CHAPTER 3

RULES OF ORIGIN

ARTICLE 3.1 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 seed stock, including seed stock imported from non-parties, such as eggs, fry, fingerlings and larvae, parr, smolts, or other immature fish at a post-larval stage, by intervention in the rearing or growth processes to enhance production such as regular stocking, feeding, or protection from predators;

customs value means the value as determined in accordance with the Customs Valuation Agreement;

change in tariff classification means a change at the two-digit, four-digit, or six-digit level of the Harmonized System;

competent authority refers to:

- (a) for New Zealand, the government authority or other authorities designated by New Zealand or any other successor notified from time to time; and
- (b) for UAE, to the Ministry of Economy or any other successor notified from time to time;

issuing authority refers to:

- (a) for New Zealand, the government authority or other authorities designated by New Zealand or any other successor notified from time to time; and
- (b) for UAE, to the Ministry of Economy or any other successor notified from time to time;

consignment means goods which are either sent simultaneously from one exporter to one consignee or covered by a single transport document covering their shipment from the exporter to the consignee or, in the absence of such a document, by a single invoice;

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;

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

manufacture means any kind of working or processing, including assembly or specific operations;

material means a good that is used in the production of another good including any ingredient, raw material, component or part;

non-originating good or **non-originating material** means a good or material that does not qualify as originating in accordance with this Chapter;

originating good or **originating material** means a good or material that qualifies as originating in accordance with this Chapter;

production means operations, including growing, cultivating, raising, mining, harvesting, fishing, trapping, hunting, capturing, collecting, breeding, extracting, gathering, manufacturing or assembling a good, or aquaculture;

producer means a person who engages in the production of a good in the territory of a Party.

SECTION A ORIGIN DETERMINATION

ARTICLE 3.2 Originating Goods

Except as otherwise provided in this Chapter, each Party shall provide that a good is originating if it is:

- (a) wholly obtained or produced entirely in the territory of either of the Parties;
- (b) produced entirely in the territory of a Party, exclusively from originating materials of either of the Parties; or
- (c) produced entirely in the territory of a Party using non-originating materials, provided the good satisfies all applicable requirements of Annex 3A (Product Specific Rules of Origin),

in each case, provided the good satisfies all other applicable requirements of this Chapter.

ARTICLE 3.3 Wholly Obtained or Produced Goods

For the purposes of paragraph (a) of Article 3.2 (Originating Goods), the following goods shall be deemed to be wholly obtained or produced in the territory of a Party:

- (a) plants, fungi, and plant goods grown, collected, or harvested there;
- (b) live animals born and raised there;
- (c) goods obtained from live animals there;
- (d) mineral goods or natural resources extracted or taken from that Party's soil, subsoil, waters, seabed, or beneath the seabed;
- (e) goods obtained by hunting, trapping, collecting, capturing, fishing, or aquaculture conducted there;
- (f) fish, shellfish, and other marine life taken from the sea, seabed, or subsoil, in accordance with international law, outside the territorial sea of the Parties and 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, and any good produced from these goods on a factory ship that is registered, listed, or recorded with a Party and entitled to fly the flag of that Party;
- (g) minerals, mineral products, and other non-living natural resources, taken or extracted from the seabed, subsoil, or ocean floor of the Parties' exclusive economic zone or continental shelf, provided that that Party or person of the Party has rights to exploit that seabed, subsoil, or ocean floor;
- (h) a good that is:
 - (i) waste or scrap derived from production there; or
 - (ii) waste or scrap derived from used goods collected there, provided that those goods are fit only for the recovery of raw materials; and
- (i) goods produced or obtained there exclusively from goods referred to in subparagraphs (a) through (i) of this Article, or from their derivatives, at any stage of production.

ARTICLE 3.4 Regional Value Content

Where Annex 3A (Product Specific Rules of Origin) specifies a regional value content test to determine whether a good is originating, each Party shall provide that the regional value content (RVC) shall be calculated using either of the following two formula:

(a)
$$RVC = \frac{ExWorks Price - V.N.M}{ExWorks Price} * 100$$

(b) $RVC = \frac{FOB Price - V.N.M}{FOB Price} * 100$

where Ex-Works Price is used, the RVC requirement shall be five percentage points lower than the RVC requirement which is calculated on the basis of FOB Price.

where:

RVC is the regional value content of a good expressed as a percentage;

