

## **CHAPTER 4 RULES OF ORIGIN**

### **SECTION I. GENERAL PROVISIONS**

#### **ARTICLE 4.1**

##### **Scope**

The rules of origin provided for in this Chapter shall be applied only for the purposes of granting preferential tariff treatment in accordance with this Agreement.

#### **ARTICLE 4.2**

##### **Definitions**

For the purposes of this Chapter:

- a) **“aquaculture”** means farming of aquatic organisms including fish, molluscs, crustaceans, other aquatic invertebrates and aquatic plants, from feedstock 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;
- b) **“authorised body”** means the competent authority designated by a Party to issue a Certificate of Origin under this Agreement;
- c) **“CIF value”** means the value of the goods imported and includes the cost of freight and insurance up to the port or place of entry into the country of importation;

- d) “**consignment**” means goods that are sent simultaneously covered by one or more transport documents to the consignee from the exporter, as well as goods that are sent over a single post-invoice or transferred as a luggage of the person crossing the border;
- e) “**exporter**” means a person registered in the territory of a Party where the goods are exported from by such person;
- f) “**FOB value**” means the free-on-board value of the goods, inclusive of the cost of transport to the port or site of final shipment abroad;
- g) “**importer**” means a person registered in the territory of a Party where the goods are imported into by such person;
- h) “**material**” means any matter or substance including ingredient, raw material, component or part used or consumed in the production of goods or physically incorporated into goods or subjected to a process in the production of other goods;
- i) “**non-originating goods**” or “**non-originating materials**” means goods or materials that do not fulfil the origin criteria of this Chapter;
- j) “**originating goods**” or “**originating materials**” means goods or materials that fulfil the origin criteria of this Chapter;
- k) “**producer**” means a person who carries out production in the territory of a Party;
- l) “**production**” means methods of obtaining goods including growing, mining, harvesting, raising, breeding, extracting, gathering, capturing, fishing, hunting, manufacturing, processing or assembling such goods; and
- m) “**verification authority**” means the competent governmental authority designated by a Party to conduct verification procedures.

## **ARTICLE 4.3**

### **Origin Criteria**

For the purposes of this Chapter, goods shall be considered as originating in a Party if they are:

- a) wholly obtained or produced in such Party as provided for in Article 4.4 of this Agreement; or
- b) produced entirely in one or both Parties, exclusively from originating materials from one or both Parties; or
- c) produced in a Party using non-originating materials and satisfy the requirements of product specific rules specified in Annex 3 to this Agreement.

## **ARTICLE 4.4**

### **Wholly Obtained or Produced Goods**

For the purposes of Article 4.3 of this Agreement, the following goods shall be considered as wholly obtained or produced in a Party:

- a) plants and plant goods, including fruit, berries, flowers, vegetables, trees, seaweed, fungi and live plants, grown, harvested, or gathered in the territory of a Party;
- b) live animals born and raised in the territory of a Party;
- c) goods obtained from live animals in the territory of a Party;

- d) goods obtained from gathering, hunting, capturing, fishing, growing, raising and aquaculture in the territory of a Party;
- e) minerals and other naturally occurring substances extracted or taken from the air, soil, waters or seabed and subsoil in the territory of a Party;
- f) goods of sea fishing and other marine goods taken from the high seas, in accordance with international law, by a vessel registered or recorded in a Party and flying its flag;
- g) goods manufactured exclusively from goods referred to in subparagraph f) of this Article, on board a factory ship registered or recorded in a Party and flying its flag;
- h) waste and scrap resulting from production and consumption conducted in the territory of a Party provided that such goods are fit only for the recovery of raw materials;
- i) used goods collected in the territory of a Party provided that such goods are fit only for the recovery of raw materials;
- j) goods produced in outer space on board a spacecraft provided that the same spacecraft is registered in a Party; and
- k) goods produced or obtained in the territory of a Party solely from goods referred to in subparagraphs a) through j) of this Article.

## **ARTICLE 4.5**

### **Value Added Content**

For the purposes of this Chapter and product specific rules specified in Annex 3 to this Agreement, the formula for calculating value added content (hereinafter referred to as “VAC”) shall be:

$$\frac{\text{FOB value} - \text{Value of Non-Originating Materials}}{\text{FOB value}} \times 100\%$$

where the value of non-originating materials shall be:

- a) CIF value of the materials at the time of importation to a Party; or
- b) the earliest ascertained price paid or payable for non-originating materials in the territory of the Party where the working or processing takes place.

