

Chapter 4 Rules of Origin and Related Operational Procedures

Section A Rules of Origin

Article 20: Definitions

For purposes of this Section:

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

CIF means the value of the good imported inclusive of the cost of insurance and freight up to the port or place of entry in the country of importation;

FOB means the value of the good free on board, regardless of the mode of transportation inclusive of the cost of transport to the port or site of final shipment abroad;

fungible materials or goods means materials or goods, which are interchangeable for commercial purposes, whose properties are essentially identical;

Generally Accepted Accounting Principles means the recognized consensus or 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. Generally Accepted Accounting Principles may encompass broad guidelines for general application, as well as detailed standards, practices, and procedures;

good means any merchandise, product, article, or material;

material means a good used in the production of another good, including any components, ingredients, subassemblies, raw materials, parts or pieces;

neutral elements means the goods used in the production, testing or inspection of another good but not physically incorporated into the good by themselves;

non-originating materials or non-originating goods means materials or goods other than those which qualify as originating in accordance with the provisions of this Chapter, including materials or goods of undetermined origin;

originating materials or originating goods means materials or goods which qualify as originating in accordance with the provisions of this Chapter;

packing materials and containers for shipment means goods used to protect a good during its transportation or storage, other than containers or packaging materials used for retail sale;

producer means a person who engages in the production of a good;

Product Specific Rules means rules which specify that a change in tariff classification, a Regional Value Content, a specific processing operation, or a combination of any of these criteria has to be satisfied for the goods as a result of processes of the non-originating materials used in the production performed in the territory of one or both Parties; and

production means methods of obtaining goods including, but not limited to, growing, raising, mining, harvesting, fishing, farming, trapping, hunting, capturing, gathering, collecting, breeding, extracting, manufacturing, processing or assembling a good.

Article 21: Originating Goods

Except as otherwise required in this Chapter, a good shall be considered as originating in a Party when:

- (a) the good is wholly obtained or produced in the territory of one or both Parties, as defined in Article 22 (Wholly Obtained Goods);
- (b) the good is produced entirely in the territory of one or both Parties, exclusively from materials whose origin conforms to the provisions of this Chapter; or
- (c) the good is produced in the territory of one or both Parties, using non-originating materials that conform to the Product Specific Rules and meet the other applicable provisions of this Chapter.

Article 22: Wholly Obtained Goods

For purposes of Article 21 (Originating Goods) subparagraph (a), the following goods shall be considered as wholly obtained or produced in the territory of one or both Parties:

- (a) live animals born and raised in the territory of one or both Parties;
- (b) goods obtained in the territory of one or both Parties from live animals¹;
- (c) plants and plant products harvested, picked or gathered in the territory of one or both Parties;

¹ Products refer to those obtained from live animals without further processing, including milk, eggs, natural honey, hair, wool, semen and dung.

- (d) goods obtained from hunting, trapping, fishing, aquaculture, farming, or capturing conducted in the territory of one or both Parties;
- (e) minerals and other natural resources not included in subparagraphs (a) through (d) above, extracted or taken from its soil, waters, seabed or subsoil;
- (f) goods extracted from the waters, seabed or subsoil outside the territorial sea of a Party, provided that the Party has sole rights to exploit such waters, seabed or subsoil under that Party's applicable domestic law, in accordance with relevant international agreements to which that Party is a party;
- (g) goods of sea fishing and other products taken from the territorial sea or the Exclusive Economic Zone of a Party;
- (h) goods of sea fishing and other products taken from the high sea by a vessel registered or recorded with a Party and flying or entitled to fly the flag of that Party;
- (i) goods processed and/or made on board factory ships registered or recorded with a Party and flying or entitled to fly the flag of that Party, exclusively from goods referred to in subparagraphs (g) and (h) above;
- (j) scrap and waste derived from processing operations in the territory of China or Costa Rica and fit only for the recovery of raw materials, or used goods collected in the territory of China or Costa Rica provided that such goods are fit only for the recovery of raw materials; and
- (k) goods obtained or produced in the territory of one or both Parties solely from goods referred to in subparagraphs (a) to (j) above.