FOB Price is the price of the good free on board, inclusive of the cost of transportation to the port or site of final shipment abroad, regardless of the mode of transportation;

Ex-Works Price is the price paid or payable for the good ex-works to the manufacturer in the Party in whose undertaking the last working or processing is carried out, provided the price includes the value of all the materials used, minus any internal taxes which are, or may be, repaid when the good obtained is exported;

V.N.M is:

- (a) the customs value at the time of importation of the non-originating materials used including freight and insurance costs incurred in transporting the material to the importation port in the territory of the Party where the producer of the good is located or, if this is not known and cannot be ascertained, the first ascertainable price paid for the materials in the exporting Party;
- (b) where the producer of a good acquires non-originating materials in the territory of the Party where the producer is located, 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; or
- (c) in the case of a self-produced material or where the relationship between the producer of the good and the seller of the material influences the price actually paid or payable for the material, the sum of all costs incurred in the production of the material, including general expenses. Additionally, it will

be possible to add an amount for profit equivalent to the profit added in the normal course of trade.

ARTICLE 3.5 Intermediate Goods

If a good which has obtained originating status in a Party is used as a material in the manufacture of another good, no account shall be taken of the non-originating materials which may have been used in its manufacture.

ARTICLE 3.6 Accumulation

1. An originating good of a Party which is used in the processing or production in the territory of the other Party as material for finished goods shall be deemed as a material originating in the territory of the latter Party where the working or processing of the finished goods has taken place.

2. Notwithstanding paragraph 1, an originating good of a Party that does not undergo processing beyond the insufficient working or processing operations listed in Article 3.8 (Insufficient Working or Processing) in the other Party shall retain its originating status of the former Party.

3. The Parties will review this Article within five years of entry into force of this Agreement. This review will consider the extension of the application of cumulation in paragraph 1 to:

- (a) all production undertaken and value added to a good within the Parties;
- (b) accumulation between the Parties and a non-party should there be a free trade agreement between each of the Parties and the non-party; and
- (c) other forms of accumulation that the Parties may deem fit.

ARTICLE 3.7 Tolerance

Each Party shall provide that a good containing non-originating materials that do not satisfy the applicable change in tariff classification requirement specified in Annex 3A (Product Specific Rules of Origin) for the good is nonetheless an originating good if:

(a) the value of those non-originating materials that do not satisfy the applicable change does not exceed 15 percent of the value of the good¹; and

¹ The value of goods means the relevant Ex-works price or FOB price of goods.

(b) the good meets all other applicable requirements of this Chapter.

However, the value of such non-originating materials shall be included in the value of non-originating materials for any applicable regional value content requirement.

ARTICLE 3.8 Insufficient Working or Processing

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) slaughter of animals;
- (b) operations to ensure the preservation of products in good condition during transport and storage such as drying, freezing, ventilation, chilling and like operations;
- (c) sifting, washing, cutting, slitting, bending, coiling or uncoiling, sharpening, simple grinding, slicing;
- (d) cleaning, including removal of oxide, oil, paint or other coverings;
- (e) simple painting and polishing operations;
- (f) testing or calibration;
- (g) placing in bottles, cans, flasks, bags, cases, boxes, fixing on cards or boards, and packaging operations;
- (h) simple mixing of goods, whether or not of different kinds;
- (i) simple assembly of parts of products to constitute a complete good or disassembly of products into parts;
- (j) changes of packing, unpacking or repacking operations, and breaking up and assembly of consignments;
- (k) affixing or printing marks, labels, logos and other like distinguishing signs on goods or their packaging;
- (1) husking, partial or total bleaching, polishing and glazing of cereals and rice; and

- (m) mere dilution with water or another substance that does not materially alter the characteristics of the goods.
- 2. For the purposes of paragraph 1, the terms "simple" and "simple mixing" mean:
 - (a) "Simple" generally describes an activity which does not need special skills, machines, apparatus, or equipment especially produced or installed for carrying out the activity.
 - (b) "Simple mixing" generally describes an activity which does not need special skills, machine, apparatus, or equipment especially produced or installed for carrying out the activity. However, simple mixing does not include chemical reaction.

ARTICLE 3.9 Indirect Materials

In determining whether a good is an originating good, any of the following materials used in its production shall be treated as originating material irrespective of their true origin:

- (a) fuel, energy, catalysts, and solvents;
- (b) equipment, devices, and supplies used to test or inspect the good;
- (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; or
- (g) 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.

