

## CHAPTER 3

### RULES OF ORIGIN

#### SECTION A

#### RULES OF ORIGIN

##### **Article 3.1: Definitions**

For the purposes of this Chapter:

- (a) **aquaculture** means the farming of aquatic organisms including fish, molluscs, crustaceans, other aquatic invertebrates, and aquatic plants from seed stock such as eggs, fry, fingerlings, and larvae, by intervention in the rearing or growth processes to enhance production such as regular stocking, feeding, or protection from predators;
- (b) **CIF value** means the value of the imported good, inclusive of the cost of insurance and freight up to the port or place of entry into the country of importation;
- (c) **competent authority** means the government authority or authorities designated by a Party and notified to the other Parties;
- (d) **customs authority** means a customs authority as defined in subparagraph (a) of Article 4.1 (Definitions);
- (e) **FOB value** means the value of the good free on board, inclusive of the cost of transport (regardless of the mode of transport) to the port or site of final shipment abroad;
- (f) **fungible goods or materials** means goods or materials that are interchangeable for commercial purposes, whose properties are essentially identical;
- (g) **Generally Accepted Accounting Principles** means those principles recognised by consensus or with substantial authoritative support in 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 of general application as well as detailed standards, practices, and procedures;

- (h) **good** means any merchandise, product, article, or material;
- (i) **issuing body** means an entity designated or authorised by a Party to issue a Certificate of Origin and notified to the other Parties in accordance with this Chapter;
- (j) **material** means a good that is used in the production of another good;
- (k) **non-originating good** or **non-originating material** means a good or material which does not qualify as originating in accordance with this Chapter;
- (l) **originating good** or **originating material** means a good or material which qualifies as originating in accordance with this Chapter;
- (m) **producer** means a person who engages in the production of goods; and
- (n) **production** means methods of obtaining goods including growing, mining, harvesting, farming, raising, breeding, extracting, gathering, collecting, capturing, fishing, aquaculture, trapping, hunting, manufacturing, producing, processing, or assembling.

### **Article 3.2: Originating Goods**

For the purposes of this Agreement, a good shall be treated as an originating good if it is:

- (a) wholly obtained or produced in a Party as provided in Article 3.3 (Goods Wholly Obtained or Produced);
- (b) produced in a Party exclusively from originating materials from one or more of the Parties; or
- (c) produced in a Party using non-originating materials, provided the good satisfies the applicable requirements set out in Annex 3A (Product-Specific Rules),

and meets all other applicable requirements of this Chapter.

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

For the purposes of Article 3.2 (Originating Goods), the following goods shall be considered as wholly obtained or produced in a Party:

- (a) plants and plant goods, including fruit, flowers, vegetables, trees, seaweed, fungi, and live plants, grown and harvested, picked, or gathered there;
- (b) live animals born and raised there;
- (c) goods obtained from live animals raised there;
- (d) goods obtained by hunting, trapping, fishing, farming, aquaculture, gathering, or capturing conducted there;
- (e) minerals and other naturally occurring substances, not included in subparagraphs (a) through (d), extracted or taken from its soil, waters, seabed, or subsoil beneath the seabed;
- (f) goods of sea-fishing and other marine life taken by vessels of that Party<sup>1</sup>, and other goods taken by that Party or a person of that Party, from the waters, seabed, or subsoil beneath the seabed outside the territorial sea of the Parties and non-Parties, in accordance with international law, provided that, in case of goods of sea-fishing and other marine life taken from the exclusive economic zone of any Party or non-Party, that Party or person of that Party has

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<sup>1</sup> For the purposes of this Article, “factory ships of that Party” or “vessels of that Party” respectively, means factory ships or vessels:

- (a) which are registered in that Party; and
- (b) which are entitled to fly the flag of that Party.

