3. Each Party shall provide that if the importer has reason(s) to believe that the claim for preferential tariff treatment is based on incorrect information that could affect the accuracy or validity of the Proof of Origin, the importer shall correct the importation document, and if applicable, pay any customs duty and penalties owed.
4. When considering imposing a penalty in relation to a claim for preferential tariff treatment, the customs administrations of the Parties are encouraged to consider a voluntary notification given prior to the discovery of that error by the Party as a mitigating factor, provided that in the case of a notification given by an importer, the importer corrects the error and repays any duties owed.

**Article 3.25**  
**Verification of Origin and Procedures**

1. For the purposes of determining whether goods imported into a Party from the other Party qualify as originating goods, the importing Party may conduct a verification process. A verification process may be

initiated on importation or after the release of the goods by the customs administration of the importing Party.

2. A verification process may be initiated based on risk assessment methods, including random selection, or where the importing Party has reasonable doubt as to the authenticity of the origin of the goods.
3. A verification process for determining whether a good imported into a Party is originating may include the following methods:
  - (a) a written request or requests for information<sup>5</sup> from the importer of the good;
  - (b) a written request or requests for information on a Certificate of Origin from the exporting party;
  - (c) a written request or requests for information from the exporter, producer, approved exporter, or status holder of the goods, through the competent authority or issuing authority of the exporting Party,
  - (d) a request to the competent of the exporting Party to assist in obtaining information from the exporter, producer, approved exporter, or status holder;
  - (e) a verification visit to the premises of an exporter, producer, approved exporter, or status holder in the territory of the exporting Party,

in the normal course of a verification, the Parties shall utilise the methods in a sequential manner.

4. For the purposes of subparagraph 3(b):
  - (a) the customs administration of the importing Party may request the competent or issuing authority, as appropriate, that issued the Certificate of Origin in 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; and
    - (iii) the authenticity and accuracy of the supporting information and documents, associated to the

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<sup>5</sup> For the purposes of this Article, where origin has been obtained using a qualifying value content methodology, information shall include breakdown of costs and other relevant elements, such as profit, for the determination of the origin of the good.

Certificate of Origin, and provide copies of the relevant documents where requested;

- (b) the customs administration of the importing Party shall provide the competent or issuing authority, as appropriate, 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; and
- (c) the competent or issuing authority in the exporting Party shall provide the information and documentation requested, within:
  - (i) 30 days from the date of receipt of the request, if the request pertains to the authenticity of issue of the Certificate of Origin, including the seal and signatures of the issuing authority;
  - (ii) 60 days from the date of receipt of such request, if the request is on the grounds of suspicion of the accuracy of the determination of origin of the product. This period can be extended for up to 30 days, if agreed by the Parties.

5. Where a written request is made under subparagraph 3(c):

- (a) the customs administration of the importing Party shall ensure that the information requested is limited to information pertaining to the fulfilment of the requirements of this Chapter as follows:
  - (i) Proof of Origin;
  - (ii) information supporting a claim that the good is originating under Article 3.2 (Originating Goods);
  - (iii) information related to the use of the de minimis, direct consignment or cumulation provisions of the Chapter; and
  - (iv) any other information including specific documentation where appropriate;
- (b) the customs administration of the importing Party shall provide the exporter, producer, approved exporter or status holder, as appropriate, with:
  - (i) the reasons why information is being sought;