ARTICLE 3.10 Accessories, Spare Parts, Tools

1. Accessories, spare parts, tools, and instructional or other information materials delivered with a good that form part of the good's standard accessories, spare parts, tools, and instructional or other information materials shall be regarded as a part of the good, and shall be disregarded in determining whether or not all the non-originating materials used in the production of the originating goods undergo the applicable change in tariff classification provided that:

- (a) the accessories, spare parts, tools, and instructional or other information materials are classified with and not invoiced separately from the 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 the good.

2. Notwithstanding paragraph 1, if the good is subject to RVC requirement, the value of the accessories, spare parts, tools and instructional or other information materials shall be taken into account as originating or non-originating materials, as the case may be, in calculating the regional value content of the good.

ARTICLE 3.11 Packaging Materials and Containers for Retail Sale

Each Party shall provide that packaging materials and containers in which a good is packaged for retail sale, if classified with the good according to Rule 5 of the General Rules for the Interpretation of the Harmonized System, are:

- (a) 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 required by this chapter, or whether the good is wholly obtained or produced; and
- (b) taken into account as originating or non-originating materials, as the case may be, in calculating the regional value content of the good.

ARTICLE 3.12 Unit of Qualification

For the purposes of this chapter, the unit of qualification shall be the particular product which is considered as the basic unit when determining classification under the Harmonized System. Accordingly, the Parties agree:

- (a) when a product composed of a group or assembly of articles is classified under a single heading, the whole constitutes the unit of qualification; and
- (b) when a consignment consists of a number of identical products classified under the same heading, each product shall be taken individually into account when in determining whether it qualifies as an originating good.

ARTICLE 3.13 Packaging Materials and Containers for Transportation and Shipment

Each Party shall provide that packing materials and containers for transportation and shipment are disregarded in determining whether a good is originating.

ARTICLE 3.14 Fungible Goods and Materials

1. Each Party shall provide that the determination of whether fungible goods or materials are originating shall be made through physical segregation of each good or material. If physical segregation is not practicable, the determination shall be made through the use of any inventory management method recognized in the Generally Accepted Accounting Principles of the Party in which the production is performed or otherwise accepted by the Party in which the production is performed.

2. Each Party shall provide that an inventory management method selected under paragraph 1 for particular fungible goods or materials shall continue to be used for those fungible goods or materials throughout the fiscal year of the Party that selected the inventory management method.

ARTICLE 3.15 Sets of Goods

Sets, as defined in General Rule 3 of the Harmonized System, shall be regarded as originating when all component goods are originating. However, 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 non-originating goods does not exceed 15 percent of the Ex-works price or FOB price of the set.

SECTION B TERRITORIALITY AND TRANSIT

ARTICLE 3.16 Principle of Territoriality

1. The conditions for acquiring originating status set out in Article 3.2 must be fulfilled without interruption in the territory of the Party concerned.

Where an originating good exported from the territory of a Party to a non-party returns to the exporting Party it shall be considered as non-originating unless it can be demonstrated, to the satisfaction of the customs authorities, that:

- (a) the returning good is the same as that exported; and
- (b) it has not undergone any operation beyond that necessary to preserve it in good condition while in that non-party or while being exported.

2. The acquisition of originating status set out in Article 3.2 shall not be affected by working or processing done outside a Party on materials exported from that Party and subsequently re-imported, provided:

- (a) those materials are wholly obtained in the exporting Party or have undergone working or processing beyond the operations referred to in Article 3.8 prior to being exported; and
- (b) it can be demonstrated to the satisfaction of the customs authorities that:
 - (i) the re-imported goods have been obtained by working or processing the exported materials; and
 - (ii) the total added value acquired outside a Party by applying this Article does not exceed 15 percent of the ex-works price of the end good for which originating status is claimed.

3. For the purposes of paragraph 3, the conditions for obtaining originating status set out in Section A shall not apply to working or processing done outside the exporting Party. However, where a RVC rule is applied in determining the originating status of the end good, the total added value acquired in the territory of the exporting Party shall not be less than the stated RVC percentage for the end good.

4. Paragraphs 3 and 4 of this Article shall not apply to goods which do not fulfil the conditions set out in Article 3.8 or which can be considered sufficiently worked or processed only if the general tolerance of Article 3.7 is applied.

