

## **CHAPTER 3 RULES OF ORIGIN**

### **Article 3.1: Definitions**

For the purposes of this Chapter:

**Aquaculture** refers to 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, *inter alia*, regular stocking, feeding, protection from predators;

**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 Viet Nam, the Ministry of Industry and Trade or any other agency notified or designated by the Ministry of Industry and Trade from time to time; and
- (b) for the UAE, the Ministry of Economy or any other agency notified or designated by the Ministry of Economy from time to time;

**Consignment** means products 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 document, by a single invoice;

**Customs authority** refers to:

- (a) for Viet Nam, the General Department of Viet Nam Customs under the Ministry of Finance; and
- (b) for the UAE, the Federal Authority for Identity, Citizenship, Customs and Port Security;

**Customs value** refers to the value as determined in accordance with Customs Valuation Agreement;

**Exporter** means a person, located in the exporting Party, that is exporting the goods to the other Party and is able to prove the origin of the exported goods, whether or not that person is the manufacturer or carries out the export formalities;

**Fungible materials** refers to goods or materials that are of the same kind and commercial quality, with the same technical and physical characteristics, and which

cannot be distinguished from one another once they are incorporated into the finished product;

**Generally accepted accounting principles** refers to the recognised consensus or substantial authoritative support in the territory of a Party, with respect to the recording of revenues, expenses, costs, assets, and liabilities, the disclosure of information and the preparation of financial statements. These standards may encompass broad guidelines of general application as well as detailed standards, practices and procedures;

**Good** refers to any article of trade including materials and products;

**Manufacture** refers to any kind of working or processing, including assembly or specific operations;

**Material** refers to any ingredient, raw material, compound or part used in the production of a good;

**Non-originating goods** or **non-originating materials** refers to goods or materials that do not qualify as originating in accordance with this Chapter;

**Originating goods** or **originating materials** refers to goods or materials that qualify as originating in accordance with this Chapter;

**Product** refers to that which is obtained by growing, raising, mining, harvesting, fishing, aquaculture, trapping, hunting, extracting or manufacturing, even if it is intended for later use in another manufacturing operation; and

**Production** refers to methods of obtaining products, including growing, raising, mining, harvesting, fishing, aquaculture, trapping, hunting, manufacturing, processing, assembling.

## SECTION A: ORIGIN DETERMINATION

### Article 3.2: Originating Goods

1. For the purposes of implementing this Agreement, goods shall be deemed to be originating in the territory of a Party, if:
  - (a) the goods are wholly obtained in the territory of that Party in accordance with Article 3.3 (Wholly Obtained Goods); or
  - (b) goods are not wholly obtained in the territory of that Party, provided that the goods have undergone sufficient working or processing there in accordance with Article 3.4 (Sufficient Working or Processing); or
  - (c) goods produced in the territory of that Party exclusively from originating materials.

2. In each case provided for in paragraph 1, the goods shall be deemed to have satisfied all other applicable requirements of this Chapter.

### **Article 3.3: Wholly Obtained Goods**

For the purposes of subparagraph 1(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 and plant products grown, collected or harvested there;
- (b) live animals born or raised there;
- (c) products obtained from animals alive there;
- (d) mineral products or natural resources extracted or taken from that Party's soil, subsoil, waters, seabed or beneath the seabed;
- (e) products obtained by hunting, trapping, collecting, capturing, fishing or aquaculture conducted there;
- (f) products of sea fishing and other marine products taken from outside the territorial waters of the Parties by a vessel registered, recorded, listed or licensed with a Party and flying its flag;
- (g) products made on board a factory ship registered, recorded, listed or licensed with a Party and flying its flag, exclusively from products referred to in subparagraph (h);
- (h) products, other than products of sea fishing and other marine products, taken or extracted from the seabed, ocean floor or the subsoil of the continental shelf or the exclusive economic zone of any of the Parties, by a Party or a person of a Party provided that that Party or that person of a Party has the right to exploit such seabed, ocean floor, or subsoil in accordance with international law;
- (i) used goods collected there, provided that such goods are fit only for the recovery of raw materials;
- (j) wastes or scraps resulting from utilisation, consumption or manufacturing operations conducted there; and
- (k) products produced or obtained there exclusively from products referred to in subparagraphs (a) through (j), or from their derivatives, at any stage of production.