Notwithstanding the preceding sentence, any factory ship or vessel operating within the exclusive economic zone of Australia that meets the definition of “Australian boat” under the *Fisheries Management Act 1991* (Commonwealth), as amended from time to time, or any successor legislation, shall be considered to be a factory ship or vessel of Australia respectively. For greater certainty, when such a factory ship or vessel is operating outside of the exclusive economic zone of Australia, the requirements of subparagraphs (a) and (b) of this footnote shall apply.

the rights to exploit<sup>2</sup> such exclusive economic zone, and in case of other goods, that Party or person of that Party has rights to exploit such seabed and subsoil beneath the seabed, in accordance with international law;

- (g) goods of sea-fishing and other marine life taken by vessels of that Party from the high seas in accordance with international law;
- (h) goods processed or made on board any factory ships of that Party, exclusively from the goods referred to in subparagraph (f) or (g);
- (i) goods which are:
  - (i) waste and scrap derived from production or consumption there, provided that such goods are fit only for disposal, for the recovery of raw materials, or for recycling purposes; or
  - (ii) used goods collected there, provided that such goods are fit only for disposal, for the recovery of raw materials, or for recycling purposes; and
- (j) goods obtained or produced there solely from goods referred to in subparagraphs (a) through (i), or from their derivatives.

#### **Article 3.4: Cumulation**

1. Unless otherwise provided in this Agreement, goods and materials which comply with the origin requirements provided in Article 3.2 (Originating Goods), and which are used in another Party as materials in the production of another good or material, shall be considered as originating in the Party where working or processing of the finished good or material has taken place.
2. The Parties shall commence a review of this Article on the date of entry into force of this Agreement for all signatory States. This review will consider the extension of the application of cumulation

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<sup>2</sup> For the purposes of determining the origin of goods of sea-fishing and other marine life, "rights to exploit" in this subparagraph include those rights of access to the fisheries resources of a coastal State, as accruing from any agreements or arrangements between a Party and the coastal State.

in paragraph 1 to all production undertaken and value added to a good within the Parties. The Parties shall conclude the review within five years of the date of its commencement, unless the Parties agree otherwise.

### Article 3.5: Calculation of Regional Value Content

1. The regional value content of a good, specified in Annex 3A (Product-Specific Rules), shall be calculated by using either of the following formulas:

- (a) Indirect/Build-Down Formula

$$\text{RVC} = \frac{\text{FOB} - \text{VNM}}{\text{FOB}} \times 100$$

or

- (b) Direct/Build-Up Formula

$$\text{RVC} = \frac{\text{VOM} + \frac{\text{Direct Labour Cost} + \text{Direct Overhead Cost} + \text{Profit} + \text{Other Cost}}{\text{FOB}}}{\text{FOB}} \times 100$$

where:

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

**FOB** is the FOB value as defined in subparagraph (e) of Article 3.1 (Definitions);

**VOM** is the value of originating materials, parts, or produce acquired or self-produced, and used in the production of the good;

**VNM** is the value of non-originating materials used in the production of the good;

**Direct Labour Cost** includes wages, remuneration, and other employee benefits; and

**Direct Overhead Cost** is the total overhead expense.

2. The value of goods under this Chapter shall be calculated, *mutatis mutandis*, in accordance with Article VII of GATT 1994 and the Customs Valuation Agreement. All costs shall be recorded and maintained in accordance with the Generally Accepted Accounting Principles applicable in the Party where the goods are produced.
3. The value of non-originating materials shall be:
  - (a) for imported materials, the CIF value of the materials at the time of importation; and
  - (b) for materials obtained within a Party, the earliest ascertainable price paid or payable.
4. A material of undetermined origin shall be treated as a non-originating material.
5. The following expenses may be deducted from the value of non-originating materials or materials of undetermined origin:
  - (a) the costs of freight, insurance, packing, and other transport-related costs incurred in transporting the goods to the producer;
  - (b) duties, taxes, and customs brokerage fees, other than duties that are waived, refunded, or otherwise recovered; and
  - (c) costs of waste and spillage, less the value of any renewable scrap or by-products.

Where the expenses listed in subparagraphs (a) through (c) are unknown or evidence is not available, then no deduction is allowed for those expenses.

### **Article 3.6: Minimal Operations and Processes**

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) simple<sup>3</sup> processes, consisting of sifting, screening, sorting, classifying, sharpening, cutting, slitting, grinding, bending, coiling, or uncoiling;
- (d) affixing or printing of marks, labels, logos, or other like distinguishing signs on goods or their packaging;
- (e) mere dilution with water or another substance that does not materially alter the characteristics of the good;
- (f) disassembly of products into parts;
- (g) slaughtering<sup>4</sup> of animals;
- (h) simple painting and polishing operations;
- (i) simple peeling, stoning, or shelling;
- (j) simple mixing of goods, whether or not of different kinds;  
or
- (k) any combination of two or more operations referred to in subparagraphs (a) through (j).