5. For the purposes of applying paragraph 3(b)(ii), 'total added value' shall be taken to mean all costs arising outside the exporting Party, including the value of the materials incorporated there.

6. Any working or processing of the kind covered by this Article and done outside the exporting Party shall be done under the outward processing arrangements, or similar arrangements.

ARTICLE 3.17 Non-alteration

1. An originating good shall retain its originating status if the good has been transported to the importing Party without passing through the territory of a non-party.

2. An originating good transported through the territory of one or more non-parties shall retain its originating status provided that the good:

- (a) does not undergo further production or any other operation outside the territories of the Parties, other than unloading, reloading, separation from a bulk shipment or splitting of a consignment, storing, repacking, labelling, bottling, or marking required by the importing Party, or any other operation necessary to preserve it in good condition or to transport the good to the territory of the importing Party; and
- (b) is not released to free circulation in the territory of any non-party.

3. In the case of doubt as to whether the requirements provided for in paragraphs 1 or 2 are complied with, the importing Party may, at any time, request the importer, or its representative, to submit all relevant documents that provide evidence of compliance with this Article, which may be given by any means. Such relevant documents may include:

- (a) contractual transport documents such as bills of lading;
- (b) factual or concrete evidence based on marking or numbering of packages;
- (c) a certificate of non-manipulation provided by the customs authorities of any country of transit or splitting, or any other documents demonstrating that the goods remained under customs supervision in any country of transit or splitting; or
- (d) any evidence related to the goods themselves.

ARTICLE 3.18 Free Economic Zones or Free Zones

Goods manufactured in a free zone situated within the territory of a Party shall be considered as goods originating in that Party and eligible for the preferential treatment under this Agreement when exported to the other Party, provided that the treatment or processing undergone in the free zone is in conformity with the provisions of this Chapter.

ARTICLE 3.19 Third Party Invoicing

1. The customs authority in the importing Party shall not deny a claim for preferential tariff treatment only because the invoice was not issued by the exporter or producer of a good, or because the invoice was issued in a third country, provided that the good meets the requirements in this Chapter.

2. The exporter of the goods shall indicate "third party invoicing" and include such information as the name and country of the company issuing the invoice in the appropriate field in the Certificate of Origin as detailed in Annex 3-B (Certificate of Origin) or, in the case of origin declaration, the approved exporter may make out the origin declaration on any other appropriate document as per Article 3.23.

SECTION C ORIGIN CERTIFICATION

ARTICLE 3.20 Proof of Origin

1. Goods originating in a Party shall, on importation into the other Party, benefit from preferential tariff treatment under this Agreement on the basis of a valid Proof of Origin.

2. Any of the following shall be considered as a valid Proof of Origin:

- (a) a "paper format"² Certificate of Origin issued by a competent authority pursuant to Article 3.21 (Certificate of Origin in Paper Format);
- (b) an Electronic Certificate of Origin (E-Certificate) issued by a competent authority and exchanged by a mutually developed electronic system pursuant to Article 3.22 (Electronic Data Origin Exchange System);

² "paper format" means a Certificate of Origin manually or electronically signed, stamped, and issued in the exporting Party directly from the competent authority's system and printed by the competent authority, producer or exporter, or his authorized representative

(c) an origin declaration made out by an approved exporter pursuant to Article 3.23 (Origin Declaration)

3. Each Party shall provide that a Proof of Origin shall be completed in the English language and shall remain valid for one year from the date on which it is issued.

ARTICLE 3.21 Certificate of Origin in Paper Format

- 1. A Certificate of Origin in paper format shall:
 - (a) be in standard A4 white paper as per the attached Form set out in Annex 3-B (Certificate of Origin);
 - (b) be forwarded by the producer or exporter to the importer for submission to the customs authority of the importing Party; and
 - (c) apply to single importation of one or multiple goods provided that each good qualifies as an originating good separately in its own right.

2. A Certificate of Origin in paper format can also be provided as an electronic document (for example, as a PDF version of a paper document).

3. Each Certificate of Origin shall bear a unique serial reference number separately given by each place or office of issuance.

4. A Certificate of Origin shall bear an official seal of a competent authority. The official seal may be applied electronically.

5. Where the official seal is applied electronically, an authentication mechanism, such as quick response (QR) code or a secured website, shall be included in the certificate in order for the certificate to be deemed as an original copy.

