

CHAPTER 4 **RULES OF ORIGIN**

Article 4.1 **Definitions and Interpretation**

1. For the purposes of this Chapter:
 - (a) **aquaculture** including mariculture, 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, or larvae, by intervention in the rearing or growth processes to enhance production such as regular stocking, feeding, or protection from predators;
 - (b) **CIF value or Cost, Insurance and Freight value** means the price actually paid or payable to the exporter for a good when the good is loaded out of the carrier, at the port of importation, including the cost of the good, insurance, and freight necessary to deliver the good to the named port of destination;
 - (c) **competent authority** means for India, the Department of Commerce;
 - (d) **customs administration** means:
 - (i) for Australia, the Department of Home Affairs and its successors;
 - (ii) for India, the Central Board of Indirect Taxes and Customs (CBIC);
 - (e) **FOB value or Free-On-Board value** means the price actually paid or payable to the exporter for a good when the good is loaded onto the carrier at the named port of exportation, including the cost of the good and all costs necessary to bring the good onto the carrier;
 - (f) **fungible goods or materials** means goods or materials that are interchangeable for commercial purposes and whose properties are essentially identical;
 - (g) **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;

- (h) **indirect materials** means a material used in the production, testing or inspection of a good but not physically incorporated into the good; or a material used in the maintenance of buildings or the operation of equipment, associated with the production of a good, including:
- (i) fuel, energy, catalysts and solvents;
 - (ii) equipment, devices and supplies used to test or inspect the good;
 - (iii) gloves, glasses, footwear, clothing, safety equipment and supplies;
 - (iv) tools, dies and moulds;
 - (v) spare parts and materials used in the maintenance of equipment and buildings;
 - (vi) lubricants, greases, compounding materials and other materials used in production or used to operate equipment and buildings; and
 - (vii) 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;
- (i) **issuing body or authority** (as appropriate) means the body or authority designated by each Party for issuance of Certificates of Origin, as notified from time to time;
- (j) **material** means a good that is consumed in the production, physically incorporated or used in the production of another good;
- (k) **non-originating good or non-originating material** means a good or material that does not qualify as originating in accordance with this Chapter, which includes a good or material of undetermined origin;
- (l) **originating good or originating material** means a good or material that qualifies as originating in accordance with this Chapter;
- (m) **packing materials and containers for transportation and shipment** means goods used to protect another good during its transportation, but does not include the packaging materials or containers in which a good is packaged for retail sale;
- (n) **producer** means a person who engages in the production of a good;
- (o) **production** means operations including growing, cultivating, raising, mining, harvesting, fishing, trapping, hunting, capturing, collecting,

- breeding, extracting, aquaculture, gathering, manufacturing, processing or assembling a good;
- (p) **preferential tariff treatment** means the customs duty rate applicable to an originating good, pursuant to each Party's Schedule in Annex 2A (Tariff Commitments);
- (q) **QVC** is the qualifying value content of a good, expressed as a percentage;
- (r) **value of non-originating materials** is the value of non-originating materials, including materials of undetermined origin, used in the production of the good; and
- (s) **value of originating materials** is the value of originating materials used in the production of the good in the territory of one or both Parties.
2. For the purposes of this Chapter:
- (a) the basis for tariff classification is the Harmonized System; and
- (b) any cost and value referred to in this Chapter shall be recorded and maintained in accordance with the Generally Accepted Accounting Principles applicable in the territory of the Party in which the good is produced.

Article 4.2 Originating Goods

Except as otherwise provided in this Chapter, a good shall be regarded as originating if it is:

- (a) wholly obtained or produced in the territory of one or both of the Parties, as provided for in Article 4.4 (Wholly Obtained or Produced Goods); or
- (b) produced entirely in the territory of one or both of the Parties, using non-originating materials, provided the good satisfies all applicable requirements of Article 4.3 (Goods not Wholly Produced or Obtained) or Annex 4B (Product Specific Rules of Origin).

Article 4.3 Goods not Wholly Produced or Obtained

1. For goods that do not have originating status under subparagraph (a) of Article 4.2 (Originating Goods) and are not covered under Annex 4B (Product Specific Rules of Origin), a good shall be considered originating if all non-

originating materials have undergone at least a change in tariff sub-heading (CTSH) level of the Harmonized System, and the QVC of the good is not less than 35 per cent of the FOB value as per build-up formula or 45 per cent of the FOB value calculated as per build-down formula under Article 4.6 (Calculation of Qualifying Value Content), provided that the final production process of the manufacture of the good is performed within the territory of the exporting Party.