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<sup>3</sup> For the purposes of this Article, “simple” describes an activity which does not need special skills, or machines, apparatus, or equipment especially produced or installed for carrying out the activity.

<sup>4</sup> For the purposes of this Article, “slaughtering” means the mere killing of animals.

### **Article 3.7: *De Minimis***

1. A good that does not satisfy a change in tariff classification pursuant to Annex 3A (Product-Specific Rules) is nonetheless an originating good if the good meets all of the other applicable requirements in this Chapter and:
  - (a) for a good classified in Chapters 01 through 97 of the HS Code, the value of non-originating materials that have been used in the production of the good and did not undergo the applicable change in tariff classification does not exceed 10 per cent of the FOB value of that good. The value of those non-originating materials shall be determined pursuant to paragraph 3 of Article 3.5 (Calculation of Regional Value Content); or
  - (b) for a good classified in Chapters 50 through 63 of the HS Code, the weight of all non-originating materials used in its production that did not undergo the required change in tariff classification does not exceed 10 per cent of the total weight of the good.
2. The value of non-originating materials referred to in paragraph 1 shall, however, be included in the value of non-originating materials for any applicable regional value content requirement.

### **Article 3.8: Treatment of Packing and Packaging Materials and Containers**

1. Packing materials and containers for the transportation and shipment of a good shall not be taken into account in determining the originating status of any good.
2. Packaging materials and containers in which a good is packaged for retail sale, which are classified together with the good, shall not be taken into account in determining the originating status of the good, provided that:
  - (a) the good is wholly obtained or produced in a Party in accordance with subparagraph (a) of Article 3.2 (Originating Goods);
  - (b) the good is produced in a Party exclusively from originating materials from one or more of the Parties, in accordance with subparagraph (b) of Article 3.2 (Originating Goods); or



- (c) the good is subject to a change in tariff classification or a specific manufacturing or processing operation requirement provided in Annex 3A (Product-Specific Rules).
- 3. If a good is subject to a regional value content requirement, the value of the packaging materials and containers in which the good is packaged for retail sale shall be taken into account as originating materials or non-originating materials of the good, as the case may be, in calculating the regional value content of the good.

### **Article 3.9: Accessories, Spare Parts, and Tools**

- 1. For the purposes of determining the originating status of a good, accessories, spare parts, tools, and instructional or other information materials presented with the good shall be considered as part of the good and shall be disregarded in determining whether all the non-originating materials used in the production of the good have undergone the applicable change in tariff classification or a specific manufacturing or processing operation set out in Annex 3A (Product-Specific Rules), provided that:
  - (a) the accessories, spare parts, tools, and instructional or other information materials presented with the good are not invoiced separately from the good; and
  - (b) the quantities and value of the accessories, spare parts, tools, and instructional or other information materials presented with the good are customary for the good.
- 2. Notwithstanding paragraph 1, if a good is subject to a regional value content requirement, the value of the accessories, spare parts, tools, and instructional or other information materials presented with the good shall be taken into account as originating materials or non-originating materials, as the case may be, in calculating the regional value content of the good, provided that:
  - (a) the accessories, spare parts, tools, and instructional or other information materials presented with the good are 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.

#### **Article 3.10: Indirect Materials**

1. An indirect material shall be treated as an originating material without regard to where it is produced and its value shall be the cost registered in accordance with the Generally Accepted Accounting Principles in the records of the producer of the good.
2. For the purposes of this Article, “indirect material” means a good used in the production, testing, or inspection of another good but not physically incorporated into that other good, or a good used in the maintenance of buildings or the operation of equipment associated with the production of a good, including:
  - (a) fuel and energy;
  - (b) tools, dies, and moulds;
  - (c) spare parts and goods used in the maintenance of equipment and buildings;
  - (d) lubricants, greases, compounding materials, and other materials used in production or used to operate equipment and buildings;
  - (e) gloves, glasses, footwear, clothing, and safety equipment and supplies;
  - (f) equipment, devices, and supplies used for testing or inspecting goods;
  - (g) catalysts and solvents; and
  - (h) any other goods that are not incorporated into the good but whose use in the production of the good can reasonably be demonstrated to be a part of that production.