### Article 3.4: Sufficient Working or Processing

1. For the purposes of subparagraph 1(b) of Article 3.2 (Originating Goods), a good shall be considered to have undergone sufficient working or processing and shall be deemed to be originating in the territory of a Party when the good satisfies any of the following:
  - (a) a Change in Tariff Heading (CTH), which means that all non originating materials used in the production of the good have undergone a change in HS tariff classification at the 4-digit level; or
  - (b) a Qualifying Value Content (QVC) not less than 35% of the Ex-Works Price.
2. Notwithstanding paragraph 1, a good that falls within the classifications included in the list of Product Specific Rules (PSR) in Annex 3A (Product Specific Rules (PSR)), shall satisfy the specific rule pertaining to it detailed therein.
3. For the purposes of paragraph 1, the QVC shall be calculated as follows:

$$QVC = \frac{ExWorks\ Price - V.N.M}{ExWorks\ Price} * 100$$

where:

**QVC** is the qualifying value content of a good expressed as a percentage;

**Ex-Works Price** is the price paid 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; and

**V.N.M.** (Value of Non-originating Materials) means:

- (a) the customs value at the time of importation of the non-originating materials used inclusive freight and insurance costs incurred in transporting the material to the importation port in the territory of the importing Party or, if this is not known and cannot be ascertained, the first ascertainable price paid for the materials in the exporting Party; and
- (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.

### **Article 3.5: Intermediate Goods**

If a good which has acquired originating status in the territory of a Party in accordance with Article 3.4 (Sufficient Working or Processing) is used in the manufacture of another product, the conditions applicable to the product in which it is incorporated do not apply to it, and 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 Joint Committee may agree to review this Article with a view to providing for other forms of accumulation for the purposes of qualifying goods as originating goods under this Agreement.

### **Article 3.7: Tolerance**

1. Notwithstanding Article 3.4 (Sufficient Working or Processing), a good will be considered to have undergone a change in tariff classification if the value of all non-originating materials that are used in the production of the good and that do not undergo the applicable change in tariff classification does not exceed 20 percent of the Ex-Works Price of the good.
2. The value of non-originating materials referred to in paragraph 1 shall be included in the value of the non-originating materials for any applicable qualifying value content requirement.

### **Article 3.8: Insufficient Working or Processing**

1. Whether or not the requirements of Article 3.4 (Sufficient Working or Processing) are satisfied, a good shall not be considered to be originating in the territory of a Party if the following operations are undertaken exclusively by itself or in combination in the territory of that Party:
  - (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, simple 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) simple testing or calibration;
  - (g) simple 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) simple 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;
  - (l) 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. All the operations carried out in the territory of the exporting Party on a given product shall be taken into account when determining whether the working or processing undergone by that product is to be regarded as insufficient within the meaning of paragraph 1.
3. For the purposes of paragraph 1, the terms “simple” and “simple mixing” are defined as follows:
- (a) **simple** generally describes an activity which does not need special skills, machines, apparatus or equipment specially produced or installed for carrying out the activity. However, handcrafts items made by artisans like embroidery, pottery, handwoven blankets, handmade jewelry, and quilts stitched by hand are not to be considered as simple operations; and
  - (b) **simple mixing** generally describes an activity which does not need special skills, machine, apparatus or equipment specially produced or installed for carrying out the activity.

### **Article 3.9: Indirect Materials**

In order to determine whether a good is an originating good, the following material used in its production shall be treated as originating material, irrespective of the origin of such material is originated:

- (a) energy and fuel;
- (b) plant and equipment;
- (c) machines and tools; and
- (d) other materials or goods used in the production, testing or inspection of a good and do not enter and which are not intended to enter into the final composition of the good.