2. Upon the entry into force of this Agreement, the Parties shall enter into negotiations, on a without prejudice basis, on the following:
 - (a) a Product Specific Rules Schedule that shall contain product specific rules for all tariff lines in the Harmonized System; and
 - (b) appropriate amendments to this Chapter relevant to that Schedule including:
 - (i) a provision that would confer origin on goods produced entirely in the territory of one or both of the Parties, exclusively from originating materials; and
 - (ii) a provision that would regard a good or material as originating if it is produced in the territory of one or both of the Parties by one or more producers, provided that it satisfies the requirements of Article 4.2 (Originating Goods) and all other applicable requirements in this Chapter.
3. Upon the conclusion of the negotiations referred to paragraph 2, the Parties agree to incorporate the negotiated Product Specific Rules Schedule in Annex 4B (Product Specific Rules of Origin) and make any appropriate amendments to this Chapter, in accordance with Article 14.3 (Amendments – Final Provisions).

Article 4.4 Wholly Obtained or Produced Goods

For the purposes of subparagraph (a) of Article 4.2 (Originating Goods), the following goods shall be considered to be wholly obtained or produced in the territory of one or both of the Parties if they are:

- (a) plant and plant goods, including fruit, flowers, vegetables, trees, seaweed, fungi, algae and live plants grown and harvested, picked, or gathered there;
- (b) live animals born and raised there;
- (c) goods obtained from live animals born and raised there;

- (d) goods obtained by hunting, trapping, fishing, aquaculture, gathering, or capturing there;
- (e) minerals and other naturally occurring substances, not included in subparagraphs (a) to (d), extracted or taken from the soil or waters, seabed or subsoil beneath the seabed there;
- (f) fish, shellfish, and other marine life extracted or taken from the sea, seabed or subsoil beyond the outer limits of the territories of each Party and, in accordance with international law, 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;
- (g) goods produced on board a factory ship registered, listed or recorded with a Party and entitled to fly the flag of that Party from the goods referred to in subparagraphs (f);
- (h) goods other than fish, shellfish and other marine life extracted or taken from the sea-bed or subsoil beneath the sea-bed outside the territorial sea of a Party, provided that the Party has rights to exploit such seabed or subsoil beneath the sea-bed in accordance with relevant international law;
- (i) waste and scrap derived from production or consumption there, provided that such goods are fit only for the recovery of raw materials, or for recycling purposes; and
- (j) goods produced in the territory of one or both Parties solely from products referred to in subparagraphs (a) to (i) or from their derivatives at any stage of production.

Article 4.5 Accumulation

Goods and materials originating exclusively in the territory of a Party under the terms of this Agreement, and incorporated in the production of a good in the territory of the other Party shall be considered to originate in the territory of the other Party.

Article 4.6 Calculation of Qualifying Value Content

1. Where a qualifying value content requirement is specified in this Chapter, including related Annexes, to determine whether a good is originating, the qualifying value content shall be calculated using one of the following methods:
 - (a) **Build-Down Formula** based on the value of non-originating materials

$$[QVC = \frac{FOB\ Value - Value\ of\ Non\ Originating\ materials}{FOB\ Value} \times 100]$$

- (b) **Build-up Formula:** based on the value of originating materials

$$[QVC = \frac{Value\ of\ Originating\ materials}{FOB\ Value} \times 100]$$

2. All values for the purposes of calculating qualifying value content shall be determined in accordance with the Customs Valuation Agreement.
3. All costs shall be recorded and maintained in conformity with the Generally Accepted Accounting Principles applicable in the territory of a Party where the good is produced.
4. If a non-originating material is used in the production of a good, the following may be added to the value of originating materials in determining whether the good meets the QVC requirement:
 - (a) the value of production of the non-originating materials undertaken in the territory of one or both Parties; and
 - (b) the value of originating materials used in the production of the non-originating material in the territory of one or both Parties by one or more producers.
5. The value of the materials used in production shall be:
 - (a) for imported materials, the CIF value;
 - (b) for materials obtained within the territory of a Party:
 - (i) the price paid or payable by the producer in the Party where the producer is located;
 - (ii) the value as determined for an imported material in subparagraph (a); or
 - (iii) the earliest ascertainable price paid or payable in the territory of the Party; and
 - (c) for materials that are self-produced, all the costs incurred in the production of the material, which includes general expenses.
6. For originating materials, the following expenses may be added to the value of the material, if not included under paragraph 5:
 - (a) the costs of freight, insurance, packing, and other transport-related costs incurred in transporting the good to the location of the producer of the good;