#### **Article 3.11: Fungible Goods or Materials**

The determination of whether fungible goods or materials are originating shall be made either by physical segregation of each of the fungible

goods or materials or, where commingled, by the use of an inventory management method which is recognised in the Generally Accepted Accounting Principles of the exporting Party, and should be used throughout the fiscal year.

#### **Article 3.12: Materials Used in Production**

If a non-originating material undergoes further production such that it satisfies the requirements of this Chapter, the material shall be treated as originating when determining the originating status of the subsequently produced good, regardless of whether that material was produced by the producer of the good.

#### **Article 3.13: Unit of Qualification**

1. The unit of qualification for the application of this Chapter shall be the particular good which is considered as the basic unit when determining classification under the Harmonized System.
2. When a consignment consists of a number of identical goods classified under a single tariff line, each good shall be individually taken into account in determining whether it qualifies as an originating good.

#### **Article 3.14: Treatment for Certain Goods**

The Parties and signatory States shall enter into discussions on the treatment for certain goods under this Chapter upon the request of a Party and conclude such discussions within three years from the start of the discussions. The treatment for certain goods under this Chapter shall be subject to agreement of all the Parties and signatory States by consensus.

#### **Article 3.15: Direct Consignment**

1. An originating good shall retain its originating status as determined under Article 3.2 (Originating Goods) if the following conditions have been met:
  - (a) the good has been transported directly from an exporting Party to an importing Party; or

- (b) the good has been transported through one or more Parties other than the exporting Party and the importing Party (hereinafter referred to as “intermediate Parties” in this Article), or non-Parties, provided that the good:
    - (i) has not undergone any further processing in the intermediate Parties or the non-Parties, except for logistics activities such as unloading, reloading, storing, or any other operations necessary to preserve it in good condition or to transport it to the importing Party; and
    - (ii) remains under the control of the customs authorities in the intermediate Parties or the non-Parties.
- 2. Compliance with subparagraph 1(b) shall be evidenced by presenting the customs authorities of the importing Party either with customs documents of the intermediate Parties or the non-Parties, or with any other appropriate documentation on request of the customs authorities 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 authorities of the importing Party.

## **SECTION B**

### **OPERATIONAL CERTIFICATION PROCEDURES**

#### **Article 3.16: Proof of Origin**

- 1. Any of the following shall be considered as a Proof of Origin:
  - (a) a Certificate of Origin issued by an issuing body in accordance with Article 3.17 (Certificate of Origin);
  - (b) a Declaration of Origin by an approved exporter in accordance with subparagraph 1(a) of Article 3.18 (Declaration of Origin); or

- (c) a Declaration of Origin by an exporter or producer in accordance with subparagraph 1(b) of Article 3.18 (Declaration of Origin), and subject to paragraphs 2 and 3,

based on information available that the good is originating.

2. Australia, Brunei Darussalam, China, Indonesia, Japan, Korea, Malaysia, New Zealand, the Philippines, Singapore, Thailand, and Viet Nam shall implement subparagraph 1(c) no later than 10 years after their respective dates of entry into force of this Agreement. Cambodia, Lao PDR, and Myanmar shall implement subparagraph 1(c) no later than 20 years after their respective dates of entry into force of this Agreement.
3. Notwithstanding paragraph 2, a Party may elect to seek a longer extension period, up to a maximum of 10 years, in which to implement subparagraph 1(c), by notifying the Committee on Goods of that decision.
4. The Parties shall commence a review of this Article on the date of entry into force of this Agreement for all signatory States. This review will consider the introduction of Declaration of Origin by an importer as a Proof of Origin. The Parties shall conclude the review within five years of the date of its commencement, unless the Parties agree otherwise.<sup>5</sup>
5. A Proof of Origin shall:
  - (a) be in writing, or any other medium, including electronic format as notified by an importing Party;
  - (b) specify that the good is originating and meets the requirements of this Chapter; and
  - (c) contain information which meets the minimum information requirements as set out in Annex 3B (Minimum Information Requirements).

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<sup>5</sup> Notwithstanding this paragraph, Japan may, from the date of the entry into force of this Agreement for it, consider a Declaration of Origin by an importer as a Proof of Origin in the same manner as Proof of Origin under paragraph 1. In that case, Japan shall not conduct a verification process by means referred to in subparagraphs 1(b) through (d) of Article 3.24 (Verification) regarding the Declaration of Origin by the importer. The Declaration of Origin shall only be completed by the importer where that importer has sufficient information to prove that the good qualifies as an originating good.