Article 23: Product Specific Rules

Except as otherwise provided in this Chapter, a good, using non-originating materials and produced in the territory of one or both Parties, shall comply with the corresponding origin criterion established, such as change in tariff classification, a Regional Value Content, processing operation rule, a combination of any of these criteria or other requirements specified in Annex 3 (Product Specific Rules of Origin) in determining the originating status of the goods.

Article 24: Change in Tariff Classification

For purposes of a change in tariff classification criterion provided in Article 23 (Product Specific Rules), the originating status shall be conferred to the goods only when the non-originating materials used in the production of the

goods undergo a change of tariff classification specified in Annex 3 (Product Specific Rules of Origin), as a result of processes performed in the territory of one or both Parties. For these purposes, the Harmonized System shall be the basis of the classification of the goods.

Article 25: Regional Value Content

1. For purposes of the Regional Value Content (RVC) criterion of a good provided in Article 23 (Product Specific Rules), the RVC shall be calculated as follows:

$$RVC = \frac{V - VNM}{V} \times 100$$

where:

RVC: is the Regional Value Content, expressed as a percentage;

V: is the value of the good, as defined in the Customs Valuation Agreement, adjusted on an FOB basis; and

VNM: is the value of the non-originating materials, including materials of undetermined origin, as provided in paragraph 2.

2. The value of the non-originating materials shall be:

- (a) the value of the good, as defined in the Customs Valuation Agreement, adjusted on a CIF basis; or
- (b) the earliest ascertainable price paid or payable for the non-originating materials in the territory of the Party where the working or processing takes place. When the producer of a good acquires non-originating materials within that Party, the value of such materials shall not include freight, insurance, packing costs and any other costs incurred in transporting the material from the supplier's warehouse to the producer's location.

3. For purposes of calculating the Regional Value Content of the good, pursuant to paragraph 1, the value of the non-originating materials used by the producer in the production of the final good in the territory of the Party shall not include the value of non-originating materials used to produce originating materials that are subsequently used in the production of the final good.

Article 26: Processing Operations

For purposes of the processing operation rule provided in Article 23 (Product Specific Rules), the originating status shall be conferred only to the goods as a result of manufacturing or processing operations specified in Annex 3 (Product Specific Rules of Origin), which are carried out in the territory of one or both Parties.

Article 27: Accumulation

1. Where originating goods or materials of a Party are incorporated into a good in the other Party's territory, the goods or materials so incorporated shall be regarded to be originating in the latter's territory.

2. A good shall be considered as originating where its production is carried out by one or more producers in the territory of a Party, in such way that the production of the materials incorporated in that good, carried out in the territory of that Party, may be considered as part of the production of the good, provided that the good complies with the requirements established in Article 21 (Originating Goods) and all other applicable requirements in this Chapter.

Article 28: Minimal Operations or Processes that Do Not Confer Origin

The following operations or processes, either by themselves or in combination, are considered to be minimal operations or processes and do not confer origin:

- (a) operations to ensure the preservation of goods in good condition during transport and storage;
- (b) breaking-up and simple assembly of goods;
- (c) packing, unpacking or repacking operations for purposes of sale or presentation; or
- (d) slaughter of animals.

Article 29: De Minimis

A good that does not meet tariff classification change requirements, pursuant to the provisions of Annex 3 (Product Specific Rules of Origin), shall nonetheless be considered to be an originating good, provided that:

- (a) the value of all non-originating materials, as determined pursuant to Article 25 (Regional Value Content), that do not meet the tariff classification change requirement, does not exceed 10% of the FOB value of that good; and
- (b) the good meets all the other applicable requirements of this Chapter.

Article 30: Fungible Materials and Goods

1. In determining whether a good is an originating good, any fungible materials or goods shall be distinguished by:

- (a) physical separation of the fungible goods or materials; or

- (b) an inventory management method recognized in the Generally Accepted Accounting Principles of the exporting Party.

2. The inventory management method selected under paragraph 1 for a particular fungible good or material shall continue to be used for that good or material throughout the fiscal year.

Article 31: Neutral Elements

In determining whether a good is an originating good, the origin of the following neutral elements shall be disregarded:

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

Article 32: Sets

Sets, as defined in General Rule 3 of the Harmonized System, shall be regarded as originating when all the components of the sets are originating. Nevertheless, when a set is composed of originating and non-originating goods, the set as a whole shall be regarded as originating, provided that the value of the non-originating goods as determined pursuant to Article 25 (Regional Value Content) does not exceed 15% of the total value of the set.