- (b) duties, taxes, and customs brokerage fees on the material, paid in the territory of a Party, other than duties that are waived, refunded, refundable, or otherwise recoverable, which includes credit against duty or tax paid or payable; and
 - (c) the cost of waste and spoilage resulting from the use of the material in the production of the good, less the value of reusable scrap or by-product.
7. For non-originating materials or materials of undetermined origin, the following expenses may be deducted from the value of the material:
- (a) the costs of freight, insurance, packing, and other transport-related costs incurred in transporting the good to the location of the producer of the good;
 - (b) duties, taxes, and customs brokerage fees on the material, paid in the territory of a Party, other than duties that are waived, refunded, refundable, or otherwise recoverable, which includes credit against duty or tax paid or payable; and
 - (c) the cost of waste and spoilage resulting from the use of the material in the production of the good, less the value of reusable scrap or by-product.
8. Where the expenses listed in paragraphs 5 through 7 are unknown or evidence is not available, then no adjustment is allowed for those costs.

Article 4.7 Minimal Operations

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) preserving operations to ensure that the good remains in good condition for the purposes of transport or storage;
 - (b) packaging or presenting goods for transportation or sale;
 - (c) simple¹ processes, consisting of sifting, screening, sorting, classifying, sharpening, cutting, slitting, grinding, bending, coiling, or uncoiling;

¹ For the purposes of this Article, “simple” describes activities which need neither special skills nor machines, apparatus or equipment especially produced or installed for carrying out the activity.

- (d) for textiles: attaching accessory articles such as straps, beads, cords, rings and eyelets; ironing or pressing of textiles;
 - (e) affixing or printing of marks, labels, logos, or other like distinguishing signs on goods or their packaging;
 - (f) mere dilution with water or another substance that does not materially alter the characteristics of the good;
 - (g) disassembly of products into parts;
 - (h) slaughtering² of animals;
 - (i) simple painting and polishing operations;
 - (j) simple peeling, stoning, or shelling;
 - (k) simple mixing³ of goods, whether or not of different kinds; or
 - (l) any combination of two or more operations referred to in subparagraphs (a) through (k).
2. All operations carried out in a Party on a given good shall be considered together when determining whether the working or processing undergone by that good is to be regarded as insufficient within the meaning of paragraph 1.

Article 4.8 De Minimis

1. A good, except for those falling within Chapters 50 through 63 of the Harmonized System, that does not satisfy a change in tariff classification pursuant to Annex 4B (Product Specific Rules of Origin) shall nonetheless be an originating good if the value of non-originating materials used in the production of the good does not exceed 10 per cent of the FOB value of the good as defined under Article 4.1 (Definitions and Interpretation) and the good meets all of the other applicable requirements in this Chapter.
2. A good classified in Chapters 50 through 63 of the Harmonized System that does not qualify as originating good because certain non-originating materials used in the production of the good do not fulfil the requirements set out in Annex 4B (Product Specific Rules of Origin), shall nonetheless be an

² For the purposes of this Article, “slaughtering” means the mere killing of animals.

³ For the purposes of this Article, “simple mixing” describes activities which need neither special skills nor machines, apparatus or equipment especially produced or installed for carrying out the activity. However, simple mixing does not include a chemical reaction. Chemical reaction means a process, including a biochemical process, which results in a molecule with a new structure, by breaking intra-molecular bonds and by forming new intra-molecular bonds, or by altering the spatial arrangement of atoms in a molecule.

originating good if the total weight of all such material does not exceed 10 per cent of the total weight of that good.

3. If a good described in paragraph 1 or 2 is also subject to a qualifying value content requirement, the value of those non-originating materials shall be included in the value of non-originating materials for the applicable qualifying value content requirement.

Article 4.9

Treatment of Packaging Materials and Containers for Retail Sale

1. Packaging materials and containers in which a good is packaged for retail sale, if classified with the good, shall be 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 requirement set out in Annex 4B (Product Specific Rules of Origin), or whether the good is wholly obtained or produced.
2. If the good referred to in paragraph 1 is subject to the qualifying value content requirement, the value of such packaging materials and containers shall be taken into account as value of the originating or non-originating materials, as the case may be, in calculating the qualifying value content of the good.