When, in the territory of a Party, the producer of the goods acquires non-originating materials within such Party, the value of such materials shall not include freight, insurance, packing costs and any other costs incidental to the transport of those materials from the location of the supplier to the location of production.

## **ARTICLE 4.6**

### **Insufficient Working or Processing**

1. The following operations undertaken exclusively by themselves or in combination with each other are considered to be insufficient to meet the requirements of Article 4.3 of this Agreement:
  - a) preserving operations to ensure that a product retains its condition during transportation and storage;
  - b) freezing or thawing;

- c) packaging and re-packaging;
- d) washing, cleaning, removing dust, oxide, oil, paint or other coverings;
- e) ironing or pressing of textiles;
- f) colouring, polishing, varnishing, oiling;
- g) husking, partial or total bleaching, polishing and glazing of cereals and rice;
- h) operations to colour sugar or form sugar lumps;
- i) peeling and removal of stones and shells from fruits, nuts and vegetables;
- j) simple sharpening, grinding;
- k) cutting;
- l) sifting, screening, sorting, classifying;
- m) placing in bottles, cans, flasks, bags, cases, boxes, fixing on surface and all other simple packaging operations;
- n) affixing or printing marks, labels, logos and other like distinguishing signs on products or their packaging;
- o) simple mixing of products (components) which does not lead to a sufficient difference of product from the original components;
- p) simple assembly of a product or disassembly of products into parts; and
- q) slaughter of animals, sorting of meat.

2. For the purposes of paragraph 1 of this Article, “simple” describes activities which do not require special skills or machines, apparatus or equipment especially designed for carrying out such activities.

#### **ARTICLE 4.7**

##### **Accumulation of Origin**

Without prejudice to Article 4.3 of this Agreement, the goods or materials originating in a Party, which are used as material in the manufacture of a product in the other Party, shall be considered as originating in such Party where the last operations other than those referred to in paragraph 1 of Article 4.6 of this Agreement have been carried out. The origin of such material shall be confirmed by a Certificate of Origin (Form EAV) issued by an authorised body.

#### **ARTICLE 4.8**

##### ***De Minimis***

1. Goods that do not undergo a change in tariff classification pursuant to Annex 3 to this Agreement are nonetheless considered originating if:
  - a) the value of all non-originating materials that are used in the production of the goods and do not undergo the required change in tariff classification, does not exceed 10 percent of the FOB value of such goods; and
  - b) the goods meet all other applicable requirements of this Chapter.
2. The value of materials referred to in subparagraph a) of paragraph 1 of this Article shall be included in the value of non-originating materials for any applicable VAC requirement.

## **ARTICLE 4.9**

### **Direct Consignment**

1. Preferential tariff treatment in accordance with this Chapter shall be granted to originating goods provided that such goods are transported directly from the territory of the exporting Party to the territory of the importing Party.
2. Notwithstanding paragraph 1 of this Article, originating goods may be transported through the territory of one or more third countries, provided that:
  - a) transit through the territory of a third country is justified for geographical reasons or related exclusively to transport requirements;
  - b) the goods have not entered into trade or consumption there; and
  - c) the goods have not undergone any operation there other than unloading, reloading, storing or any necessary operation designed to preserve their condition.
3. A declarant shall submit appropriate documentary evidence to the customs authorities of the importing Party confirming that the conditions set out in paragraph 2 of this Article have been fulfilled. Such evidence shall be provided to the customs authorities of the importing Party by submission of:
  - a) the transport documents covering the passage from the territory of a Party to the territory of the other Party containing:
    - i. an exact description of the goods;
    - ii. the dates of unloading and reloading of the goods (if the transport documents do not contain the dates of unloading and reloading of the goods, other supporting document containing such information shall be submitted in addition to transport documents); and



iii. where applicable:

- the names of the ships or other means of transport used;
- the containers' numbers;
- the conditions under which the goods remained in the country of transit in proper condition;
- the marks of the customs authorities of the country of transit; and

b) the commercial invoice in respect of the goods.

