

CHAPTER 4

RULES OF ORIGIN AND ORIGIN IMPLEMENTATION PROCEDURES

Section A: Rules of Origin

Article 16: Definitions

For the purposes of this Chapter:

aquaculture means the farming of aquatic organisms, including fish, molluscs, crustaceans, other aquatic invertebrates and aquatic plants, from seedstock 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, etc.;

CIF means the value of the imported good 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 exported good free on board inclusive of the cost of transport to the port or site of final shipment abroad;

fungible materials mean materials which are interchangeable for commercial purposes, whose properties are essentially identical, and between which it is impractical to differentiate by a mere visual examination;

generally accepted accounting principles mean the recognized accounting standards 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. Those standards may encompass broad guidelines of general applications as well as detailed standards, practices and procedures;

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

Harmonized System means the Harmonized Commodity Description and Coding System of the World Customs Organization;

materials mean ingredients, parts, components, subassemblies and/or goods that were physically incorporated into another good or were subject to a process in the production of another good;

neutral elements mean the goods used in the production, testing or inspection of

another good but not physically incorporated into the good by themselves.

non-originating goods or **non-originating materials** mean goods or materials that do not qualify as originating under this Chapter and goods or materials of undetermined origin;

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

production means methods of obtaining goods, including growing, raising, mining, harvesting, fishing, aquaculture, farming, trapping, hunting, capturing, gathering, collecting, breeding, extracting, manufacturing, processing or assembling a good, etc..

Article 17: Originating Goods

Except as otherwise provided in this Chapter, the following goods shall be considered as originating in a Party:

- (a) goods wholly obtained or produced in a Party as defined in Article 18;
- (b) goods produced in a Party exclusively from originating materials; or
- (c) goods produced from non-originating materials in a Party, provided that the goods conform to a regional value content not less than 40%, except for the goods listed in Annex 2 which must comply with the requirements specified therein.

Article 18: Goods Wholly Obtained or Produced

For the purposes of Article 17(a), the following goods shall be considered as wholly obtained or produced entirely in a Party:

- (a) live animals born and raised in a Party;
- (b) goods obtained from live animals referred to in subparagraph (a);
- (c) plant and plant products grown, and harvested, picked or gathered in a Party;
- (d) goods obtained from hunting, trapping, fishing, aquaculture, gathering or capturing conducted in a Party;
- (e) minerals and other naturally occurring substances not included in

subparagraphs (a) through (d) above, extracted or taken from its soil, waters, seabed or subsoil beneath the seabed;

- (f) goods extracted from the waters, seabed or subsoil beneath the seabed outside the territorial waters of a Party, provided that the Party has rights to exploit such waters, seabed or subsoil beneath the seabed in accordance with relevant international law and domestic law of that Party;
- (g) goods of sea fishing and other marine products taken from the sea outside the territorial waters of a Party by a vessel registered in a Party and flying the flag of that Party;
- (h) goods processed or made on board factory ships registered in a Party and flying the flag of that Party, exclusively from goods referred to in subparagraph (d) and (g) above;
- (i) scrap and waste derived from manufacturing or processing operations consumption in a Party, fit only for the recovery of raw materials or for recycling purposes;
- (j) used goods consumed and collected in a Party, fit only for the recovery of raw materials; or
- (k) goods produced entirely in a Party exclusively from goods referred to in subparagraphs (a) to (j) above.

Article 19: Regional Value Content

1. The Regional Value Content criterion (RVC) shall be calculated as follows:

$$RVC = \frac{FOB - VNM}{FOB} \times 100\%$$

Where:

RVC is the regional value content, expressed as a percentage;

VNM is the value of the non-originating materials.

2. VNM shall be determined according to the following circumstances:

- (a) in case of the imported non-originating materials, VNM shall be the CIF value of the materials at the time of importation;

- (b) in case of the non-originating materials obtained in a Party, VNM shall be the earliest ascertainable price paid or payable for the non-originating materials in that Party. The value of such non-originating materials shall not include freight, insurance, packing costs and any other costs incurred in transporting the materials from the supplier's warehouse to the producer's location.
3. If a product which has acquired originating status in accordance with paragraph 1 in a Party is further processed in that Party and used as material in the manufacture of another product, no account shall be taken of the non-originating components of that material in the determination of the originating status of the product.