Article 4.10

Treatment of Packing Materials and Containers for Transportation and Shipment

Packing materials and containers for transportation and shipment of a good shall not be taken into account in determining whether the good is originating.

Article 4.11 Accessories, Spare Parts and Tools

1. The origin of the accessories, spare parts or tools presented with a good:
 - (a) shall be disregarded if the good is subject to a change in tariff classification requirement or production process requirements for origin specified in Annex 4B (Product Specific Rules of Origin), and
 - (b) 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, if the good is subject to a qualifying value content requirement.
2. Paragraph 1 of this Article shall only apply where:

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

Article 4.12 Indirect Materials

An indirect material shall be considered to be originating without regard to where it is produced.

Article 4.13 Fungible Goods

- 1. Fungible goods or materials shall be treated as originating based on the:
 - (a) physical separation of the good or material; or
 - (b) use of any inventory management method recognised in the Generally Accepted Accounting Principles of the Party where the production is performed, if originating and non-originating fungible goods or materials are comingled, provided that the inventory management method selected is used throughout the fiscal year of the person that selected the inventory management method.
- 2. An inventory management system under subparagraph 1(a) must ensure that no more goods or materials receive originating status than would have been the case if the fungible goods or materials had been physically segregated.

Article 4.14 Consignment

- 1. A good shall retain its originating status as determined under Article 4.2 (Originating Goods) if either of the following conditions have been met:
 - (a) the good has been transported directly from the exporting Party to the importing Party; or
 - (b) the good has been transported through one or more non-Parties provided that the good has not undergone any subsequent production or other operation outside the territories of the Parties other than unloading, reloading, storing, repacking, relabelling in accordance with the laws and regulations of the importing Party, splitting up of loads, consolidation of loads or any other operation necessary to

preserve it in good condition or to transport the good to the territory of a Party and the good has remained under customs control in the non-Parties.

2. Compliance with subparagraph 1(b) shall be evidenced by presenting the customs administration of the importing Party either with customs documents of the non-Parties, or with any other appropriate documentation on request of the customs administration of the importing Party.
3. Appropriate documentation referred to in paragraph 2 may include commercial shipping or freight documents such as airway bills, bills of lading, multimodal or combined transport documents, a copy of the original commercial invoice in respect of the good, financial records, a non-manipulation certificate, or other relevant supporting documents as may be requested by the customs administration of the importing Party.

Article 4.15 **Certificate of Origin**

1. The Certificate of Origin shall be issued by an issuing body or authority, as appropriate, of an exporting Party, upon an application by an exporter, producer, or their authorised representative.
2. It shall bear an authorised signature and official seal of the issuing body or authority, as appropriate. The signature and seal shall be applied manually or electronically.
3. A Certificate of Origin shall:
 - (a) be in writing or electronic format;
 - (b) be in the English language;
 - (c) specify that the good is originating and meets the requirements of this Chapter;
 - (d) contain information, as set out in Annex 4A (Minimum Information Requirements) and presented in the same format as provided for in Annex 4A (Minimum Information Requirements);
 - (e) remain valid for 12 months from the date on which it is completed or issued;
 - (f) apply to single importation of one or multiple goods provided that each good qualifies as an originating good separately in its own right; and
 - (g) bear a unique Certificate of Origin number, affixed by the issuing body or authority, as appropriate, in the exporting Party.

4. A Certificate of Origin may indicate two or more invoices issued for single importation.
5. The Parties shall commence a review of this Article on completion of 2 years from the date of entry into force of this Agreement. This review will consider the introduction of Declaration of Origin by an approved exporter as a Proof of Origin.

Article 4.16 Certification Procedures

1. The Certificate of Origin shall be forwarded by the exporter or producer to the importer. The customs administration may require the original copy.
2. Neither erasures nor superimposition shall be allowed on the Certificate of Origin. Any alterations shall be made by striking out the erroneous material and making any addition(s) that may be required. Such alterations shall be approved by a person authorised to sign the Certificate of Origin and certified by the appropriate issuing body or authority. A new certificate may be issued to replace the erroneous one. Unused spaces shall be crossed out to prevent any subsequent addition(s).
3. The Certificate of Origin shall be issued prior to or within 5 working days of the date of exportation. However, under exceptional cases, where a Certificate of Origin has not been issued at the time of exportation or within 5 working days from the date of shipment due to involuntary errors or omissions, or any other valid reasons, the Certificate of Origin may be issued retrospectively, bearing the words "ISSUED RETROSPECTIVELY" in the Certificate of Origin, with the issuing body or authority also recording the reasons in writing on the exceptional circumstances due to which the certificate was issued retrospectively. The Certificate of Origin can be issued retrospectively no later than 12 months from the date of shipment.
4. In cases of theft, loss or accidental destruction of a Certificate of Origin, the exporter, producer or an authorised representative thereof may, within the term of validity of the original Certificate of Origin, make a written request to the issuing body or authority that issued the original certificate for a certified copy. The certified copy shall bear the words "CERTIFIED TRUE COPY". The certified copy shall have the same term of validity as the original Certificate of Origin.