ARTICLE 3.22 Electronic Data Origin Exchange System

1. For the purposes of Article 3.20(2)(b), the Parties shall develop an electronic system for the exchange of origin information to ensure the effective and efficient implementation of this Chapter, particularly transmission of electronic certificate of origin³.

³ Electronic certificate of origin means certificate of origin data that is transmitted electronically

2. Development of an Electronic Data Origin Exchange System, in accordance with Paragraph 1, shall not be implemented until both Parties have confirmed readiness, through the contact points established in Article 3.36.

ARTICLE 3.23 Origin Declaration by Approved Exporter

1. The competent authority of a Party may authorise any exporter, (hereinafter referred to as a "approved exporter"), who exports goods under this Agreement, to complete Origin Declarations, the template of which appears in Annex 3-C, irrespective of the value of the goods concerned.

2. An exporter of a Party seeking such authorisation must offer to the satisfaction of the competent authority of that Party all appropriate documents proving the originating status of the goods and the fulfilment of the other requirements of this Chapter.

3. The competent authority of a Party may subject an authorisation of an approved exporter to any conditions which it considers appropriate.

4. The competent authority of a Party shall share with the other Party, or publish, the list of approved exporters, including their authorisation numbers, and periodically update it.

5. An Origin Declaration (the text of which appears in Annex 3-C) shall be completed by the approved exporter by typing, stamping or printing the declaration on the invoice, the delivery note or another commercial document which describes the goods concerned in sufficient detail to enable them to be identified. The declaration may also be hand-written. If the declaration is hand-written, it shall be written in permanent ink in legible printed characters.

6. The approved exporter of a Party making out an Origin Declaration shall be prepared to submit at any time, at the request of the competent authority of that Party, all appropriate documents proving the originating status of the goods for which they have issued an origin declaration and the fulfilment of the other requirements of this Chapter.

7. The competent authority shall grant to the approved exporter an authorisation number which shall appear on the origin declaration.

8. The competent authority shall verify the proper use of an authorisation and may withdraw the authorisation if the approved exporter makes improper use of it and shall do so if the approved exporter no longer offers the guarantees referred to in paragraph 6.

9. An origin declaration may be issued by an approved exporter when the products to which it relates are exported, or after exportation, with a validity no longer than 1

year from the date of shipment. When the the origin declaration is issued after export, the approved exporter shall indicate "issued retroactively" on the origin declaration.

ARTICLE 3.24 Application and Examination of Application for a Certificate of Origin

1. Certificates of Origin shall be issued by a competent authority of a Party, either upon an electronic application or an application in paper form, having been made by the exporter or producer of the good or under the exporter or producer's responsibility by his or her authorised representative, in accordance with the domestic law of the exporting Party.

2. An exporter or producer applying for a Certificate of Origin shall be prepared to submit at any time, at the request of the competent authority of that Party, all appropriate documents proving the originating status of the goods concerned and the fulfillment of the other requirements of this Chapter.

3. In assessing the application and the supporting documents provided by the exporter pursuant to paragraphs 1 and 2, the competent authority shall, to the best of its competence and ability, carry out proper examination to ensure that:

- (a) the application and the Certificate of Origin are duly completed and signed by the exporter or producer or their authorised representative;
- (b) the origin of the good is in conformity with the provisions of this Chapter;
- (c) the description, gross weight or other relevant measurement, marks and number of packages, as specified, conform to the good to be exported; and
- (d) the other statements of the Certificate of Origin correspond to supporting documentary evidence submitted.

ARTICLE 3.25 Certificate of Origin Issued Retrospectively

1. The Certificate of Origin shall be issued by a competent authority of a Party prior to, or at the time of, shipment.

2. In exceptional cases where a Certificate of Origin has not been issued prior to, or at the time of, shipment, due to involuntary errors or omissions or other valid causes, the Certificate of Origin may be issued retrospectively but with a validity no longer than 1 year from the date of shipment, in which case it is necessary to indicate "ISSUED RETROSPECTIVELY in the appropriate field as detailed in Annex 3-B.

3. The provisions of this Article shall be applied to goods which comply with the provisions of this Agreement, and which, on entry into force, are either in transit or are in the territory of either of the Parties in temporary storage under customs control. This treatment shall be subject to the submission of:

- (a) a Certificate of Origin issued retrospectively by a competent authority of the exporting Party; and
- (b) documents showing that the goods have been transported directly in accordance with the provisions of Article 3.17 to the customs authorities of the importing Party, within six months of entry into force.

