

ANNEX II

CHAPTER OF RULES OF ORIGIN AND IMPLEMENTATION PROCEDURES

Section A: Rules of Origin

ARTICLE 1: DEFINITIONS

For the purposes of this Chapter:

aquaculture means the farming of aquatic organisms, including fish, mollusks, 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, or protection from predators;

authorized body means any government authority or other entity authorized under the laws or regulations of a Party or recognized by a Party as competent to issue a Certificate of Origin;

competent authority means:

For China:

the General Administration of Customs of the People's Republic of China

for Nicaragua:

- i. for administration purposes, the Directorate of Application and Negotiation of Trade Agreements of the Ministry of Development, Trade and Industry;
- ii. for the application and verification of the origin of imported goods, the Directorate General of Customs Services; and
- iii. for the purpose of issuance of Certificates of Origin and the verification of proofs of origin for exports the Export Processing Center CETREX.

Customs Valuation Agreement means *the Agreement on Implementation of Article VII of the GATT 1994*, which is part of the WTO Agreement;

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;

Day means calendar days

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 goods or materials means 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 means 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;

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

non-originating good or non-originating material means a good or material that does not qualify as originating under this Chapter;

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

product means a product being produced, even if it is intended for later use in another production operation; and

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

ARTICLE 2: 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 3 (Goods Wholly Obtained);
- (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 of no less than 40%, except for the goods listed in the Appendix 1 (Product Specific Rules of Origin)

Which must comply with the requirements specified in this article and meet other applicable provisions of this Chapter.

ARTICLE 3: GOODS WHOLLY OBTAINED

For the purposes of Article 2(a), the following goods shall be considered as wholly obtained or produced 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), 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 the right to exploit such waters, seabed or subsoil beneath the seabed in accordance with international law and its domestic law;
- (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 (g);
- (i) scrap and waste derived from processing operations in a Party, which fit only for the recovery of raw materials;
- (j) used goods consumed and collected there which fit only for the recovery of raw materials; or
- (k) goods produced entirely in a Party exclusively from the goods referred to in subparagraphs (a) to (j).

ARTICLE 4: REGIONAL VALUE CONTENT

1. The Regional Value Content (RVC) of a good shall be calculated on the basis of following method:

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

where:

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

V is the value of the product, 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 materials, as defined in the *Customs Valuation Agreement*, adjusted on a CIF basis; or
 - (b) the earliest ascertained price paid or payable for the non-originating materials in a Party where the working or processing takes place. When the producer of a product 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. The value of the non-originating materials used by the producer in the production of a product shall not include, for the purposes of calculating the regional value content of the product, pursuant to paragraph 1, the value of non-originating materials used to produce originating materials that are subsequently used in the production of the product.

ARTICLE 5: DE MINIMIS

A product that does not meet tariff classification change requirements, pursuant to Appendix 1 (Product Specific Rules of Origin), shall nonetheless be considered to be an originating product, provided that:

- (a) the value of all non-originating materials, determined pursuant to Article 4 (Regional Value Content), including materials of undetermined origin, that do not meet the tariff classification change requirement does not exceed 10% of the FOB value of the given product; and
- (b) the product meets all the other applicable criteria of this Chapter.

ARTICLE 6: ACCUMULATION

Originating materials of a Party, used in the production of a good in the other Party, shall be considered to be originating in the latter Party.

ARTICLE 7: MINIMAL OPERATIONS OR PROCESSES

1. Notwithstanding Article 2(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 color 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), cutting, slitting, bending, coiling, or uncoiling;
- (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) mere dilution with water or another substance that does not materially alter the characteristics of the goods; or
- (q) operations whose sole purpose is to ease port handling.

2. All operations in the production of a given good carried out in a Party shall be taken into account when determining whether the working or process undergone by that good is considered as minimal operations or processes referred to in paragraph 1.

ARTICLE 8: 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, provided that the inventory management method selected is used for at least 12 continuous months.

ARTICLE 9: NEUTRAL ELEMENTS

1. In determining whether a good is an originating good, any neutral elements as defined in paragraph 2 shall be disregarded.
2. **Neutral elements** means a good used in the production, testing or inspection of another good but not physically incorporated into that good by itself, including:
 - (a) fuel, energy, catalysts and solvents;
 - (b) plant, equipment and machine, including 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 10: 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. 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.
3. Notwithstanding paragraph 2, where 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 11: ACCESSORIES, SPARE PARTS AND TOOLS

1. Accessories, spare parts or tools presented and classified with the good shall be considered as part of the good, provided that:
 - (a) they are invoiced together with the good; and
 - (b) their quantities and values are commercially customary for the good.

2. Where a good is subject to change in tariff classification criterion set out in Appendix 1 (Product Specific Rules of Origin), accessories, spare parts, or tools described in paragraph 1 shall be disregarded when determining the origin of the good.
3. Where a good is subject to a regional value content requirement, the value of the accessories, spare parts or tools described in paragraph 1 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.