Article 4.17 Application for Certificate of Origin

1. For the issue of a Certificate of Origin, the exporter or producer of the goods shall present, or submit electronically through the approved channel, to the issuing body or authority of the exporting Party the following:

- (a) an application, together with appropriate supporting information and documents for proving origin, including but not limited to, the breakup of costs and any other relevant elements such as profits;
 - (b) information outlined in Annex 4A (Minimum Information Requirements) and consistent with the description in the invoice; and
 - (c) the corresponding commercial invoice and other documents necessary to establish the origin of the good.
2. Multiple items declared on the same Certificate of Origin shall be allowed, provided that each item must qualify separately in its own right.
 3. Each Party may, in accordance with its domestic procedures and if it deems appropriate, allow its issuing body or authority to apply a risk management system to selectively conduct pre-export verification of the minimum information requirements filed by an exporter or producer.
 4. The issuing body or authority, as appropriate, may, to the best of their competence and ability, carry out proper examination of each application for a Certificate of Origin to ensure that:
 - (a) the application has been duly completed and signed by the authorised signatory;
 - (b) the origin of the good is in conformity with the requirements of this Chapter; and
 - (c) the information furnished in the Certificate of Origin corresponds to supporting information and documents submitted.

Article 4.18 Non-Party Invoicing

1. An importing Party shall not deny a claim for preferential tariff treatment for the sole reason that an invoice was not issued by the exporter or producer provided that the goods meet the requirements of this Chapter.
2. The exporter of the goods shall indicate “non-party invoicing” and the name, address, and country of the company issuing the invoice shall appear in a separate column in the Certificate of Origin.

Article 4.19 Authorities

1. The Certificate of Origin shall be issued by an issuing body or authority, as appropriate.

2. Each Party shall within 30 days of the date of entry into force of this Agreement inform the customs administration of the other Party of the issuing body or authority, as appropriate, and contact details of the authorised persons of such body or authority, designated to issue Certificates of Origin under this Agreement.
3. The Parties shall exchange specimen seals and signatures of the authorised signatories issuing Certificates of Origin.
4. Each Party shall promptly notify the other Party of any change to its issuing body or authority, as appropriate, and the names, designations, addresses, specimen signatures of authorised persons or seals of such issuing body or authority.

Article 4.20 **Claims for Preferential Tariff Treatment**

1. Except as otherwise provided in Article 4.27 (Denial of Preferential Tariff Treatment), each Party shall grant preferential tariff treatment in accordance with this Chapter to an originating good on the basis of a Certificate of Origin.
2. Unless otherwise provided in this Chapter, for the purposes of claiming preferential tariff treatment, an importing Party shall provide that an importer:
 - (a) make a declaration that the good qualifies as an originating good;
 - (b) have a valid Certificate of Origin in its possession at the time the declaration referred to in subparagraph (a) is made;
 - (c) provide a copy of the Certificate of Origin to the importing Party if required by the Party; and
 - (d) if required by an importing Party, demonstrate that the requirements in Article 4.14 (Consignment) 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 4.21 **Record Keeping Requirements**

1. Each Party shall require that:
 - (a) its exporters, producers and issuing bodies or authorities, as appropriate, retain for at least 5 years from the date of issuance of the Certificate of Origin, or a longer period in accordance with its relevant

- laws and regulations, all records necessary to prove that the good for which the Certificate of Origin was issued was originating; and
- (b) its importers retain, for at least 5 years from the date of importation of the good, or a longer period in accordance with its relevant laws and regulations, all records necessary to prove that the good for which preferential tariff treatment was claimed was originating.
2. The records referred to in paragraph 1 may be maintained in any medium that allows for prompt retrieval, including in digital, electronic, optical, magnetic, or written form, in accordance with the Party's laws and regulations.