ARTICLE 3.26 Loss of the Certificate of Origin

1. In the event of theft, loss, or destruction of an original Certificate of Origin, the exporter, producer, or their authorised representative may apply to the competent authority of the exporting Party for a certified true copy made on the basis of the export documents in their possession. The certified true copy shall:

- (a) be issued within the validity period of the original Certificate of Origin;
- (b) bear the words "CERTIFIED TRUE COPY" and the date of issuance of the original Certificate of Origin in the appropriate field as detailed in Annex 3-B;
- (c) be valid within the same validity period of the original Certificate of Origin.

2. In the event of theft, loss, or destruction of an origin declaration provided by an approved exporter to an importer, an importer or approved exporter may seek a copy of the origin declaration from the importer or approved exporter as the case may be.

ARTICLE 3.27 Importation by Installments

Where, at the request of the importer and on the conditions laid down by the customs authorities of the importing Party, dismantled or non-assembled goods, within the meaning of General Rule 2(a) of the Harmonized System, are imported in installments, a single Proof of Origin for such goods shall be submitted to the customs authorities upon importation of the first installment.

ARTICLE 3.28 Treatment of Erroneous Declaration in the Certificate of Origin

Neither erasures nor superimposition shall be allowed on the Certificate of Origin. Any alterations shall be made by issuing a new Certificate of Origin. The reference number of the corrected Certificate of Origin should be indicated in the appropriate field on the newly issued Certificate of Origin as detailed in Annex 3-B. The validity of the newly issued certificate will be the same as the former.

ARTICLE 3.29 Minor Errors and Discrepancies

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

2. Each Party shall provide that if its customs authority determines that the Proof of Origin in respect of goods imported into its territory is illegible or defective on its face, the importer shall be granted a period of no less than 30 days after the date the customs authority of the importing Party advises the importer that the Proof of Origin is illegible or defective to provide the customs authority of the importing Party with a copy of a corrected proof of origin. Nothwithstanding the determination of an illegible or defective Proof of Origin, the customs authority of the importing Party may release the goods and subject that release to an administrative measure or financial security it deems necessary.

SECTION D COOPERATION AND ORIGIN VERIFICATION

ARTICLE 3.30 Claims for Preferential Tariff Treatment

1. Except as otherwise provided in Article 3.31 (Denial of Preferential Tariff Treatment), each Party shall grant preferential tariff treatment to an originating good of other Party on the basis of a Proof of Origin.

2. In providing the preferential tariff treatment pursuant to paragraph 1, the importing Party shall provide that an importer:

(a) makes a declaration that the good being imported qualifies as an originating good and that they have a valid Proof of Origin in their possession;

- (b) if required by an importing Party, provide the Proof of Origin to the importing Party; and
- (c) if required by an importing Party, demonstrate that the requirements in Article 3.17 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.

ARTICLE 3.31 Denial of Preferential Tariff Treatment

1. Except as otherwise provided in this Chapter, the customs authority of the importing Party may deny a claim for preferential tariff treatment or recover unpaid duties, in accordance with its laws and regulations, where:

- (a) the good does not meet the requirements of this Chapter;
- (b) the importer, exporter or producer of the good failed to comply with any of the relevant requirements of this Chapter for obtaining preferential tariff treatment; or
- (c) the competent authority or customs authority of the exporting Party does not comply with the requirements of verification in accordance with Article 3.32 (Verification of Origin).

2. If the customs authority of the importing Party denies a claim for preferential tariff treatment, it shall provide the decision in writing to the importer that includes the reasons for the decision.

3. Upon being advised of the decision to deny preferential tariff treatment, the importer may, within the period provided for in the custom laws of the importing Party, file an appeal against such decision with the appropriate authority under the customs laws and regulations of the importing Party.

ARTICLE 3.32 Verification of Origin

1. For the purposes of determining whether a good imported into one Party from the other Party qualifies as an originating good, the importing Party may carry out a verification process.

2. A verification process may be initiated on the basis of risk assessment methods, including random selection for audit purposes, or when the importing Party has reasonable doubt as to the authenticity of the origin of the goods.