### **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, for goods that are subject to a qualifying value content 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 qualifying value content of the goods.

### **Article 3.11: Packaging Materials and Containers for Retail Sale**

1. 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, shall be disregarded in determining whether all the non-originating materials used in the production of the good undergo the applicable change in tariff classification.
2. If the good is subject to a qualifying value content requirement, the value of such packaging materials and containers shall be taken into account as originating or

non-originating materials, as the case may be, in calculating the qualifying value content of the good.

### **Article 3.12: Unit of Qualification**

The unit of qualification for the application of the provisions of this Chapter shall be the particular product which is considered as the basic unit when determining classification using the nomenclature of the Harmonized System. Accordingly, it follows that:

- (a) when a product composed of a group or assembly of articles is classified under a single heading, the whole group or assembly shall constitute the unit of qualification;
- (b) when a consignment consists of a number of identical products classified under a single tariff line, 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 or 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, or, in case of any difficulty, through the use of any inventory management method, such as averaging, last-in, first-out, or first-in, first out, recognised 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 the General Rules for the Interpretation 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 customs value of non-originating goods does not exceed 20 percent of the Ex-Works 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 (Originating Goods) must be fulfilled without interruption in the territory of the Party concerned.
2. Where originating goods exported from the territory of a Party to a non-party, return to the exporting Party, they must be considered as non-originating, unless it can be demonstrated to the satisfaction of the customs authorities that:
  - (a) the returning goods are the same as those exported; and
  - (b) they have not undergone any operation beyond that necessary to preserve them in good condition while in that non-party or while being exported.

### **Article 3.17: Transit and Transshipment**

1. Each Party shall provide that an originating good retains its originating status if the good has been transported directly to the importing Party without passing through the territory of a non-party.
2. Notwithstanding paragraph 1, each Party shall provide that the originating goods retain their originating status if in transit or is stored in a temporary warehousing through one or more non-parties, provided that the goods:
  - (a) remained under customs control in the territory of the non-party or non-parties of transit or storage and they are not intended for trade, consumption, use or employment in the non-party or non-parties where the goods were in transit; and
  - (b) have not undergone any operation there other than unloading, reloading, adding or affixing labels to ensure compliance with specific domestic requirements of the importing Party or the non-party or non-parties of transit, split from bulk carried out under customs supervision in the non-party or non-parties of transit or storage or any operation required to keep them in good condition.
3. An importer shall, upon request, supply appropriate evidence to the customs authorities of the importing Party demonstrating that the goods remained under customs supervision in the country or countries of transit or storage. Evidence that the conditions set out in paragraph 1 have been fulfilled shall be supplied to the Customs Authorities of the importing Party by the production of:
  - (a) any single through transport documents, that meet international standards and that proves that the goods were directly transported from the exporting Party through the non-party where the goods are in transit to the importing Party;

- (b) a certificate issued by the Customs Authorities of the non-party where the goods were in transit which contains an exact description of the goods, the date and place of loading and re-loading of the goods in that non-party and the conditions under which the goods were placed; or
- (c) in the absence of any of the above documents, any other documents that will prove the direct shipment.

### **Article 3.18: Export Processing Zones, Economic Zones or Free Zones**

Goods produced or manufactured in an export processing zone, economic zone or free zone situated in the territory of a Party shall be considered as originating goods in that Party when exported to the other Party provided that the treatment or processing is in conformity with the provisions of this chapter and supported by a proof of origin.

### **Article 3.19: Non-party Invoicing**

1. The customs authority in the importing Party shall not deny a claim for preferential tariff treatment only for the reason that the invoice was issued in a third country (non-party) and not by the exporter or producer of a good in the exporting Party provided that the good meets the requirements in this Chapter.
2. The exporter of the goods shall indicate “non-party invoice” and such information as name and country of the company issuing the invoice shall appear in the appropriate field as detailed in Annex 3B (Certificate of Origin) or, in the case of an origin declaration made out by an approved exporter in accordance with Article 3.23 (Origin Declaration), on the origin declaration.
3. For further clarity, the exporter need not to be the person (the seller) that issues the commercial invoice for the consignment (non-party invoicing). The seller can be located in the territory of a non-party.