Article 4.22 Waiver of Certificate of Origin

A Party shall not require a Certificate of Origin if the importing Party has waived the requirement or does not require the importer to present a Certificate of Origin as per their national laws.

Article 4.23 Obligations of Exporter or Producer

1. The exporter or producer shall submit the minimum information requirements, as referred to in Annex 4A (Minimum Information Requirements), and supporting information and documents, as referred to in Article 4.17 (Application for Certificate of Origin) for the issuance of a Certificate of Origin pursuant to the procedure established by the issuing body or authority, as appropriate, in the exporting Party, consistent with the provisions of this Agreement.
2. Any exporter or producer who incorrectly represents any material information relevant to the determination of origin of a good may be liable to be penalised under the laws and regulations of the exporting Party.
3. The exporter or producer shall keep the minimum required information, and supporting documents for a period no less than 5 years, starting from the end of the year of the date of issue of the Certificate of Origin.
4. For the purpose of determination of origin, the exporter or producer applying for a Certificate of Origin under this Agreement shall maintain appropriate commercial accounting records for the production and supply of goods (as well as relevant records and documents from the suppliers) qualifying for preferential treatment and keep all commercial and customs documentation relating to the material(s) used in the production of the good, including but not limited to breakup of costs relating to material(s), labour, other overheads and any other relevant elements such as profits and related components for at least 5 years from the date of issue of the Certificate of Origin. The exporter

or producer shall, upon request of the issuing body or authority, of the exporting Party or the customs administration of the importing Party, make available records for inspection to enable verification of the origin of the good.

5. If the exporter or producer has reason(s) to believe that the Certificate of Origin is based on incorrect information that could affect the accuracy or validity of the Certificate of Origin, they shall be obliged to immediately notify the importer, the issuing body or authority and the customs administration of the importing Party in writing of any change affecting the originating status of each good to which the Certificate of Origin applies.

Article 4.24 **Post Importation Claim for Preferential Tariff Treatment**

1. Each Party shall provide for an importer of a Party to apply for preferential tariff treatment and a refund of any excess duties paid for a good if the importer did not make a claim for preferential tariff treatment at the time of importation, provided that the good would have qualified for preferential tariff treatment when it was imported into its territory.
2. As a condition for preferential tariff treatment under paragraph 1, the importing Party may require that the importer, not later than 12 months after the date of importation or a longer period if specified in the importing Party's laws and regulations, to:
 - (a) make a claim for preferential tariff treatment;
 - (b) where applicable, provide a copy of Certificate of Origin; and
 - (c) provide such other documentation relating to the importation of the good as the importing Party may require.
3. Each Party shall provide that if the importer has reason(s) to believe that the claim for preferential tariff treatment is based on incorrect information that could affect the accuracy or validity of the Certificate of Origin, the importer shall correct the importation document, and pay any customs duty and, if applicable, penalties owed.
4. When considering imposing a penalty in relation to a claim for preferential tariff treatment, the customs administrations of the Parties are encouraged to consider a voluntary notification given prior to the discovery of that error by the Party and in accordance with paragraph 3 or paragraph 5 of Article 4.23 (Obligations of Exporter or Producer), as a mitigating factor, provided that in the case of a notification given by an importer, the importer corrects the error and repays any duties owed.

Article 4.25 **Verification of Origin**

Initiating a verification of origin

1. For the purposes of determining whether goods imported into the territory of a Party from the territory of the other Party qualify as originating goods, the customs administration of the importing Party may conduct a verification process by proceeding in sequence, when required, with:
 - (a) a written request or written requests for information from the importer of the good;
 - (b) a written request or written requests for information from the competent authority and issuing body or authority, as appropriate, of the exporting Party where the customs administration of the importing Party considers the information obtained under subparagraph (a) is not sufficient to make a determination and requires additional information including the breakup of costs and any other relevant elements such as profits;
 - (c) a written request or written requests for information from the exporter or producer of the goods, where the customs administration of the importing Party considers the information obtained under subparagraphs (a) and (b) is not sufficient to make a determination and requires additional information including the breakup of costs and any other relevant elements such as profits for the determination of origin of the good under Article 4.2 (Originating Goods) and Article 4.3 (Goods not Wholly Produced or Obtained) irrespective of the method adopted under Article 4.6 (Calculation of Qualifying Value Content);
 - (d) visits to the premises of an exporter or a producer in the territory of another Party; or
 - (e) any other procedures to which the Parties may agree.
2. A verification under paragraph 1 may be conducted at the time that the customs import declaration is lodged, or before or after the release of the good by the customs administration of the importing Party.
3. For the purposes of subparagraph 1(b), the customs administration of the importing Party:
 - (a) may request the competent authority or the issuing body or authority, as appropriate, of the exporting Party to assist it in verifying:
 - (i) the authenticity of a Certificate of Origin;
 - (ii) the accuracy of any information contained in the Certificate of Origin; or