- 3. A verification process may include:
 - (a) a written request for additional information⁴ from the importer;
 - (b) a written request for additional information from the exporter or producer;⁵
 - (c) a written request for additional information from the competent authority of the exporting Party; or
 - (d) a verification visit to the premises of the exporter or producer in the exporting Party to observe the facilities and the production processes of the good and to review the records referring to origin, including accounting files.
- 4. The importing Party initiating a verification process shall:
 - (a) for the purposes of subparagraph 3(a), send a written request, with a copy of the Proof of Origin and the reasons for the request, to the importer of the good;
 - (b) for the purposes of subparagraph 3(b), send a written request, with a copy of the Proof of Origin and the reasons for the request, to the exporter or producer of the good in the exporting Party;
 - (c) for the purposes of subparagraph 3(c), send a written request with a copy of the Proof of Origin and the reasons for the request, to the competent authority in the exporting Party; and
 - (d) for the purposes of subparagraph 3(d), request the customs authority or the competent authority of the importing Party, as the case may be, to seek consent from the exporter or producer of the goods to visit their premises.

5. The importing Party may suspend the provision of preferential treatment to the goods in question while awaiting the result of verification. Nothwithstanding the suspension of preferential treatment, the importing Party may release the goods to the importer and subject that release to any administrative measures or financial security it deems necessary.

⁴ For greater certainty, for the purpose of Article 3.32, "additional information" shall be limited to information directly related to the determination of the origin status of the goods subject to the verification process.

 $^{^{5}}$ A request made under Article 3.32(3)(b) shall also be provided to the relevant competent authority in the exporting Party. In addition, the competent authority or custom authority in importing party shall provide a reminder to the exporter ten days prior the expiry of the period in paragraph 6. For greater certainty, failure to provide a reminder does not remove the requirement to provide the requested information within the prescribed time period.

6. Pursuant to paragraphs 4(a) and (b), the recipient of the request shall reply to a request for information by e-mail, or any means that ensures receipt, no later than 30 days after the receipt of the request.

7. Pursuant to paragraph 4(c), the customs or the competent authority of the exporting Party shall reply to a request for information by e-mail, or any means that ensures receipt. In the case of a request to verify authenticity of the Proof of Origin, the reply shall be provided no later than 45 days after the receipt of the request and must indicate clearly whether the Proof of Origin is authentic. In the case of a verification request concerning the qualification of the goods as origining goods for the purposes of this chapter, the reply shall be provided no later than 180 days after the receipt of the request and must clearly indicate whether the goods covered by the concerned Proof of Origin are originating goods according to this chapter and the origin criteria that was met.

8. If the importing Party is not satisfied with the outcomes of the information received after completing the processes identified in paragraphs 3 (a), (b), or (c) regarding whether the goods qualify as originating goods according to this Chapter, it may request in writing to the customs authority or competent authority of the exporting party to seek agreement to undertake for a verification visit to the premises of the producer or exporter to observe the facilities used in the production of the goods concerned, including review of the exporter's or producer'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.

9. The written request referred to in paragraph 8 shall be as comprehensive as possible and include at a minimum:

- (a) the name of the producer or exporter whose premises are to be visited;
- (b) the goods subject to the verification process; and
- (c) reasons why the outcome of the verification activity conducted under paragraph 3(a), (b) and (c) has not been satisfactory.

10. The customs authority or the competent authority of the exporting Party shall set a date for the visit upon agreement from the exporter or producer and the competent authority of the importing Party. The visit shall be conducted no later than 90 days from the receipt by the customs authority or the competent authority of the exporting Party of the written visit request. Officials from the exporting Party may accompany and assist the officials from the importing Party in their visit to the exporter's premises.

11. When the written consent of the producer or exporter 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 authority of the importing Party may deny preferential tariff treatment to the good that would have been the subject of the verification visit.

12. The importing Party conducting the verification visit shall, within three months of the date the verification visit was completed, provide a written determination of the outcomes of the verification visit including whether the goods subject of the verification qualify as originating goods and, if the good is found not to be originating, the basis for that determination.

13. 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 refund any duties paid in excess of the preferential duty or release guarantees obtained in accordance with their domestic legislation.

14. Upon the issuance of the written determination that the good does not qualify as an originating good, the producer or exporter shall be allowed 30 days from the date of receipt of the written determination to provide written 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 within 30 days from the date of receipt of the comments or additional information.