4. A declarant may submit other supporting documents to prove that the requirements of paragraph 2 of this Article are fulfilled.
5. If the transport documents cannot be provided, a document issued by the customs authorities of the country of transit containing all the information referred to in subparagraph a) of paragraph 3 of this Article shall be submitted.
6. If a declarant fails to provide the customs authorities of the importing Party with documentary evidence of direct consignment, preferential tariff treatment shall not be granted.

## **ARTICLE 4.10**

### **Direct Purchase**

1. The importing Party shall grant preferential tariff treatment for originating goods in cases where the invoice is issued by a person registered in a third country, provided that such goods meet the requirements of this Chapter.
2. Notwithstanding paragraph 1 of this Article the importing Party shall not grant preferential tariff treatment in cases where the invoice is issued by a person

registered in a third country included in the list of offshore countries to be established in a joint protocol. The respective competent authorities of the Parties shall be entitled to adopt such protocol by mutual consent and shall make it publicly available.

3. Without prejudice to paragraph 2 of this Article before the joint protocol referred to in paragraph 2 of this Article is adopted, the list of offshore countries or territories specified in Annex 4 to this Agreement shall apply.

#### **ARTICLE 4.11**

##### **Packaging Materials for Retail Sale**

1. Packaging materials and containers in which goods are packaged for retail sale, if classified with the goods, shall be disregarded in determining whether all the non-originating materials used in the production of those goods have undergone the applicable change in tariff classification set out in Annex 3 to this Agreement.
2. Notwithstanding paragraph 1 of this Article in determining whether the goods fulfil the VAC requirement, the value of the packaging used for retail sale will be counted as originating or non-originating materials, as the case may be, in calculating the VAC of the goods.

#### **ARTICLE 4.12**

##### **Packing Materials for Shipment**

Packing materials and containers in which goods are packed exclusively for transport shall not be taken into account for the purposes of establishing whether the goods are originating.

## **ARTICLE 4.13**

### **Accessories, Spare Parts, Tools and Instructional or Other Information Materials**

1. In determining whether the goods fulfil the change in tariff classification requirements specified in Annex 3 to this Agreement, accessories, spare parts, tools and instructional or other information materials, which are part of the normal equipment and included in its FOB price, or which are not separately invoiced, shall be considered as part of the goods in question and shall not be taken into account in determining whether the goods qualify as originating.
2. Notwithstanding paragraph 1 of this Article in determining whether the goods fulfil the VAC requirement, the value of accessories, spare parts, tools and instructional or other information materials shall be taken into account as originating materials or non-originating materials, as the case may be, in calculating VAC of the goods.
3. This Article shall apply only where:
  - a) accessories, spare parts, tools and instructional or other information materials presented with the goods are not invoiced separately from such goods; and
  - b) the quantities and value of accessories, spare parts, tools and instructional or other information materials presented with the goods are customary for such goods.

## **ARTICLE 4.14**

### **Sets**

Sets, as defined in Rule 3 of the General Rules of the interpretation 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 percent of the FOB value of the set.

## **ARTICLE 4.15**

### **Indirect Materials**

In order to determine the origin of goods, the origin of the following indirect materials which might be used in the production of such goods and not be incorporated into such goods shall not be taken into account:

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

## **SECTION II. DOCUMENTARY PROOF OF ORIGIN**

## **ARTICLE 4.16**

### **Claim for Preferential Tariff Treatment**

1. For the purposes of obtaining preferential tariff treatment, the declarant shall submit a Certificate of Origin to the customs authorities of the importing Party in accordance with the requirements of this Section.
2. The Certificate of Origin submitted to the customs authorities of the importing Party shall be an original, valid and in conformity with the format as set out in Annex 5 to this Agreement and shall be duly completed in accordance with the requirements set out in Annex 5 to this Agreement.
3. The authorised body of the exporting Party shall ensure that Certificates of Origin are duly completed in accordance with the requirements set out in Annex 5 to this Agreement.
4. The Certificate of Origin shall be valid for a period of 12 months from the date of issuance and must be submitted to the customs authorities of the importing Party within that period but not later than the moment of the submission of the import customs declaration, except in circumstances stipulated in paragraph 2 of Article 4.20 of this Agreement.
5. Where the central customs authorities and the authorised bodies of the Parties have developed and implemented the Electronic Origin Certification and Verification System (hereinafter referred to as “EOCVS”) referred to in Article 4.29 of this Agreement, the customs authorities of the importing Party in accordance with its respective domestic laws and regulations may not require the submission of the original Certificate of Origin if the customs declaration is submitted by electronic means. In this case, the date and number of such Certificate of Origin shall be specified in the customs declaration. Where the customs authorities of the importing Party have a reasonable doubt as to the origin of the goods for which preferential tariff treatment is claimed and/or