- (iii) the authenticity and accuracy of the supporting information and documents, which may relate to the breakup of costs and any other relevant elements such as profits for the determination of origin of the good under Article 4.3 (Goods not Wholly Produced or Obtained) irrespective of the method adopted; and
 - (b) shall provide the competent authority or the issuing body or authority, as appropriate, with:
 - (i) the reasons why such assistance is sought;
 - (ii) the Certificate of Origin, or a copy thereof; and
 - (iii) any information and documents as may be necessary for the purpose of providing such assistance.
4. Where a written request is made under paragraph 1(c), the customs administration of the importing Party shall:
- (a) ensure that the information requested is limited to information pertaining to the fulfilment of the requirements of this Chapter as follows:
 - (i) Certificate of Origin;
 - (ii) information supporting a claim that the good is originating under Article 4.2 (Originating Goods);
 - (iii) information on any tolerances relied on under Article 4.8 (De Minimis); and
 - (iv) information confirming compliance with the non-alteration provisions under Article 4.14 (Consignment);
 - (b) allow the exporter or producer at least 30 days from the date of receipt of the request to provide the requested information; and
 - (c) notify the customs administration of the exporting Party of the request.

Release of goods subject to verification

5. During verification, the importing Party shall allow the release of the good, subject to payment of any duties or provision of any security as provided for in its laws and regulations. If as a result of the verification, the importing Party determines that the good is an originating good, it shall grant preferential tariff treatment to the good and refund any excess duties paid or release any security provided, unless the security also covers other obligations as provided for in the Party's laws and regulations.

Article 4.26 **Procedure for Verification**

1. Any request for information made by the customs administration of the importing Party pursuant to Article 4.25 (Verification of Origin) shall be in accordance with the following procedures:
 - (a) if requested, the issuing body or authority, as appropriate, of the exporting Party shall provide the following information within 90 days:
 - (i) a confirmation pertaining to the authenticity or otherwise of the Certificate of Origin along with a copy of the minimum required information; and
 - (ii) if the request is on the grounds of suspicion of the accuracy of the determination of origin of the good, this period can be extended for a period of no more than 60 days;
 - (b) if the importing Party is not satisfied with the verification undertaken in accordance with subparagraph 1(a) through (c) of Article 4.25 (Verification of Origin), it may, under exceptional circumstances, request the exporter or producer for a verification visit. The importing Party shall notify in writing the exporter or producer whose premises are to be visited, the issuing body or authority, the customs administration of the exporting Party and the importer of its intention to conduct the verification visit.
2. The importing Party shall obtain the written consent of the exporter or producer whose premises are to be visited. When a written consent from the exporter or producer is not received within 30 days of receipt of the written request, the importing Party may deny preferential treatment on goods subject to the verification visit.
3. The written notification shall include the name of the exporter or producer whose premises are to be visited, the proposed date and time of visit, the purpose for the visit, reference to the goods subjected to verification, and a list of officials participating and their designations.
4. The exporter or producer shall identify two or more independent witnesses to be present during the verification visit.
5. The importing Party conducting the verification visit shall provide the exporter or producer as well as the issuing body or authority of the exporting Party with a written determination of whether the good qualifies as an originating good.
6. The above-mentioned verification visit process including the actual visit and notification of written determination of the origin of the good shall be

completed within a maximum period of six months from the date when the verification visit was conducted.

Completion of verification procedure

7. The customs administration of the importing Party shall:
 - (a) endeavour to make a determination following a verification as expeditiously as possible and in accordance with its laws and regulations; and
 - (b) provide the importer with a written determination of whether the good is originating that includes the basis for the determination.