6. Each Party shall provide that a Proof of Origin remains valid for one year from the date on which it is issued or completed.

### **Article 3.17: Certificate of Origin**

1. A Certificate of Origin shall be issued by the issuing body of an exporting Party upon an application by an exporter, a producer, or their authorised representative.
2. The exporter, producer, or their authorised representative shall apply in writing or by electronic means for a Certificate of Origin, to the issuing body of the exporting Party in accordance with the exporting Party's laws, regulations, and procedures.
3. A Certificate of Origin shall:
  - (a) be in a format to be determined by the Parties;
  - (b) bear a unique Certificate of Origin number;
  - (c) be in the English language; and
  - (d) bear an authorised signature and official seal of the issuing body of the exporting Party. The signature and seal shall be applied manually or electronically.
4. A Certificate of Origin may:
  - (a) indicate two or more invoices issued for single shipment;  
or
  - (b) contain multiple goods, provided that each good qualifies as an originating good separately in its own right.
5. In circumstances where a Certificate of Origin contains incorrect information, the issuing body of the exporting Party may:
  - (a) issue a new Certificate of Origin and invalidate the original Certificate of Origin; or
  - (b) make modifications to the original Certificate of Origin by striking out errors and making any additions or corrections. Any changes shall be certified by the authorised signature and official seal of the issuing body of the exporting Party.

6. Each Party shall provide the names, addresses, specimen signatures, and impressions of official seals of its issuing body to the other Parties. Such information shall be submitted electronically through the RCEP Secretariat established pursuant to subparagraph 1(i) of Article 18.3 (Functions of the RCEP Joint Committee) (hereinafter referred to as “RCEP Secretariat” in this Chapter), for dissemination to the other Parties. Any subsequent changes shall be promptly submitted to the RCEP Secretariat in the same manner for dissemination to the other Parties. The Parties shall endeavour to establish a secured website to display such information from the last three years, and such website shall be accessible to the Parties.
7. Notwithstanding paragraph 6, a Party shall not be required to provide the specimen signatures of its issuing body to the RCEP Secretariat for dissemination to the other Parties if it has established its own secured website, containing relevant information of the Certificates of Origin it issues, including their Certificate of Origin numbers, HS Codes, descriptions of goods, quantities, dates of issuance, and names of the exporters, that is accessible to the Parties. The Parties shall review the requirement to provide specimen signatures of the issuing bodies three years after the date of entry into force of this Agreement for all signatory States.
8. Where a Certificate of Origin has not been issued at the time of shipment due to involuntary errors, omissions, or other valid causes, or in the circumstances referred to in subparagraph 5(a), a Certificate of Origin may be issued retrospectively but no later than one year after the date of shipment. In that case, the Certificate of Origin shall bear the words “ISSUED RETROACTIVELY”.
9. In the event of theft, loss, or destruction of an original Certificate of Origin, the exporter, producer, or their authorised representative may apply in writing to the issuing body of the exporting Party for a certified true copy of the original Certificate of Origin. The copy shall:
  - (a) be issued no later than one year after the date of issuance of the original Certificate of Origin;
  - (b) be based on the application for the original Certificate of Origin;

- (c) contain the same Certificate of Origin number and date as the original Certificate of Origin; and
- (d) be endorsed with the words "CERTIFIED TRUE COPY".

#### **Article 3.18: Declaration of Origin**

1. A Declaration of Origin referred to in Article 3.16 (Proof of Origin) may be completed by:
  - (a) an approved exporter within the meaning of Article 3.21 (Approved Exporter); or
  - (b) an exporter or a producer of the good, subject to paragraphs 2 and 3 of Article 3.16 (Proof of Origin).
2. A Declaration of Origin shall:
  - (a) be completed in accordance with Annex 3B (Minimum Information Requirements);
  - (b) be in the English language;
  - (c) bear the name and signature of the certifying person; and
  - (d) bear the date on which the Declaration of Origin was completed.