there is a discrepancy with the information containing in the EOCVS, the customs authorities of the importing Party may require the submission of the original Certificate of Origin.

#### **ARTICLE 4.17**

##### **Circumstances When Certificate of Origin Is Not Required**

A Certificate of Origin is not required in order to obtain preferential tariff treatment for commercial or non-commercial importation of originating goods where the customs value does not exceed the amount of 200 US dollars or the equivalent amount in the importing Party's currency or such higher amount as such importing Party may establish, provided that the importation does not form part of one or more consignments that may reasonably be considered to have been undertaken or arranged for the purposes of avoiding the submission of the Certificate of Origin.

#### **ARTICLE 4.18**

##### **Issuance of Certificate of Origin**

1. The producer or exporter of the goods or its authorised representative shall apply to an authorised body of the exporting Party for a Certificate of Origin in writing or by electronic means if applicable.
2. The Certificate of Origin shall be issued by the authorised body of the exporting Party to the producer or exporter of the goods or its authorised representative prior to or at the time of exportation whenever the goods to be exported can be considered originating in a Party within the meaning of this Chapter.
3. The Certificate of Origin shall cover the goods under one consignment.

4. Each Certificate of Origin shall bear a unique reference number separately given by the authorised body.
5. If all goods covered by the Certificate of Origin cannot be listed on one page, additional sheets, as set out in Annex 5 to this Agreement, shall be used.
6. The Certificate of Origin shall be done in hard copy and shall comprise one original and two copies.
7. One copy shall be retained by the authorised body of the exporting Party. The other copy shall be retained by the exporter.
8. Without prejudice to paragraph 4 of Article 4.16 of this Agreement, in exceptional cases, where a Certificate of Origin has not been issued prior to or at the time of exportation it may be issued retroactively and shall be marked “ISSUED RETROACTIVELY”.
9. The submitted original Certificate of Origin shall be retained by the customs authorities of the importing Party except in circumstances stipulated in its respective domestic laws and regulations.

## **ARTICLE 4.19**

### **Minor Discrepancies**

1. Where the origin of the goods is not in doubt, the discovery of minor discrepancies between the information in the Certificate of Origin and in the documents submitted to the customs authorities of the importing Party shall not, of themselves, invalidate the Certificate of Origin, if such information in fact corresponds to the goods submitted.

2. For multiple goods declared under the same Certificate of Origin, a problem encountered with one of the goods listed shall not affect or delay the granting of preferential tariff treatment for the remaining goods covered by the Certificate of Origin.

## **ARTICLE 4.20**

### **Specific Cases of Issuance of Certificate of Origin**

1. In the event of theft, loss or destruction of a Certificate of Origin, the producer or exporter of the goods or its authorised representative may apply to the authorised body of the exporting Party for a certified duplicate of the original Certificate of Origin, specifying the reasons for such application. The duplicate shall be made on the basis of the previously issued Certificate of Origin and supporting documents. A certified duplicate shall bear the words “DUPLICATE OF THE CERTIFICATE OF ORIGIN NUMBER\_DATE\_”. The certified duplicate of a Certificate of Origin shall be valid no longer than 12 months from the date of issuance of the original Certificate of Origin.
2. Due to accidental errors or omissions made in the original Certificate of Origin, the authorised body shall issue the Certificate of Origin in substitution for the original Certificate of Origin. In this instance, the Certificate of Origin shall bear the words: “ISSUED IN SUBSTITUTION FOR THE CERTIFICATE OF ORIGIN NUMBER\_\_DATE\_\_”. Such Certificate of Origin shall be valid no longer than 12 months from the date of issuance of the original Certificate of Origin.