Article 20: Accumulation

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

Article 21: Minimal Operations or Processes

1. Notwithstanding Article 17(c), a good shall not be considered as originating, if it has only undergone one or more of the following operations or processes:
- (a) preservation operations to ensure the goods remain in good condition during transport and storage;
 - (b) simple assembly of parts of articles to constitute a complete article, or disassembly of products into parts;
 - (c) packing, unpacking or repacking operations for the purposes of sale or presentation;
 - (d) slaughtering of animals;
 - (e) washing, cleaning, removal of dust, oxide, oil, paint or other coverings;
 - (f) ironing or pressing of textiles;
 - (g) simple painting and polishing operations;
 - (h) husking, partial or total bleaching, polishing, and glazing of cereals and rice;

- (i) operations to colour sugar or form sugar lumps;
- (j) peeling, stoning and shelling of fruits, nuts and vegetables;
- (k) sharpening, simple grinding or simple cutting;
- (l) sifting, screening, sorting, classifying, grading, matching (including the making-up of sets of articles);
- (m) simple placing in bottles, cans, flasks, bags, cases, boxes, fixing on cards or boards and other similar packaging operations;
- (n) affixing or printing marks, labels, logos or other like distinguishing signs on products or their packaging;
- (o) simple mixing of goods, whether or not of different kinds;
- (p) operations whose sole purpose is to ease port handling; and
- (q) a combination of two or more operations specified in subparagraphs (a) to (p).

2. For the purposes of this Article:

- (a) “simple” generally describes activities which need neither special skills nor special machines, apparatus or equipment specially produced or installed for carrying out the activity; and
- (b) “simple mixing” generally describes activities which need neither special skills nor machines, apparatus or equipment especially produced or installed for carrying out the activity. However, simple mixing does not include chemical reaction.

Article 22: De Minimis

A good that does not meet the change in tariff classification required in Annex 2 is nonetheless originating, if the value of non-originating material that have been used in the production of the good and do not undergo the applicable change in tariff classification does not exceed 10% of the FOB value of the given good. The value of the said non-originating material shall be determined pursuant to Article 19.2.

Article 23: Fungible Materials

Where originating and non-originating fungible materials are used in the production of a good, the following methods shall be adopted in determining whether the materials used are originating:

- (a) physical separation of the materials; or
- (b) an inventory management method recognized in the generally accepted accounting principles of the exporting Party, and shall be used for at least one fiscal year.

Article 24: 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 25: 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 2, 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, in calculating the regional value content of the goods.

Article 26: Accessories, Spare Parts and Tools

1. Where a good is subject to change in tariff classification criterion set out in Annex 2, accessories, spare parts, tools or instructional and information materials presented with the good upon importation shall be disregarded when determining the origin of the good, provided that these are classified with and not invoiced separately from the good.
2. Where a good is subject to a regional value content requirement, the value of the accessories, spare parts, tools or, instructional and information materials 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 good.
3. This Article shall apply only where the quantities and values of said accessories, spare parts, tools or, instructional and information materials are customary for the good.

Article 27: Direct Consignment

1. Preferential tariff treatment under this Agreement shall only be granted to originating products which are transported directly between the Parties.
2. Notwithstanding paragraph 1, goods whose transport involves transit through one or more non-Parties with or without trans-shipment or temporary storage of up to 3 months in such non-Parties, shall still be considered as directly transported between the Parties, provided that:
 - (a) the transit entry of goods is justified for geographical reason or by consideration related exclusively to transport requirements;
 - (b) the goods do not enter into trade or consumption there;
 - (c) the goods do not undergo any other operation there other than unloading and reloading, or any operation required to keep them in good condition; and

(d) the goods remain under customs control during transit in those non-Parties.

3. Compliance with the provisions set out in paragraph 2 shall be evidenced by presenting the customs authority of the importing Party either with customs documents of the non-Parties, or with any other documents to the satisfaction of the customs authority of the importing Party.

Section B: Origin Implementation Procedures

Article 28: Certificate of Origin

1. A Certificate of Origin as set out in Annex 3 shall be issued by the authorized bodies of a Party on application by the exporter or producer, provided that the goods can be considered as originating in that Party subject to the provision of this Chapter.

2. 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 the purposes 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.

3. The Certificate of Origin shall be issued before or at the time of shipment. It shall be valid for 1 year from the date of issuance in the exporting Party.

4. Each Party shall inform the customs authority of the other Party of the name of each authorized body, as well as relevant contact details, and shall provide details of any security features for relevant forms and documents used by each authorized body, prior to the issuance of any certificates by that body. Any change in the information provided above shall be promptly notified to the customs authority of the other Party.

5. If the Certificate of Origin has not been issued before or at the time of shipment due to force majeure or justifiable reasons, the Certificate of Origin may be issued retrospectively but no longer than 1 year from the date of shipment, bearing the words "ISSUED RETROSPECTIVELY".

6. For cases of theft, loss or accidental destruction of a Certificate of Origin, the exporter or producer may make a written or electronic request to the authorized bodies of the exporting Party for issuing a certified copy, provided that the original copy previously issued has been verified not to be used. The certified copy shall bear the words “CERTIFIED TRUE COPY of the original Certificate of Origin number ___ dated ___”. The certified copy shall be valid during the term of validity of the original Certificate of Origin.