Article 4.27
Denial of Preferential Tariff Treatment

1. The importing Party may deny a claim for preferential tariff treatment if:
 - (a) it determines that the good does not qualify as originating within the terms of this Chapter or does not satisfy the requirement(s) of this Chapter;
 - (b) pursuant to a verification under Article 4.25 (Verification of Origin), it has not received sufficient information, including minimum required information as provided in Annex 4A (Minimum Information Requirements), to determine that the good qualifies as originating;
 - (c) the exporter or producer fails to respond to or refuses a written request for information in accordance with Article 4.25 (Verification of Origin);
 - (d) the exporter or producer fails to comply with any of the relevant requirements for obtaining preferential tariff treatment;
 - (e) the exporter or producer or the issuing bodies or authorities, as appropriate, of the exporting Party fail to provide sufficient information and documents, within the timelines prescribed in paragraph 4(b) of Article 4.25 (Verification of Origin) or paragraph 1 of Article 4.26 (Procedure for Verification). This may include but not be limited to the breakup of costs and any other relevant elements such as profits that the importing Party requested in order to determine that the good qualifies as originating, pursuant to initiation of verification under Article 4.25 (Verification of Origin); or
 - (f) the exporter or producer fails to give consent or respond to a request for a verification visit within 30 days of receipt of a request pursuant to paragraph 2 of Article 4.26 (Procedure for Verification).

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2. If an importing Party denies a claim for preferential tariff treatment, it shall issue a determination to the exporter or producer that includes the reasons for the determination.

Article 4.28 Temporary Suspension of Preferential Treatment

1. The importing Party may suspend the tariff preference in respect of a good originating in the exporting Party, when the suspension is justified due to persistent failure to comply with the provisions of these rules by an exporter or producer or a persistent failure on part of the competent authority or the issuing bodies or authorities, as appropriate, of the exporting Party to respond to a request for verification.
2. Upon receipt of the notification of suspension, the exporting Party may request consultations through the Joint Technical Subcommittee established under Article 4.32 (Joint Technical Subcommittee on Rules of Origin and Customs Procedures and Trade Facilitation).
3. Pursuant to consultations between the Parties, and such measures as the Parties may agree, the Parties may resolve to extend preferential benefit to the good with retrospective or prospective effect.

Article 4.29 Non-compliance of Goods with Rules of Origin and Penalties

1. If the verification under Article 4.25 (Verification of Origin) establishes non-compliance of the goods with the rules of origin, duties shall be levied in accordance with the laws and regulations of the importing Party.
2. Each Party shall also adopt or maintain measures that provide for the imposition of civil, administrative, and, where appropriate, criminal sanctions for violations of its customs laws and regulations, including those governing rules of origin, and the entitlement to preferential tariff treatment under this Agreement.

Article 4.30 Goods in Transport or Storage

In accordance with Article 4.24 (Post Importation Claim for Preferential Tariff Treatment), the customs administration of the importing Party shall grant preferential tariff treatment for an originating good of the exporting Party which, on the date of entry into force of this Agreement:

- (a) is in the process of being transported from the exporting Party to the importing Party; or

- (b) has not been released from customs control, including an originating good stored in a bonded warehouse regulated by the customs administration of the importing Party.

Article 4.31 **Minor Discrepancies or Errors**

A Party shall not reject a Certificate of Origin due to minor errors or discrepancies, such as slight discrepancies between documents, minor omissions of information, spelling, typing or formatting errors, or protrusions from the designated field, provided these minor discrepancies or errors do not create doubt as to the originating status of the good.

Article 4.32 **Joint Technical Subcommittee on Rules of Origin and Customs Procedures and Trade Facilitation**

1. The Parties hereby establish a Joint Technical Subcommittee on Rules of Origin and Customs Procedures and Trade Facilitation (“Joint Technical Subcommittee”) composed of government representatives of each Party responsible for rules of origin and customs and trade facilitation matters to consider any matters arising under this Chapter or Chapter 5 (Customs Procedures and Trade Facilitation).
2. The Joint Technical Subcommittee shall consult regularly to ensure that this Chapter is administered effectively, uniformly and consistently with the spirit and objectives of this Agreement and shall cooperate in the administration of this Chapter and mutually resolve any issues that may arise.
3. The Joint Technical Subcommittee shall consult to discuss possible amendments or modifications to this Chapter, Annex 4A (Minimum Information Requirements) or Annex 4B (Product Specific Rules of Origin), that are necessary to reflect changes to the Harmonized System and taking into account developments in technology, production processes or other related matters.
4. The Joint Technical Subcommittee shall meet promptly when a request is received from a Party to have product specific rules for any goods.
5. The Joint Technical Subcommittee shall consider any matters referred to it by the Subcommittee on Trade in Goods or the Joint Committee.