## **ARTICLE 4.21**

### **Alterations in Certificate of Origin**

Neither erasures nor superimpositions shall be allowed on the Certificate of Origin. Any alteration shall be made by striking out the erroneous data and printing any additional information required. Such alteration shall be approved by a person



authorised to sign the Certificate of Origin and certified by an official seal of the appropriate authorised body.

## **ARTICLE 4.22**

### **Record-Keeping Requirements**

1. The producer and/or exporter of the goods shall keep all records and copies of the documents submitted for the issuance of a Certificate of Origin for the period of no less than three years from the date of issuance of the Certificate of Origin.
2. An importer who has been granted preferential tariff treatment must keep the copy of the Certificate of Origin, based on the date when the preferential tariff treatment was granted, for the period of no less than three years.
3. The application for a Certificate of Origin and all documents related to such application shall be retained by the authorised body for the period of no less than three years from the date of issuance of the Certificate of Origin.

## **SECTION III. PREFERENTIAL TARIFF TREATMENT**

## **ARTICLE 4.23**

### **Granting Preferential Tariff Treatment**

1. Preferential tariff treatment under this Agreement shall be applied to originating goods that satisfy the requirements of this Chapter.
2. Customs authorities of the importing Party shall grant preferential tariff treatment to originating goods of the exporting Party provided that:

- a) the goods satisfy the origin criteria referred to in Article 4.3 of this Agreement;
  - b) the declarant demonstrates compliance with the requirements of this Chapter;
  - c) a valid and duly completed original Certificate of Origin has been submitted in accordance with the requirements of Section II (Documentary Proof of Origin) of this Chapter to the customs authorities of the importing Party. An original Certificate of Origin may not be required to be submitted if the Parties have implemented the EOCVS as stipulated in paragraph 5 of Article 4.16 of this Agreement.
3. Notwithstanding paragraph 2 of this Article, where the customs authorities of the importing Party have a reasonable doubt as to the origin of the goods for which preferential tariff treatment is claimed and/or to the authenticity of the submitted Certificate of Origin, such customs authorities may suspend or deny the application of preferential tariff treatment to such goods. However, the goods can be released in accordance with the requirements of such Party's respective domestic laws and regulations.

## **ARTICLE 4.24**

### **Denial of Preferential Tariff Treatment**

1. Where the goods do not meet the requirements of this Chapter or where the importer or exporter of the goods fails to comply with the requirements of this Chapter, the customs authorities of the importing Party may deny preferential tariff treatment and recover unpaid customs duties in accordance with the respective domestic laws and regulations.
2. The customs authorities of the importing Party may deny preferential tariff treatment if:

- a) the goods do not meet the requirements of this Chapter to be considered as originating in the exporting Party; and/or
  - b) other requirements of this Chapter are not met, including:
    - i. the requirements of Article 4.9 of this Agreement;
    - ii. the requirements of Article 4.10 of this Agreement;
    - iii. the submitted Certificate of Origin has not been duly completed as specified in Annex 5 to this Agreement;
  - c) the verification procedures undertaken under Articles 4.30 and 4.31 of this Agreement are unable to establish the origin of the goods or indicate the inconsistency of the origin criteria;
  - d) the verification authority of the exporting Party has confirmed that the Certificate of Origin had not been issued (i.e. forged) or had been annulled (withdrawn);
  - e) the customs authorities of the importing Party receive no reply within a maximum of six months after the date of a verification request made to the verification authority of the exporting Party, or if the response to the request does not contain sufficient information to conclude whether the goods originate in a Party; or
  - f) the customs authorities of the importing Party within 60 days from the date of dispatch of the notification, stipulated in paragraph 2 of Article 4.31 of this Agreement, do not receive a written consent from the verification authority, pursuant to paragraph 5 of Article 4.31 of this Agreement, for conducting a verification visit or receive a refusal to conduct such verification visit.
3. Where the importing Party determines through verification procedures that an exporter or producer of the goods has engaged in providing false and/or

incomplete information for the purposes of obtaining Certificates of Origin, customs authorities of the importing Party may deny preferential tariff treatment to identical goods covered by the Certificates of Origin issued to that exporter or producer in accordance with its respective domestic laws and regulations.