ARTICLE 12: SETS

Sets, as defined in General Rule 3 of the Harmonized System, shall be regarded as originating when all component products are originating. Nevertheless, when a set is composed of originating and non-originating products, the set as a whole shall be regarded as originating, provided that the value of the non-originating products does not exceed 15% of total value of the set, determined pursuant to Article 4 (Regional Value Content).

ARTICLE 13: 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 180 days in such non-Parties, shall still be considered as directly transported between the Parties, provided that:
 - (a) the transit entry of the goods is justified for geographical reason or by consideration related exclusively to transport requirements;
 - (b) the goods do not undergo any other operation there other than unloading and reloading, or any operation required to keep them in good condition;
 - (c) the goods do not enter into trade or consumption there; and
 - (d) the goods remain under customs control during transit in those non-Parties.
3. Compliance with paragraph 2 shall be evidenced by presenting the customs authority of the importing Party, during the importation, 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: Implementation Procedures

ARTICLE 14: CERTIFICATE OF ORIGIN

1. In order for originating goods to benefit from preferential tariff treatment, the Certificate of Origin, as set out in Appendix 2 (Certificate of Origin), will be issued by the authorized body or bodies of the exporting Party, upon written application of the exporter, producer, or under the exporter's responsibility, by his authorized representative together with the supporting documents-
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.
2. 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.
3. 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 security features for relevant forms, including the official seals to be used by each authorized body and documents used by each authorized body, prior to the issuance of any certificate by that body. Any change in the information provided above shall be promptly notified to the customs authority of the other Party.
4. A Certificate of Origin may be issued retrospectively within 1 year from the date of shipment, bearing the words "ISSUED RETROSPECTIVELY" and remains valid for 1 year from the date of shipment, if it is not issued before or at the time of shipment due to force majeure, involuntary errors, omissions or other valid causes.
5. In cases of theft, loss, or accidental destruction of a Certificate of Origin, the exporter or producer may make a written request to the authorized bodies of the exporting Party for issuing a certified copy. 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.
6. In circumstances where a certificate of origin contains incorrect information submitted by the importer, according to the domestic legislation, the Customs Authority of the importing Party gives the importer the opportunity to present a new certificate within a certain period. The new Certificate of Origin shall be valid for the remainder of the period established in the original Certificate of Origin.

Orthographic and typing errors in a Certificate of Origin shall not cause this document to be rejected if these errors are not such as to create doubts concerning the correctness of the statements made in this document.

ARTICLE 15: 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 any longer time in accordance with that Party's 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 any longer time in accordance with that Party's domestic law.

ARTICLE 16: 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 valid Certificate of Origin and other documentary evidence established in Article 13 related to the importation of the goods, upon request of the customs administration of the importing Party.

ARTICLE 17: REFUND OF IMPORT CUSTOMS DUTIES OR DEPOSIT

1. Each Party shall provide that, where a originating good was imported, importer may, no later than one year after the date of importation, apply for refund of any excess duties, deposit, or guarantee paid as a result of the good not having been accorded preferential tariff treatment, on presentation to the customs authority of the importing Party of:
 - (a) a valid Certificate of Origin demonstrating that the good was originating at the time of importation;and
 - (b) such other documentation relating to the importation of the good as the importing Party may require.
2. Without prejudice to paragraph 1, each Party may require, in accordance with its respective laws and regulations, that the importer shall formally declare to the customs authority at the time of importation that the good in question qualifies as originating as a precondition for claiming preferential tariff treatment, failing which no preferential tariff treatment is to be granted.

ARTICLE 18: VERIFICATION OF ORIGIN

1. For the purposes of determining the authenticity or accuracy of the Certificate of

Origin, the originating status of the products concerned, or the fulfillment of the other requirements of this Chapter, the customs authority of the importing Party may conduct origin verification based on risk analysis and at random or whenever the customs authority of the importing Party has reasonable doubts, by means of:

- (a) requests for additional information from the importer;
 - (b) requests to the customs authority or authorized body of the exporting Party to verify the origin of a product;
 - (c) such other procedures as the competent authorities of the Parties may jointly decide; or
 - (d) conducting verification visit to the exporting Party, when necessary, in a manner to be jointly determined by the customs authorities of the Parties.
2. 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.
 3. The competent authority receiving a request for verification, under paragraph 1. a) or 1. b), shall respond to the request promptly and reply within 90 days, from the date of raising of the verification request. Upon request of the importer, exporter or producer, the above-mentioned period can be extended to another 90 days.
 4. If the customs authority of the importing Party decides to suspend the granting of preferential treatment to the goods concerned while awaiting the results of the verification, the goods shall be released upon submission of guarantee, unless otherwise provided in the domestic legislations of the importing party.
 5. If no reply is received within 180 days, or if the reply does not contain sufficient information to determine the authenticity of the documents or the originating status of the products in question, the requesting customs authority may deny preferential tariff treatment.
 6. The competent authority for the Certificate of Origin related to the concerned goods, shall not deny any request for a verification visit agreed by the Parties. Any failure to consent to a verification visit shall be liable for a denial of preferential benefits claimed in accordance with this Agreement.