## **SECTION C: ORIGIN CERTIFICATION**

### **Article 3.20: Proof of Origin**

1. Goods originating in the territory of a Party shall, on importation into the territory of the other Party, benefit from preferential tariff treatment under this Agreement on the basis of a Proof of Origin.
2. Any of the following shall be considered as a Proof of Origin:
  - (a) a paper format certificate of origin issued by a competent authority in accordance with Article 3.21 (Certificate of Origin);
  - (b) an electronic certificate of origin (e-Certificate) issued by a competent authority or exchanged by a mutually developed electronic system in

accordance with Article 3.22 (Electronic Data Origin Exchange System);

- (c) an origin declaration made out by an approved exporter in accordance with Article 3.23 (Origin Declaration), or
  - (d) Notwithstanding paragraphs 1 and 2, a Party may allow for a Statement of Origin, in accordance with Annex 3D (Statement of Origin), to be made out by any exporter where the value of the originating goods concerned does not exceed the equivalent of US \$500. However, this shall be subject to the condition that the importation does not form part of a series of importations which the customs authority of the importing Party reasonably considers to have been carried out or planned for the purpose of evading compliance with the importing Party's laws and regulations governing claims for preferential tariff treatment under this Agreement.
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 or made out for the purposes of obtaining preferential tariff treatment and may be submitted within that period to the customs authorities of the importing Party.

#### **Article 3.21: Certificate of Origin**

1. A Certificate of Origin in paper format:
- (a) shall be in standard A4 white paper in accordance with the attached form set out in Annex 3B (Certificate of Origin);
  - (b) shall comprise one original and two copies. The original shall be forwarded by the producer or exporter to the importer for submission to the customs authority of the importing Party. The duplicate shall be retained by the competent authority of the exporting Party. The triplicate shall be retained by the producer or exporter;
  - (c) may cover one or more goods under one consignment; and
  - (d) shall be in a printed format or such other medium including electronic format.
2. Each Certificate of Origin shall bear a unique serial reference number separately given by each place or office of issuance.
3. A Certificate of Origin shall bear an official seal of the competent authority of the exporting party. The official seal may be applied electronically.
4. In case the official seal is applied electronically, an authentication mechanism, such as QR code or a secured website, shall be included in the certificate for the certificate to be deemed as an original copy.

### **Article 3.22: Electronic Data Origin Exchange System**

For the purposes of subparagraph 2(b) of Article 3.20 (Proof or Origin), the competent authorities of the Parties shall endeavour to develop an electronic system for origin information exchange to ensure the effective and efficient implementation of this Chapter particularly on transmission of electronic certificate of origin.

### **Article 3.23: Origin Declaration**

1. For the purposes of subparagraph 2(c) of Article 3.20 (Proof or Origin), the competent authorities of the Parties shall, in accordance with the relevant legislation of each Party, implement provisions allowing each competent authority to recognise an origin declaration made by an approved exporter.
2. The customs or competent authorities of the exporting Party may authorise any exporter, (hereinafter referred to as “approved exporter”), who exports goods under this Agreement, to make out Origin Declarations, a specimen of which appears in Annex 3C (Origin Declaration), irrespective of the value of the goods concerned.
3. An exporter seeking such authorisation shall offer to the satisfaction of the customs or competent authorities of the exporting Party all guarantees necessary to examine the originating status of the goods as well as the fulfilment of the other requirements of this Chapter.
4. The customs or competent authorities of the exporting Party may grant the status of approved exporter, subject to any conditions which they consider appropriate.
5. The customs or competent authorities of the exporting Party shall share or publish the list of approved exporters and periodically update it.
6. An Origin Declaration shall be made out by the approved exporter by typing, stamping or printing the declaration on the invoice, the delivery note or another commercial document which describes the products 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.
7. The approved exporter making out an Origin Declaration shall be prepared to submit at any time, at the request of the customs or competent authorities of the exporting Party, all appropriate documents proving the originating status of the goods concerned, as well as the fulfilment of the other requirements of this Chapter.