Article 33: Packing, Packages and Containers

1. Containers and packing materials used for the transport of goods shall not be taken into account in determining the origin of the goods.

2. Where goods are subject to a change in tariff classification criterion set out in Annex 3 (Product Specific Rules of Origin), the origin of the packaging materials and containers in which goods are packaged for retail sale shall be disregarded in determining the origin of the goods, provided that the packaging

materials and containers are classified with the goods. However, if the goods are subject to a Regional Value Content requirement, the value of the packaging materials and containers used for retail sale shall be taken into account as originating materials or non-originating materials, as the case may be, when determining the origin of the goods.

Article 34: Accessories, Spare Parts and Tools

1. Accessories, spare parts, or tools presented as part of the good upon importation shall be disregarded when determining the origin of the good, provided that:

- (a) the accessories, spare parts, or tools are classified with and not invoiced separately from the good; and
- (b) the quantities and values of accessories, spare parts, or tools are commercially customary for the good.

2. Where goods are subject to a Regional Value Content requirement, the value of the accessories, spare parts, or tools, shall be taken into account as originating materials or non-originating materials, as the case may be, in calculating the Regional Value Content of the goods.

Article 35: Direct Consignment

1. The originating goods of the Parties claiming for preferential tariff treatment shall be directly consigned between the Parties.

2. Originating goods whose transport involves transit through one or more non-Parties, with or without transshipment or temporary storage in such non-Parties under control of the customs administration of such countries, are still considered directly consigned between the Parties, provided that:

- (a) the transit entry is justified for geographical reason or by consideration related exclusively to international transport requirements;
- (b) the goods do not enter into trade or consumption there;
- (c) the goods do not undergo any operation there other than unloading and reloading, repacking, or any operation required to keep them in good condition;
- (d) in case where the goods are temporarily stored in the territory of a non-Party, as provided in paragraph 2, stay of the goods in that non-Party shall not exceed 3 months from the date of its entry.

Where conditions under subparagraphs (a), (b), (c) and (d) are not met, such good will not be considered as originating.

3. For purposes of paragraph 2, the following documents shall be submitted to the customs administration of the importing Party upon import declaration of the goods:

- (a) the Through Bill of Lading and other supporting documents for those goods with trans-shipment in a non-Party; and
- (b) in case where the goods are temporarily stored in the territory of a non-Party, additional documentary evidence provided by the customs administration of such non-Party.

Section B

Related Operational Procedures

Article 36: Definitions

For purposes of this Section:

authorized body means any body designated under the domestic law of a Party or by the governmental authority of a Party to issue a Certificate of Origin; and

competent authority means:

- (a) in the case of China, the General Administration of Customs is responsible for the organization and implementation of the Rules of Origin under this Agreement in accordance with domestic laws, the General Administration of Quality Supervision, Inspection and Quarantine is responsible for the administration of issuance of the Certificate of Origin in accordance with domestic laws; and
- (b) in the case of Costa Rica, the National Customs Service (*Servicio Nacional de Aduanas*).

Article 37: Certificate of Origin

1. To qualify originating goods for preferential tariff treatment, the Certificate of Origin, as set out in Annex 4 (Certificate of Origin), shall be issued by the authorized body or bodies of the exporting Party, on written application by the exporter, together with supporting documents, and shall be submitted on importation to the customs administration of the importing Party. The Certificate of Origin shall:

- (a) contain a unique certificate number;
- (b) cover one or more goods under one consignment;
- (c) state the basis on which the goods are deemed to qualify as originating for purposes of Section A of this Chapter;