- (ii) the Proof of Origin, or a copy thereof; and
    - (iii) any information and documents as may be necessary for the purpose of providing such information; and
  - (c) the exporter, producer, approved exporter, or status holder, shall provide the information within 60 days from the date of receipt of a request. This period can be extended for up to 30 days as agreed by the exporter, producer, approved exporter or status holder, and the customs administration of the importing Party.
6. If the importing Party is not satisfied with the outcomes of the information received after completing the processes identified in subparagraphs 3(a) through 3(d) regarding whether the goods qualify as originating goods according to this Chapter, it may request in writing to the customs administration or competent authority of the exporting Party to seek agreement from the exporter, producer, approved exporter, or status holder of the good to undertake for a verification visit to the premises of the exporter, producer, approved exporter, or status holder to observe the facilities used in the production of the goods concerned, including review of the exporter's, producer's, approved exporter's, or status holder's accounts, or records in relation to the goods concerned or any other check considered appropriate and related to the purpose of the verification visit.
7. The written request referred to in paragraph 6 shall be as comprehensive as possible and include at a minimum:
- (a) the name of the exporter, producer, approved exporter or status holder whose premises are to be visited;
  - (b) the goods subject to the verification process;
  - (c) reasons why the outcome(s) of the verification activity conducted under subparagraph 3(a) through 3(d) to that date has not been satisfactory; and
  - (d) proposed date and time of visit.
8. The request for a verification visit shall be made no later than 30 days and extendable as agreed by the Parties, following the receipt of the information referred to in subparagraphs 3(a) through 3(d).
9. Officials from the exporting Party may accompany and assist the officials from the importing Party in their visit to the exporter, producer, approved exporter, or status holder premises. The exporter, producer, approved exporter, or status holder shall identify two or more independent witnesses to be present during the verification visit. The above-mentioned verification visit process, including the actual visit and notification of written determination of the origin of the good, shall

be completed within a maximum period of 6 months from the date when the verification visit was conducted.

10. When the written consent of the exporter, producer, approved exporter, or status holder for the visit is not obtained within 30 days from the date the customs or competent authority of the exporting Party receives the verification visit request, the customs administration of the importing Party may deny preferential tariff treatment to the good that would have been the subject of the verification visit.
11. During a verification process, the importing Party shall allow the release of the good, subject to payment of duties or provision of security as provided for in its law.
12. Upon completion of the verification process, the customs administration of the importing Party shall provide the importer with a written determination of whether the good is originating, along with the basis for the determination. If the exporter, producer, approved exporter, or status holder of the good has been involved in the verification process they shall be notified on the outcome of the verification process.
13. Upon the issuance of the written determination that the good does not qualify as an originating good, the exporter, producer, approved exporter, or status holder shall be allowed 30 days from the date of receipt of the written determination to provide in writing comments or additional information regarding the eligibility of the good for preferential tariff treatment. The final written determination shall be communicated to the producer or exporter or producer or approved exporter or status holder within 30 days from the date of receipt of the comments or additional information.
14. Upon the issuance of the written determination that the good qualifies as an originating good, the importing Party shall immediately restore preferential benefits and promptly refunded any duties paid in excess of the preferential duty or release guarantees obtained in accordance with their domestic legislation.

### **Article 3.26 Denial of Preferential Tariff Treatment**

1. The importing Party may deny a claim for preferential tariff treatment if:
  - (a) it determines that the good does not qualify as originating within the terms of this Chapter or does not satisfy the requirement(s) of this Chapter;
  - (b) pursuant to a verification under Article 3.25 (Verification of Origin and Procedures), it has not received sufficient

information to determine that the good qualifies as originating including;

- (i) the importer, exporter, producer, approved exporter, or status holder, fails to respond to or refuses a written request for information;
  - (ii) the importer, exporter, producer, approved exporter, or status holder, fails to comply with any of the relevant requirements for obtaining preferential tariff treatment;
  - (iii) the importer, exporter, producer, approved exporter, or status holder, or the issuing bodies or authorities, as appropriate, of the exporting Party fail to provide sufficient information and documents, within the prescribed timelines;
  - (iv) the exporter, producer, approved exporter, or status holder, fails to give consent or respond to a request for a verification visit.
2. If an importing Party denies a claim for preferential tariff treatment, it shall notify the importer in writing along with the reasons for such determination.
  3. If the importing Party establishes non-compliance of the goods with the rules of origin, duties shall be levied in accordance with the law of the importing Party.

### **Article 3.27**

#### **Temporary Suspension of Preferential Treatment**

1. If, following a verification procedure, the importing Party establishes that the importer, exporter, producer, approved exporter, or status holder, has persistently or deliberately misrepresented the origin status of the goods, the importing and exporting Party shall consult with a view to take appropriate measures. If these measures are insufficient to prevent a reoccurrence of the misrepresentation, the importing Party may temporarily suspend preferential tariff treatment for that exporter, producer, approved exporter, or status holder.
2. Based on consultations referred to in paragraph 1 and in any case no longer than 2 months from the date of initiating consultations, a decision whether or not to suspend tariff preference may be taken by the importing Party. The importing Party shall notify the decision, including its reasoning, to the exporting Party, within 30 days after informing the importer accordingly.
3. If verification procedures have shown that two or more exporters, producers, approved exporters, or status holders, of one Party have

persistently or deliberately misrepresented the origin status of goods in a Proof of Origin for the same good at the six digit HS classification level declared to the customs administration of the importing Party and this same good of these exporters, producers, approved exporters, or status holders, accounts for more than half of the preferential imports of the same good in value terms from the exporting party over a period of 1 year prior to the first verification request, the importing Party may submit the matter to the Technical Committee on Rules of Origin and to the Joint Commission with a view to temporarily suspend preferential treatment for all imports of that good from the exporting Party.