### **Article 3.24: Issuance and Verification of a Certificate of Origin**

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

2. The exporter applying for the issuance of a Certificate of Origin shall be prepared to submit at any time, at the request of the competent authority of the exporting Party, all appropriate documents proving the originating status of the goods concerned, as well as the fulfillment of the other requirements of this Chapter.
3. The competent authority shall, to the best of its competence and ability, carry out proper verification to ensure that:
  - (a) the application and the Certificate of Origin is duly completed and signed by the authorised signatory;
  - (b) the origin of the good is in conformity with the provisions of this Chapter; and
  - (c) HS Code, description, gross weight or other quantity and value conform to the goods to be exported.

#### **Article 3.25: Certificate of Origin Issued Retrospectively**

1. The Certificate of Origin shall be issued by the competent authority of the exporting 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 one year from the date of shipment, in which case it is necessary to indicate “ISSUED RETROSPECTIVELY” in the appropriate field as detailed in Annex 3B (Certificate of Origin).
3. The provisions of this Article shall be applied to goods which comply with the provisions of this Agreement, and which on the date of its entry into force, are either in transit or are in the territory of the Parties in temporary storage under customs control. This shall be subject to the submission to the customs authorities of the importing Party, within six months from the said date, of a Certificate of Origin issued retrospectively by the Competent Authority of the exporting Party together with documents, showing that the goods have been transported directly in accordance with the provisions of Article 3.17 (Transit and Transshipment).

#### **Article 3.26: Loss of the Certificate of Origin**

The certified true copy of the original Certificate of Origin shall be endorsed with an official signature and seal and bear the words “CERTIFIED TRUE COPY” and the date of issuance of the original Certificate of Origin in appropriate field as detailed in Annex 3B (Certificate of Origin). The certified true copy of a Certificate of Origin shall be issued within the same validity period of the original Certificate of Origin.

### **Article 3.27: Importation by Instalments**

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 Rule 2(a) of the General Rules for the Interpretation of the Harmonized System are imported by instalments, a single proof of origin for such goods can be submitted to the customs authorities provided that the said goods are covered by a single commercial invoice.

### **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 to replace the erroneous one. 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 3B (Certificate of Origin). The validity of the replacement certificate will be the same as the original.

### **Article 3.29: Treatment of Minor Discrepancies**

1. The discovery of minor discrepancies between the statements made in the Proof of Origin and those made in the documents submitted to the customs authority of the importing Party for the purposes of carrying out the formalities for importing the goods shall not ipso-facto invalidate the proof of origin, if it does in fact correspond to the goods submitted.
2. Obvious formal errors, such as typing errors, on a proof of origin should 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.

## **SECTION D: COOPERATION AND ORIGIN VERIFICATION**

### **Article 3.30: Denial of Preferential Tariff Treatment**

1. Except as otherwise provided for 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;
  - (c) the customs or competent authority of the importing Party has not received sufficient information from the importer to determine that the good is originating; or

- (d) the competent authority or customs authority of the exporting Party does not comply with the requirements of verification in accordance with Article 3.31 (Retroactive Check).
- 2. If the customs authority of the importing Party denies a claim for preferential tariff treatment, it shall, upon request by the importer, provide its reasons for the decision in writing to the importer.
- 3. Upon being communicated the grounds for denial of 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 3.31: Retroactive Check**