4. In cases as set out in subparagraph b) of paragraph 2 of this Article and paragraph 1 of Article 4.25 of this Agreement customs authorities of the importing Party are not required to make a verification request, as provided for in Article 4.30 of this Agreement, to the authorised body for the purposes of making decisions on denial of preferential tariff treatment.

## **ARTICLE 4.25**

### **Temporary Suspension of Preferential Tariff Treatment**

1. Where a Party has found:

- a) systematic fraud regarding claims of preferential tariff treatment under this Agreement in respect of the goods exported or produced by a person of the other Party; or
- b) that the other Party systematically and unjustifiably refuses to fulfil obligations under Articles 4.30 and/or 4.31 of this Agreement,

such Party may in exceptional circumstances temporarily suspend preferential tariff treatment under this Agreement.

2. Temporary suspension of preferential tariff treatment referred to in paragraph 1 of this Article may be applied to the goods concerned:
  - a) of a person where the importing Party has concluded that such person of the exporting Party has committed systematic fraud regarding claims of preferential tariff treatment under this Agreement;

- b) of the person who is subject to verification request or verification visit request referred to in subparagraph b) of paragraph 1 of this Article.
- 3. Where the importing Party has concluded that the already suspended preferential tariff treatment in accordance with subparagraph a) of paragraph 2 of this Article had not resulted in cessation of systematic fraud regarding claims of preferential tariff treatment under this Agreement, it may temporarily suspend preferential tariff treatment with regard to identical goods classified in the same tariff lines at 8-10 digit level of the respective domestic nomenclatures of the Parties.
- 4. For the purposes of this Article:
  - a) a finding of systematic fraud can be made where a Party has concluded that a person of the other Party has systematically provided false or incorrect information in order to obtain preferential tariff treatment under this Agreement as a result of an investigation based on objective, compelling and verifiable information;
  - b) systematic and unjustifiable refusal to fulfil obligations under Articles 4.30 and/or 4.31 of this Agreement means a systematic refusal to verify the originating status of the goods concerned and/or to carry out verification visits as requested by a Party or absence of response to verification and verification visit requests;
  - c) identical goods means the goods which are the same in all respects including physical characteristics, quality and reputation.
- 5. A Party that has made a finding pursuant to paragraph 1 or 3 of this Article, shall:
  - a) notify the other Party and provide the information and evidence upon which the finding was based;

- b) engage in consultations with the other Party with a view to achieving a mutually acceptable solution.
6. If the Parties have not achieved a mutually acceptable solution within 30 days of the engagement into consultations pursuant to subparagraph b) of paragraph 5 of this Article, the Party that has made the finding shall refer the issue to the Joint Committee.
  7. If the Joint Committee has not resolved the issue within 60 days of the referral of such issue to the Joint Committee, the Party which has made the finding may temporarily suspend preferential tariff treatment under this Agreement pursuant to paragraphs 2 and 3 of this Article. The Party that has made a decision on temporary suspension shall immediately notify the other Party and the Joint Committee. Temporary suspension shall not apply to the goods which have already been exported on the day that the temporary suspension comes into effect. The day of such exportation shall be the date of a transport document issued by a carrier.
  8. Temporary suspension of preferential tariff treatment under this Article may be applied until the exporting Party provides convincing evidence of the ability to comply with the requirements of this Chapter and ensure the fulfilment of all the requirements of this Chapter by producers or exporters of the goods but shall not exceed a period of four months, which may be renewed for no longer than three months.
  9. Any suspension under this Article and any renewed suspension shall be subject to periodic consultations of the Parties with a view to resolving the issue.

## **SECTION IV. ADMINISTRATIVE COOPERATION**

### **ARTICLE 4.26**

## **Administrative Cooperation Language**

Any notification or communication under this Section shall be conducted between the Parties through the relevant authorities in the English language.

### **ARTICLE 4.27**

#### **Authorised Body and Verification Authority**

Each Government of the Parties shall designate or maintain an authorised body and a verification authority.