4. The Technical Committee on Rules of Origin shall discuss the matter and shall make a recommendation to the Joint Commission within 6 months from the date of submission on whether or not the importing Party may suspend the granting of preferential tariff treatment for this good as a temporary measure. The importing Party may only suspend preferential treatment if the recommendation of the Technical Committee on Rules of Origin is agreed by the Joint Commission.
5. The temporary suspension shall apply only for a period no longer than 6 months or any other period that the Parties agree. Where the condition that gave rise to initial temporary suspension persists at the expiry of the 6-month period, the Party concerned may decide to renew the temporary suspension. Any such renewal shall be subject to periodic consultations within the Technical Committee on Rules of Origin.
6. Following a temporary suspension at exporter level referred to in paragraph 1 or a Joint Commission decision for temporary suspension as referred to in paragraph 4 and pursuant to the conclusion of consultations between the Parties concerned, and the Parties, where applicable, agree that the exporter, or producer or approved exporter or status holder(s) has adopted appropriate remedial measures, the importing Party shall agree to:
  - (a) restore preferential benefit to the good with retrospective effect; or
  - (b) restore preferential benefit to the good with prospective effect, subject to implementation of any mutually agreed measures by one or both Parties.

### **Article 3.28 Penalties**

1. Each Party shall adopt or maintain measures that provide for the imposition of civil, administrative, and, where appropriate, criminal 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.

2. Any importer, exporter, producer, approved exporter, or status holder, who incorrectly represents any material information relevant to the determination of origin of a good may be liable to be penalised under a Party's law.

### **Article 3.29 Goods in Transport or Storage**

In accordance with Article 3.24 (Post Importation Claim for Preferential Tariff Treatment), the customs administration of the importing Party shall grant preferential tariff treatment for an originating good of the exporting Party which, on the date of entry into force of this Agreement:

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

### **Article 3.30 Minor Discrepancies or Errors**

A Party shall not reject a Proof of Origin due to minor errors or discrepancies, such as slight discrepancies between documents, minor omissions of information, spelling, typing or formatting errors, or protrusions from the designated field, provided these minor discrepancies or errors do not create doubt as to the originating status of the good.

### **Article 3.31 Confidentiality**

1. The information obtained by the competent authority or customs administration of the importing Party can be utilised for arriving at a decision regarding the determination of origin in respect of a good and can be used in the legal proceedings concerning issues covered by this Chapter and in accordance with each Party's respective law.
2. Each Party shall protect the information from any unauthorised disclosure in accordance with their respective law.

**Article 3.32**  
**Technical Committee on Rules of Origin**

1. The Parties hereby establish a Technical Committee on Rules of Origin composed of government representatives of each Party responsible for rules of origin matters to consider any matters arising under this Chapter and its Annexes.
2. The Technical Committee on Rules of Origin shall consult either in-person or virtually, upon the request of either Party, to ensure that this Chapter and its Annexes is administered effectively, uniformly and consistently with the spirit and objectives of this Agreement and shall cooperate in the administration of this Chapter and its Annexes and mutually resolve any issues that may arise.
3. The Technical Committee on Rules of Origin shall consult to discuss possible amendments or modifications to this Chapter and its Annexes that may be necessary to reflect changes to the Harmonized System and taking into account developments in technology, production processes or other related matters.

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

1. The Parties shall establish an electronic system to exchange information on Certificates of Origin on entry into force of this Agreement.
2. The Parties shall, within 12 months from entry into force of this Agreement, establish an electronic system to exchange information on other forms of Proof of Origin. The introduction of other forms of Proof of Origin, such as Origin Declaration, shall be subject to the establishment of an electronic system to exchange information to establish the authenticity of those self-declarations.