- (d) contain security features, such as specimen signatures or stamps as advised to the importing Party by the exporting Party; and
 - (e) be completed in English by typing.
2. A Certificate of Origin shall remain valid for 12 months from the date of issuance.
3. In principle, the Certificate of Origin shall be issued before or at the time of exportation. Nevertheless, a Certificate of Origin may exceptionally be issued retrospectively after exportation, on the condition that the exporter provides all the necessary commercial documents and export declaration processed by the customs administration of the exporting Party, provided that:
- (a) it was not issued at the time of exportation due to force majeure, or errors, or involuntary omissions or other special circumstances as may be deemed satisfied under the domestic law of each Party, where applicable; or
 - (b) it is demonstrated to the satisfaction of the authorized body that the Certificate of Origin was issued but was not accepted at importation for technical reasons. The validation period shall remain the same as indicated in the Certificate originally issued.
4. Where paragraph 3 is applied, the Certificate shall be issued retrospectively within 12 months from the date of exportation, and shall be endorsed with the words "ISSUED RETROSPECTIVELY".
5. In the event of theft, loss or accidental destruction of a Certificate of Origin, the exporter or producer may make a written request to the authorized body or bodies of the exporting Party for issuing a certified copy, provided that the original copy previously issued has been proved unused as a result of verification. The certified copy shall bear the words "CERTIFIED TRUE COPY with the original Certificate of Origin number ___ dated ___".

Article 38: Authorized Bodies

1. A Certificate of Origin shall be issued only by the authorized body or bodies in the exporting Party.
2. The competent authority of the exporting Party shall inform the competent authority of the importing Party of the name of each authorized body, as well as the relevant contact details of each authorized body, and shall provide details of any security features for the Certificate of Origin, including official stamps used by each authorized body, prior to the issuance of any Certificates by that body. Any change in the information provided above shall be informed promptly to the competent authority of the other Party.

Article 39: Supporting Documents

The documents used for purposes of proving that the goods covered by a Certificate of Origin can be considered as originating goods and fulfil the other requirements of this Chapter may include, *inter alia*, the following:

- (a) direct evidence of the processes carried out by the exporter or supplier to obtain the goods concerned, contained for example in his accounts or internal book-keeping;
- (b) documents proving the originating status of the materials used, where these documents are used in accordance with the domestic law;
- (c) documents proving the working or processing of materials, where these documents are used in accordance with the domestic law; or
- (d) Certificates of Origin proving the originating status of the materials used.

Article 40: Preservation of Certificate of Origin and Supporting Documents

1. The exporter applying for the issuance of a Certificate of Origin shall keep, for at least 3 years, the documents referred to in Article 39 (Supporting Documents), from the date of issuance of the Certificate.
2. The authorized body or bodies of the exporting Party issuing a Certificate of Origin shall keep a copy of the Certificate of Origin for at least 3 years, from its date of issuance.

Article 41: Obligations Regarding Importations

Except as otherwise provided in this Chapter, each Party shall require an importer in its territory that claims preferential tariff treatment to:

- (a) make a written statement in the import customs declaration, indicating that the good qualifies as an originating good;
- (b) possess a valid Certificate of Origin, at the time the import customs declaration referred to in subparagraph (a) is made; and
- (c) submit the original Certificate of Origin and other documentary evidence related to the importation of the goods, upon requirements of the customs administration of the importing Party.

Article 42: Refund of Import Customs Duties or Deposit

1. Where a good is imported into the territory of a Party without the submission of a Certificate of Origin under this Agreement, the customs

administration of the importing Party may, where applicable, impose the applied non-preferential customs duties, or require payment of a deposit or guarantee equivalent to the full duties on that good. The importer may, within 1 year, after the payment of the customs duties, apply for a refund of any excess import customs duties imposed, or apply for a refund of deposit or guarantee paid, within 3 months or such longer period as may be specified in the domestic law of the importing Party, after the payment of the deposit or guarantee, on presentation of:

- (a) a valid Certificate of Origin issued in accordance with Article 37 (Certificate of Origin); and
- (b) other documentary evidence related to the importation of the good as the customs administration of the importing Party may require;

provided that the importer declares, on his own initiative, to the customs administration through a written statement upon importation, indicating that the good presented qualifies as an originating good.

2. No customs duties, deposit or guarantee shall be refunded in the case where the importer fails to declare upon importation, in the same way as specified in paragraph 1, to the customs administration that the good qualifies as an originating good, even though a valid Certificate of Origin is submitted subsequently.

Article 43: Exemption of Obligation of Submitting Certificate of Origin

1. Each Party shall provide that a Certificate of Origin shall not be required for:

- (a) a commercial importation of a good whose value does not exceed US\$ 600 or its equivalent amount in the Party's currency. Nevertheless, the Party may require a statement certifying that the good is qualified as an originating good;
- (b) a non-commercial importation of a good whose value does not exceed US\$ 600 or its equivalent amount in the Party's currency; or
- (c) other cases where a Certificate of Origin is not required, as provided under its domestic law.