- 1. Subsequent verifications of Proofs of Origin shall be carried out at random or whenever the customs authority of the importing Party has reasonable doubts as to the authenticity of such documents, the originating status of the goods concerned or the fulfilment of the other requirements of this Chapter.
- 2. For the purposes of implementing paragraph 1, the customs authority or the competent authority of the importing Party, as the case may be, shall send a verification request to the competent authority of the exporting Party by e-mail or any other means that records receipt, including a copy of the Proof of Origin and the reasons for the inquiry. Any other document and information obtained suggesting that the information given on the Proof of Origin is incorrect shall be sent in support of the request for verification.
- 3. The verification shall be carried out by the competent authority of the exporting Party. For this purpose, they shall have the right to carry out inspections at the exporter's or producer's premises, to call for any evidence, check the exporter's and the producer's records, or any other check considered appropriate related to origin and according to the procedures of its domestic legislation.
- 4. The customs authority or the competent authority of the importing Party, as the case may be, requesting the verification shall be informed of the results of this verification within six months of the date of the receipt of the verification request. These results must indicate clearly whether the documents are authentic and whether the goods concerned can be considered as originating and fulfil the other requirements of this Chapter.
- 5. If the customs authority or the competent authority of the importing Party, as the case may be, receives no reply within the established period or if the reply does not contain sufficient information regarding the authenticity of the Proof of Origin or the originating status of the goods, or if the reply determines that the goods were not originating or that the Proofs of Origin were not authentic, the customs authority or the competent authority, as the case may be, may deny preferential tariff treatment to the goods covered by the Proof of Origin which is subject to verification.

### **Article 3.32: Record Keeping Requirement**

1. For the purposes of the verification process pursuant to Article 3.31 (Retroactive Check), each Party shall require that:
  - (a) the manufacturer, 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 goods for which the Proof of Origin was issued were originating;
  - (b) The importers shall retain, for a period not less than five years from the date of importation of the goods, or a longer period in accordance with its domestic laws and regulations, all records to prove that the goods for which preferential tariff treatment was claimed were originating; and
  - (c) The competent authority or issuing authority 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 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 3.33: Confidentiality**

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 authorities of the Parties without permission of the person or authority providing it, except if required in the course of administrative and judicial proceedings, in accordance with each Party's laws and regulations. In such instances, the Party disclosing the information should inform the other Party.

### **Article 3.34: Contact Points**

Each Party shall endeavour to designate, within 150 days of the date of entry into force of this Agreement, one or more contact points within its competent authority for the implementation of this Chapter and notify the other Party of the contact details of that contact point or those contact points. Each Party shall promptly notify the other Party of any change to those contact details.

### **Article 3.35: Mutual Assistance**

The competent authorities of the Parties shall provide each other with the following before the date of entry into force of this Agreement, and with any update thereafter:

- (a) A specimen impression of the official stamps used in their offices for the issue of Certificate of Origin;



- (b) Name and address of the competent authorities responsible for verifying the Proof of Origin;
- (c) Secured web address for the QR codes and electronic certificates authentications, if applicable.

## **SECTION E: CONSULTATION AND MODIFICATIONS**

### **Article 3.36: Subcommittee on Rules of Origin**

1. A Subcommittee on Rules of Origin (hereinafter referred to as the “Subcommittee”) is hereby established, consisting of representatives of each Party. The Subcommittee shall meet, in person or by any other means, as necessary.
2. The Subcommittee may consider any matter arising under this Chapter.
3. In relation to a matter referred to in paragraph 2, the functions of the Subcommittee may include:
  - (a) monitoring the implementation and operation of this Chapter;
  - (b) revising the Product Specific Rules (PSR) list in Annex 3A (Product Specific Rules (PSR)), on the basis of the transposition of the HS or at the request of either Party;
  - (c) making recommendations to the Joint Committee with regards to matters of its competence;
  - (d) developing “Explanatory Notes” for the interpretation and application of this Chapter; and
  - (e) carrying out other functions as may be assigned by the Joint Committee or agreed by the Parties.
4. The Joint Committee shall establish the rules of working procedures of the Subcommittee.