### **ARTICLE 4.28**

#### **Notifications**

1. Prior to the issuance of any Certificate of Origin under this Agreement by the authorised body, each Party shall provide the other Party, through the Ministry of Industry and Trade of Viet Nam and the Eurasian Economic Commission, respectively, with the names and addresses of each authorised body and verification authority, together with the original and legible specimen impressions of their stamps, sample of the Certificate of Origin to be used and data on the security features of the Certificate of Origin.
2. Viet Nam shall provide the Eurasian Economic Commission with the original information referred to in paragraph 1 of this Article in sextuplicate. The Eurasian Economic Commission may request Viet Nam to provide additional sets of such information.
3. Viet Nam and the Eurasian Economic Commission shall publish on the internet the information on the names and addresses of the authorised body and verification authority of each Party.

4. Any change to the information stipulated in this Article shall be notified by the Ministry of Industry and Trade of Viet Nam and the Eurasian Economic Commission in advance and in the same manner.

#### **ARTICLE 4.29**

##### **Development and Implementation of Electronic Origin Certification and Verification System**

1. The Parties shall endeavour to implement an EOCVS no later than two years from the date of entry into force of this Agreement.
2. The purpose of the EOCVS is the creation of a web-database that records the details of all Certificates of Origin issued by an authorised body and that is accessible to the customs authorities of the other Party to check the validity and content of any issued Certificate of Origin.
3. The Parties shall establish a working group that shall endeavour to develop and implement an EOCVS.

#### **ARTICLE 4.30**

##### **Verification of Origin**

1. Where the customs authorities of the importing Party have a reasonable doubt about the authenticity of a Certificate of Origin and/or the compliance of the goods, covered by the Certificate of Origin, with the origin criteria, pursuant to Article 4.3 of this Agreement, and in the case of a random check, they may send a request to the verification authority or authorised body of the exporting Party to confirm the authenticity of the Certificate of Origin and/or the compliance of



the goods with the origin criteria and/or to provide, if requested, documentary evidence from the producer and/or exporter of the goods.

2. All verification requests shall be accompanied by sufficient information to identify the concerned goods. A request to the verification authority of the exporting Party shall be accompanied by a copy of the Certificate of Origin and shall specify the circumstances and reasons for the request.
3. The recipient of a request under paragraph 1 of this Article shall respond to the requesting customs authorities of the importing Party within six months after the date of such verification request.
4. In response to a request under paragraph 1 of this Article verification authority of the exporting Party shall clearly indicate whether the Certificate of Origin is authentic and/or whether the goods can be considered as originating in such Party including by providing requested documentary evidence received from the producer and/or exporter of the goods. Before the response to the verification request, paragraph 3 of Article 4.23 of this Agreement may be applied. The customs duties paid shall be refunded if the received results of the verification process confirm and clearly indicate that the goods qualify as originating and all other requirements of this Chapter are met.

## **ARTICLE 4.31**

### **Verification Visit**

1. If the customs authorities of the importing Party are not satisfied with the outcome of the verification referred to in Article 4.30 of this Agreement, they may, under exceptional circumstances, request verification visits to the exporting Party to review the records referred to in Article 4.22 of this Agreement and/or observe the facilities used in the production of the goods.
2. Prior to conducting a verification visit pursuant to paragraph 1 of this Article the customs authorities of the importing Party shall deliver a written notification

of their intention to conduct the verification visit to the verification authority of the Party in the territory of which the verification visit is to occur.

3. The written notification referred to in paragraph 2 of this Article shall be as comprehensive as possible and shall include, *inter alia*:
  - a) the name of the customs authorities of the Party issuing the notification;
  - b) the names of the producer and/or exporter of the goods whose premises are to be visited;
  - c) the proposed date of the verification visit;
  - d) the coverage of the proposed verification visit, including reference to the goods subject to the verification and to the doubts regarding their origin;  
and
  - e) the names and designation of the officials performing the verification visit.
4. Verification authority shall send the verification request to the producer and/or exporter of the goods whose premises are to be visited and transfer its written consent to the requesting Party within 60 days from the date of dispatch of the notification pursuant to paragraph 2 of this Article.
5. Where a written consent from the verification authority is not obtained within 60 days from the date of dispatch of the notification pursuant to paragraph 2 of this Article or the notifying Party receives a refusal to conduct such a verification visit, the notifying Party shall deny preferential tariff treatment to the goods referred to in the Certificate(s) of Origin that would have been subject to the verification visit.
6. Any verification visit shall be launched within 60 days from the date of the receipt of written consent and finished within a reasonable period of time.