#### **Article 3.19: Back-to-Back Proof of Origin**

1. Subject to Article 3.16 (Proof of Origin), an issuing body, approved exporter, or exporter of an intermediate Party may issue a back-to-back Proof of Origin provided that:
  - (a) a valid original Proof of Origin or its certified true copy is presented;
  - (b) the period of validity of the back-to-back Proof of Origin does not exceed the period of validity of the original Proof of Origin;
  - (c) the back-to-back Proof of Origin contains relevant information from the original Proof of Origin in accordance with Annex 3B (Minimum Information Requirements);



- (d) the consignment which is to be re-exported using the back-to-back Proof of Origin does not undergo any further processing in the intermediate Party, except for repacking or logistics activities such as unloading, reloading, storing, splitting up of the consignment, or labelling only as required by the laws, regulations, procedures, administrative decisions, and policies of the importing Party, or any other operations necessary to preserve a good in good condition or to transport a good to the importing Party;
  - (e) for partial export shipments, the partial export quantity shall be shown instead of the full quantity of the original Proof of Origin, and the total quantity re-exported under the partial shipment shall not exceed the total quantity of the original Proof of Origin; and
  - (f) information on the back-to-back Proof of Origin includes the date of issuance and reference number of the original Proof of Origin.
2. The verification procedures referred to in Article 3.24 (Verification) shall also apply to the back-to-back Proof of Origin.

### **Article 3.20: Third-Party Invoicing**

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 of a good provided that the good meets the requirements in this Chapter.

### **Article 3.21: Approved Exporter**

1. Each Party shall provide for the authorisation of an exporter who exports goods under this Agreement as an approved exporter, in accordance with its laws and regulations. An exporter seeking such authorisation must apply in writing or electronically and must offer to the satisfaction of the competent authority of the exporting Party all guarantees necessary to verify the originating status of the good for which a Declaration of Origin is completed. The competent authority of an exporting Party may grant the status of approved exporter subject to any conditions which it considers appropriate, including the following:

- (a) that the exporter is duly registered in accordance with the laws and regulations of the exporting Party;
- (b) that the exporter knows and understands the rules of origin as set out in this Chapter;
- (c) that the exporter has a satisfactory level of experience in export in accordance with the laws and regulations of the exporting Party;
- (d) that the exporter has a record of good compliance, measured by risk management of the competent authority of the exporting Party;
- (e) that the exporter, in the case of a trader, is able to obtain a declaration by the producer confirming the originating status of the good for which the Declaration of Origin is completed by an approved exporter and the readiness of the producer to cooperate in verification in accordance with Article 3.24 (Verification) and meet all requirements of this Chapter; and
- (f) that the exporter has a well-maintained bookkeeping and record-keeping system, in accordance with the laws and regulations of the exporting Party.

2. The competent authority of an exporting Party shall:

- (a) make its approved exporter procedures and requirements public and easily available;
- (b) grant the approved exporter authorisation in writing or electronically;
- (c) provide the approved exporter an authorisation code which must be included in the Declaration of Origin; and
- (d) promptly include the information on the authorisation granted in the approved exporter database referred to in paragraph 6.

3. An approved exporter shall have the following obligations:

- (a) to allow the competent authority of an exporting Party access to records and premises for the purposes of

monitoring the use of authorisation, in accordance with Article 3.27 (Record-Keeping Requirement);

- (b) to complete Declarations of Origin only for goods for which the approved exporter has been allowed to do so by the competent authority of an exporting Party and for which it has all appropriate documents proving the originating status of the goods concerned at the time of completing the declaration;
  - (c) to take full responsibility for all Declarations of Origin completed, including any misuse; and
  - (d) to promptly inform the competent authority of an exporting Party of any changes related to the information referred to in subparagraph (b).
4. Each Party shall promptly include the following information of its approved exporters in the approved exporter database:
- (a) the legal name and address of the exporter;
  - (b) the approved exporter authorisation code;
  - (c) the issuance date and, if applicable, the expiry date of its approved exporter authorisation; and
  - (d) a list of goods subject to the authorisation, at least at the HS Chapter level.

Any change in the items referred to in subparagraphs (a) through (d), or withdrawals or suspensions of authorisations, shall be promptly included in the approved exporter database.

5. Notwithstanding paragraph 4, no Party shall be required to provide the information referred to in that paragraph to the approved exporter database if it has established its own secured website, containing the above information, that is accessible to the Parties.
6. The RCEP Joint Committee may designate the custodian of the approved exporter database, which shall be accessible online by the Parties.