2. The exemptions established in paragraph 1 shall be applicable, provided that the importation does not form part of one or more importations that may reasonably be considered to have been undertaken or arranged for the purpose of avoiding the certification requirements set out in Article 37 (Certificate of Origin).

Article 44: Verification of Origin

1. For purposes of determining whether goods imported into the territory of a Party qualify as originating goods under this Chapter, the customs administration of the importing Party may verify origin of the goods, when there are reasonable grounds to doubt the accuracy or authenticity of the Certificate of Origin or when performing the control. The customs administration of the importing Party shall conduct the verification by means of:

- (a) written requests for additional information from the importer;
- (b) written requests for additional information from the exporter or producer in the territory of the exporting Party;
- (c) written requests to the authorized body of the exporting Party to verify the origin of the goods, with a copy of such request being notified or communicated to the competent authority of the exporting Party; or
- (d) such other procedures as the competent authorities of the Parties may jointly decide, including a verification visit.

2. The customs administration of the importing Party which makes a written request for verification under subparagraph 1(c) shall specify the reasons of the request and provide any documents and information or copies thereof in support of such request.

3. The importer, exporter or producer, who is requested for verification under the subparagraphs 1(a) or 1(b), shall respond the results of the verification in such detail as requested by the requesting Party within 60 days (not extendable) from the date of notification of the written request. The authorized body which is requested to undertake the verification under subparagraph 1(c), shall respond the results of the verification in such detail as requested by the requesting Party, within 6 months from the date of the notification of the written request, to the competent authority of the importing Party, with a copy of the results of the verification being notified or communicated to the competent authority of the exporting Party.

4. The competent authority of the importing Party shall notify, in writing, to the competent authority of the exporting Party of the results of the determination on the origin of the good, including its legal basis and findings of fact.

Article 45: Denial of Preferential Tariff Treatment

1. A Party may deny preferential tariff treatment to a good when:

- (a) the good imported does not qualify as originating in accordance with the provisions of this Chapter;
- (b) the good imported does not comply with the provisions on direct

consignment under Article 35 (Direct Consignment);

- (c) the competent authority of the exporting Party fails, as required under Article 38 (Authorized Bodies), to inform the competent authority of the importing Party of the name of the authorized body or bodies, any security features of the Certificate of Origin, or any change in the above information;
- (d) the importer, exporter, producer or authorized bodies, as appropriate, requested by the importing Party, fails to comply with the requirements under paragraph 3 of the Article 44 (Verification of Origin);
- (e) the Certificate of Origin has not been duly completed, signed, or stamped in accordance with the provisions under this Chapter;
- (f) the data provided under the Certificate of Origin does not correspond to that of the supporting documents submitted; or
- (g) the description, quantity and weight of goods, marks and number of packages, number and kinds of packages, as specified in the Certificate of Origin, do not conform to the goods presented.

2. In the event that the preferential tariff treatment is denied, the competent authority of the importing Party shall inform the importer of the decision on the denial of the preferential treatment and the reasons for that decision.

Article 46: Committee on Rules of Origin

1. The Parties hereby establish a Committee on Rules of Origin, comprising in the case of China, the General Administration of Customs, the General Administration of Quality Supervision, Inspection and Quarantine, and the Ministry of Commerce; and in the case of Costa Rica, the Ministry of Foreign Trade (*Ministerio de Comercio Exterior*) and the National Customs Service (*Servicio Nacional de Aduanas*).

2. The Committee shall meet on the request of a Party or the Commission to consider any matter arising under this Chapter.

3. The functions of the Committee on Rules of Origin, shall include:

- (a) ensuring the effective, uniform and consistent administration of this Chapter, and enhancing the cooperation in this regard;
- (b) keeping updated Annex 3 (Product Specific Rules of Origin) on the basis of the transposition of the Harmonized System;
- (c) advising the Commission of proposed solutions to address issues related to:

- (i) interpretation, application and administration of this Chapter;
- (ii) calculation of the Regional Value Content; and
- (iii) issues arising from the adoption by either Party of operational practices not in conformity with this Chapter that may adversely affect the flow of trade between the Parties.