7. The authority conducting the verification visit shall, within a maximum period of 90 days from the first day the verification visit was conducted, provide the producer and/or exporter of the goods, whose goods and premises are subject to such verification, and the verification authority of the exporting Party with a written determination of the outcomes of the verification visit.
8. The verification visit including the actual visit and determination of whether the concerned goods are originating or not shall be carried out and its results sent to the authorised body within a maximum of 210 days. Before the results of the verification visit are available paragraph 3 of Article 4.23 of this Agreement may be applied.
9. Any suspended or denied preferential tariff treatment shall be reinstated upon the written determination that the goods qualify as originating and the certain origin criteria under this Agreement are fulfilled.
10. Verification team must be formed by the central customs authority of the importing Party in accordance with the respective domestic laws and regulations.
11. The verification authority or the authorised body of the exporting Party shall assist in the verification visit conducted by the customs authorities of the importing Party.
12. The producer and/or exporter of the goods who has given consent for verification visit, shall assist in its implementation, provide access to the premises, financial (accounting) and production documents related to the subject of the verification visit and shall provide any additional information and/or documents, if so requested.
13. If there are obstacles by the authorities or entities of the inspected Party during the verification visit, which result in the absence of possibility to conduct the verification visit, the importing Party has the right to deny preferential tariff treatment to the concerned goods.

14. All costs relating to the conducting of the verification visit shall be borne by the importing Party.

#### **ARTICLE 4.32**

##### **Confidentiality**

All information provided pursuant to this Chapter shall be treated by the Parties as confidential in accordance with their respective domestic laws and regulations. It shall not be disclosed without the permission of the person or authority of the Party providing it.

#### **ARTICLE 4.33**

##### **Penalties or Other Measures against Fraudulent Acts**

Each Party shall provide for criminal or administrative penalties for violations of its respective laws and regulations related to this Chapter.

#### **ARTICLE 4.34**

##### **Sub-Committee on Rules of Origin**

1. For the purposes of effective implementation and operation of this Chapter, the Parties hereby establish a Sub-Committee on Rules of Origin (hereinafter referred to as “the ROO Sub-Committee”).
2. The ROO Sub-Committee shall have the following functions:
  - a) reviewing and making appropriate recommendations to the Joint Committee and the Goods Committee on:

- i. transposition of Annex 3 to this Agreement that is in the nomenclature of the revised HS following periodic amendments of the HS. Such transposition shall be carried out without impairing the existing commitments and shall be completed in a timely manner;
    - ii. implementation and operation of this Chapter, including proposals for establishing implementing arrangements;
    - iii. failure to fulfil the obligations by the Parties, as determined in this Section;
    - iv. technical amendments to this Chapter;
    - v. amendments to Annex 3 to this Agreement;
    - vi. disputes arising between the Parties during the implementation of this Chapter; and
    - vii. any amendment to the provisions of this Chapter and to Annexes 3, 4 and 5 to this Agreement;
  - b) considering any other matter proposed by a Party relating to this Chapter;
  - c) reporting the findings of the ROO Sub-Committee to the Goods Committee; and
  - d) performing other functions as may be delegated by the Joint Committee pursuant to Article 1.5 of this Agreement.
3. The ROO Sub-Committee shall be composed of the representatives of the Parties and may invite representatives of other entities of the Parties with necessary expertise relevant to the issues to be discussed upon mutual agreement of the Parties.

4. The ROO Sub-Committee shall meet at such time and venue as may be agreed by the Parties but not less than once a year.
5. A provisional agenda for each meeting shall be forwarded to the Parties, as a general rule, no later than one month before the meeting.

## **SECTION V. TRANSITIONAL PROVISIONS**

### **ARTICLE 4.35**

#### **Goods in Transportation or Storage**

Originating goods which have been in transportation from the exporting Party to the importing Party, or which have been in temporary storage in a bonded area in the importing Party for a period not exceeding one year before the entry into force of this Agreement, shall be granted preferential tariff treatment if they are imported into the importing Party on or after the date of entry into force of this Agreement, subject to the submission of a Certificate of Origin issued retroactively to the customs authorities of the importing Party and subject to the respective domestic laws and regulations or administrative practices of the importing Party.