ARTICLE 3.33 Record Keeping Requirement

- 1. Each Party shall provide that:
 - (a) the producer or exporter retain, for a period not less than five years from the date of issuance of the Proof of Origin, or a longer period in accordance with its domestic laws and regulations, all supporting records necessary to prove that the good for which the Proof of Origin was issued was originating; and
 - (b) the importers shall retain, for a period not less than five years from the date of importation of the good, or a longer period in accordance with its domestic laws and regulations, all records to prove that the good for which preferential tariff treatment was claimed was originating; and
 - (c) the competent authority retains, for a period not less than five years from the date of issuance of the Proof of Origin, or a longer period in accordance with its domestic laws and regulations, all supporting records of the application for the Proof of Origin.

2. The records referred to in paragraph 1 may be maintained in any medium that allows for prompt retrieval including, but not limited to, digital, electronic, optical, magnetic, or written form.

ARTICLE 3.34 Confidentiality

1. All information related to the application of this Chapter communicated between the Parties shall be treated as confidential. It shall not be disclosed by the Parties' authorities without express permission of the person or authority providing it.

2. Notwithstanding paragraph 1, information may be disclosed without the specific permission of the person or government providing such information, if it is required to be disclosed under its law, including for the purpose of judicial proceedings.

ARTICLE 3.35 Contact Points

Each Party shall, within 30 days of entry into force, designate at least one contact point within its competent authority and issuing authorities for the implementation of this Chapter and notify the other Party of the contact point details. Each Party shall promptly notify the other Party of any change to those contact point details.

ARTICLE 3.36 Exchange of Official Stamps and Signatures

- 1. The Parties shall provide each other with:
 - (a) a list of the specimen impressions of the official stamps and signatures used in their offices for the issue of the Certificate of Origin, in hard copy or soft copy format;
 - (b) address of their competent authority; and
 - (c) where applicable, secured web address for the QR codes and electronic certificates authentications.

2. Any change in the information provided pursuant to paragraph 1 shall be promptly provided to the other Party.

ARTICLE 3.37 Transitional Provisions for Goods in Transit

A Party shall grant preferential tariff treatment to an originating good, if on entry into force, the good was being transported to that Party in accordance with Article 3.17 and if a valid claim for preferential tariff treatment is made within 180 days of the entry into force.

SECTION E CONSULTATION AND MODIFICATIONS

ARTICLE 3.38 Rules of Origin and Customs and Trade Facilitation Sub-Committee

1. The Rules of Origin and Customs and Trade Facilitation Sub-Committee established under Article 19.4 (Establishment of Sub-Committees) shall be responsible for the effective implementation and operation of this Chapter and Chapter 4 (Customs Procedures and Trade Facilitation), and shall report to the Joint Committee.

2. The Rules of Origin and Customs and Trade Facilitation Sub-Committee shall be composed of representatives of each Party, and may seek the advice of experts on any matter falling within the Sub-Committee's functions.

- 3. The Rules of Origin and Customs and Trade Facilitation Sub-Committee may:
 - (a) provide a forum to consider measures to facilitate trade between the Parties, including the exchange of information, enhancement of customs cooperation, and resolution of differences;
 - (b) monitor the operation and implementation of this Chapter;
 - (c) consider any other matters referred to it by the Joint Committee; and
 - (d) provide periodic reports to the Joint Committee regarding its activities.

4. The Rules of Origin and Customs and Trade Facilitation Sub-Committee may meet by agreement of the Parties. The Sub-Committee may meet physically or virtually as mutually agreed.

ARTICLE 3.39 Consultation and Modifications

The Parties shall consult and cooperate, as appropriate through the Sub Committee, to:

- (a) ensure that this Chapter is applied in an effective and uniform manner; and
- (b) discuss necessary amendments to this Chapter, taking into account developments in technology, production processes, and other related matters.

ARTICLE 3.40 Transposition of Product-Specific Rules

1. Prior to the entry into force of any amended edition of the Harmonized System done by the WCO, the Parties shall consult to prepare updates to Annex 3-A (Product-Specific Rules) to reflect the necessary amendments created by the new edition of the Harmonized System.

2. The Parties shall ensure that the transposition of Annex 3-A (Product-Specific Rules) is carried out without impairing the Product-Specific Rules and is completed in a timely manner.

3. The transposition of Annex 3-A (Product-Specific Rules) referred to in paragraph 2, shall be adopted by the Joint Committee.

4. For the purposes of this Article, "transposition" means the measures necessary to update the HS codes listed in Annex 3-A (Product-Specific Rules) to reflect the periodic updates of the Harmonized System nomenclature.