ARTICLE 19: 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 requirement of this Chapter; or

(d) in case stipulated in Article 18 (Verification of Origin).

ARTICLE 20: THIRD COUNTRY INVOICING

The importing Party shall not reject a Certificate of Origin solely for the reason that the invoice was issued in a non Party, provided that the requirements under this Chapter are complied with.

ARTICLE 21: ELECTRONIC ORIGIN DATA EXCHANGE SYSTEM

For the purposes of the effective and efficient implementation of this Chapter, both Parties may establish Electronic Origin Data Exchange System to ensure real-time exchange of origin related information between customs administrations upon mutually agreed time framework.

ARTICLE 22: COMMITTEE ON RULES OF ORIGIN

1. The Parties hereby establish a Committee on Rules of Origin under the FTA Joint Commission, composed of government representatives of each Party.
2. The Committee shall meet as necessary to consider any matter arising under this Chapter and consult regularly to ensure that this Chapter is administered effectively, uniformly and consistently in order to achieve the objectives of this Agreement.

ARTICLE 23: CONTACT POINTS

1. Each Party shall designate a contact point to facilitate communications between the Parties on any matter covered by this Chapter.
2. Each Party shall notify the other Party in writing of its designated contact point no later than 60 days after the date of entry into force of this Agreement.
3. A Party shall promptly notify the other Party of any change of its contact point or the details of the relevant officials.

APPENDIX 2 CERTIFICATE OF ORIGIN

1. Exporter's full name, address and country:		Certificate No.: CERTIFICATE OF ORIGIN China-Nicaragua Free Trade Agreement Issued in: _____			
2. Consignee's full name, address, country		For official use only:			
3. Means of transport and route (as far as known) Departure date: Vessel/Flight/Train/Vehicle No.: Port of loading: Port of discharge:		4. Remarks:			
5. Item number	6. Marks and numbers on packages; Number and kind of packages; Description of goods	7. HS code (6-digit code)	8. Origin criterion	9. Quantity (e.g. Quantity Unit, litres, m ³)	10. Number, Date of Invoice
11. Declaration by the producer/exporter The undersigned hereby declares that the above stated information is correct and that the goods exported to _____ (Importing Party) comply with the origin requirements specified in the China-Nicaragua Free Trade Agreement. Place, date and signature of authorized person		12. Certification On the basis of the control carried out, it is hereby certified that the information herein is correct and that the described goods comply with the origin requirements of the China- Nicaragua Free Trade Agreement. Place and date Signature and stamp of the Authorized Body			

Overleaf Instruction

- Box 1: State the full legal name and address of the exporter in China or Nicaragua.
- Box 2: State the full legal name and address of the importer in China or Nicaragua, if known. If unknown, add “***” (three stars).
- Box 3: Complete the means of transport and route and specify the departure date, transport vehicle number, and port of loading and discharge, as far as known. If unknown, add “***” (three stars).
- Box 4: Customer’s Order Number, Letter of Credit Number, among others, may be included. If the Certificate of Origin has not been issued before or at the time of shipment, the authorized body should mark “ISSUED RETROSPECTIVELY” here.
- Box 5: State the item number.
- Box 6: State the shipping marks and numbers on packages, when such marks and numbers exist. The number and kind of packages shall be specified. Provide a full description of each good. The description should be sufficiently detailed to enable the products to be identified by the Customs Officers examining them and relate it to the invoice description and to the HS description of the good. If goods are not packed, state “in bulk”. When the description of the goods is finished, add “***” (three stars) or “\ ” (finishing slash).
- Box 7: For each good described in Box 6, identify the HS tariff classification to a six-digit code.
- Box 8: For each good described in Box 6, state which criterion is applicable, in accordance with the following instructions. The rules of origin are contained in Chapter of Rules of Origin and Implementation Procedures and Appendix 1 (Product Specific Rules of Origin).

Origin Criterion	Insert in Box 8
The good is “wholly obtained” in the territory of a Party, as referred to in Article 3.3 (Goods Wholly Obtained) or required so in Appendix 1 (Product Specific Rules of Origin).	WO
The good is produced entirely in the territory of a Party, exclusively from materials whose origin conforms to the provisions of Chapter of Rules of Origin and Implementation Procedures.	WP
General rule as $\geq 40\%$ regional value content.	RVC
The good is produced in the territory of a Party, using non-originating materials that comply with the Product Specific Rules and other applicable provisions of Chapter of Rules of Origin and Implementation Procedures.	PSR

- Box 9: State quantity with units of measurement for each good described in Box 6. Other units of

measurement, e.g. volume or number of items, which would indicate exact quantities may be used where customary.

Box 10: The number and date of invoice (including the invoice issued by a non-Party operator) should be shown here.

Box 11: The box must be completed by the producer or exporter. Insert the place date and signature of authorized person.

Box 12: The box must be completed, dated, signed and stamped by the authorized person of the authorized body.