Article 29: Retention of Origin Documents

1. Each Party shall require its producers, exporters and importers to retain documents that prove the originating status of the goods as well as the fulfillment of the other requirements of this Chapter for at least 3 years or in accordance with its domestic law.
2. Each Party shall require that its authorized bodies retain copies of Certificates of Origin and other related supporting documents for at least 3 years or in accordance with its domestic law.
3. The records to be maintained may include electronic records and shall be maintained in accordance with the domestic laws and practices of each Party.

Article 30: Obligations Regarding Importations

Unless otherwise provided in this Chapter, the importer claiming for preferential tariff treatment shall:

- (a) indicate in the customs declaration 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 authority of the importing Party.

Article 31: Refund of Import Customs Duties or Deposit

1. Where a Certificate of Origin is not submitted to the customs authority of the

importing Party at the time of importation pursuant to Article 30, upon the request of the importer, the customs authority of the importing Party may impose the applied non-preferential customs duties, or require a guarantee equivalent to the full amount of the customs duties on that good, provided that the importer formally declares to the customs authority at the time of importation that the good in question qualifies as an originating good.

2. The importer may apply for a refund of any excess customs duties imposed or guarantee paid within the period specified in the legislation of the importing Party.

Article 32: Waiver of Certificate of Origin

1. Notwithstanding Article 30, a Party shall waive the requirements for the presentation of a Certificate of Origin to any consignments of originating goods of a customs value not exceeding US\$ 600 or its equivalent amount in the Party's currency.

2. Waivers provided for in paragraph 1 shall not be applicable when it is established by the customs authority of the importing Party that the importation forms part of a series of importations that may reasonably be considered to have been undertaken or arranged for the purpose of avoiding the submission of Certificate of Origin.

Article 33: Verification of Origin

1. For the purpose of determining the authenticity or accuracy of the Certificate of Origin, the originating status of the goods concerned, or the fulfillment of the other requirements of this Chapter, the customs authority of the importing Party may conduct origin verification by means of:

- (a) requests for additional information from the importer;
- (b) requests for additional information from the exporter or producer in the territory of the exporting Party;
- (c) requests to the customs authority of exporting Party to verify the origin of a good; or
- (d) such other procedures as the customs authority of the Parties may jointly decide.

2. A verification process under paragraph 1 shall only be initiated when there are reasonable grounds to doubt the accuracy or authenticity of the origin of the goods concerned.

3. The customs authority of the importing Party requesting verification to the exporting Party shall specify the reasons, and provide any documents and information justifying the verification.

4. The customs authority of the exporting Party referred to in paragraph 1 receiving a request for verification, shall respond to the request promptly and reply within 6 months from the date of raising verification request.

5. The importer, exporter, and producer referred to in paragraph 1 receiving a request for additional information, shall respond to the request promptly and reply within 6 months from the date of request.

6. If no reply is received within the periods mentioned above, or if the reply does not contain sufficient information to determine the authenticity of the documents or the originating status of the goods in question, the requesting customs authority may deny preferential tariff treatment.

Article 34: Denial of Preferential Tariff Treatment

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

- (a) the goods do not meet the requirements of this Chapter;
- (b) the importer, exporter or producer fails to comply with the relevant requirements of this Chapter;
- (c) the Certificate of Origin does not meet the requirements of this Chapter; or
- (d) in a case according to Article 33.6.

Article 35: Electronic Origin Data Exchange System

The Parties shall develop an Electronic Origin Data Exchange System to ensure the effective and efficient implementation of this Chapter in a manner jointly determined by the Parties.

Article 36: Self-Declaration of Origin

The Parties agree to explore the possibilities to facilitate an exporter or importer

to make a self-declaration on origin to streamline the documentary requirement.

Article 37: Contact Points

1. Each Party shall establish a contact point which shall have the general responsibility of coordinating and implementing this Chapter. The contact points will be:

(a) for China, General Administration of Customs or its successor; and

(b) for Maldives, Maldives Customs Service or its successor.

2. Each Party shall provide the other Party with the name(s) of the designated contact point and the contact details of the relevant official(s) in that organization, including telephone, facsimile, email and any other relevant details.

3. Each Party shall notify the other Party promptly of any change of its contact point or any amendments to the details of the relevant official(s).

Article 38: Consultation

1. The contact point of each Party may at any time request consultations with the other Party on any matter arising from the operation or implementation of this Chapter to ensure this Chapter is administered effectively, uniformly and consistently in order to achieve the spirit and objectives of this Chapter. Such consultations shall be conducted through the relevant contact points, and shall take place within 30 days of the request, unless the Parties otherwise determine.

2. In the event that such consultations fail to resolve any matter, the requesting Party may refer the matter to the Committee on Customs referred to in Article 54 for further consideration.