7. The competent authority of the exporting Party shall monitor the use of the authorisation, including verification of the Declarations of Origin by an approved exporter, and withdraw the authorisation where the conditions referred to in paragraph 1 are not met.
8. An approved exporter shall be prepared to submit at any time, on request of the customs authorities of the importing Party, all appropriate documents proving the originating status of the goods concerned, including statements from the suppliers or producers in accordance with the laws and regulations of the importing Party as well as the fulfilment of the other requirements of this Chapter.

#### **Article 3.22: Claim for Preferential Tariff Treatment**

1. An importing Party shall grant preferential tariff treatment in accordance with this Agreement to an originating good on the basis of a Proof of Origin.
2. Unless otherwise provided in this Chapter, an importing Party shall provide that, for the purposes of claiming preferential tariff treatment, the importer shall:
  - (a) make a declaration in its customs declaration that the good qualifies as an originating good;
  - (b) have a valid Proof of Origin in its possession at the time the declaration referred to in subparagraph (a) is made; and
  - (c) provide an original or a certified true copy of the Proof of Origin to the importing Party if required by the importing Party.
3. Notwithstanding paragraphs 1 and 2, the importing Party may not require a Proof of Origin if:
  - (a) the customs value of the importation does not exceed US\$ 200 or the equivalent amount in the importing Party's currency or any higher amount as the importing Party may establish; or
  - (b) it is a good for which the importing Party has waived the requirement,

provided that the importation does not form part of a series of importations 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.

4. The customs authority of the importing Party may require, where appropriate, the importer to submit supporting evidence that a good qualifies as an originating good, in accordance with the requirements of this Chapter.
5. The importer shall demonstrate that the requirements referred to in Article 3.15 (Direct Consignment) have been met and provide such evidence on request of the customs authority of the importing Party.
6. Where a Proof of Origin is submitted to the customs authority of an importing Party after the expiration of the period of time for its submission, such Proof of Origin may still be accepted, subject to the importing Party's laws, regulations, or administrative practices, when failure to observe the period of time results from *force majeure* or other valid causes beyond the control of the importer or exporter.

#### **Article 3.23: Post-Importation Claims for Preferential Tariff**

1. Each Party, subject to its laws and regulations, shall provide that where a good would have qualified as an originating good when it was imported into that Party, the importer of the good may, within a period specified by its laws and regulations, and after the date on which the good was imported, apply for a refund of any excess duties, deposit, or guarantee paid as the result of the good not having been granted preferential tariff treatment, on presentation of the following to the customs authority of that Party:
  - (a) a Proof of Origin and other evidence that the good qualifies as an originating good; and
  - (b) such other documentation in relation to the importation as the customs authority may require to satisfactorily evidence the preferential tariff treatment claimed.
2. Notwithstanding paragraph 1, each Party may require, in accordance with its laws and regulations, that the importer notify the customs authority of that Party of its intention to claim preferential tariff treatment at the time of importation.

### **Article 3.24: Verification<sup>6</sup>**

1. For the purposes of determining whether a good imported into one Party from another Party qualifies as an originating good under this Chapter, the competent authority of the importing Party may conduct a verification process by means of:
  - (a) a written request for additional information from the importer;
  - (b) a written request for additional information from the exporter or producer;
  - (c) a written request for additional information to the issuing body or competent authority of the exporting Party;
  - (d) a verification visit to the premises of the exporter or producer in the exporting Party to observe the facilities and the production processes of the good and to review the records referring to origin, including accounting files;<sup>7</sup> or
  - (e) any other procedures to which the concerned Parties may agree.
2. The importing Party shall:
  - (a) for the purposes of subparagraph 1(b), send a written request with a copy of the Proof of Origin and the reasons for the request to the exporter or producer of the good, and the competent authority of the exporting Party;
  - (b) for the purposes of subparagraph 1(c), send a written request with a copy of the Proof of Origin and the reasons for the request to the issuing body or competent authority of the exporting Party; and
  - (c) for the purposes of subparagraph 1(d), request the written consent of the exporter or producer whose premises are going to be visited, and the competent authority of the

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<sup>6</sup> For the purposes of this Article, a Party may designate one of its contact points designated pursuant to Article 3.33 (Contact Points) as a single contact point for the verification of its exported goods with a view to facilitating the verification.

<sup>7</sup> A verification visit under this subparagraph shall only be undertaken after a verification process in accordance with subparagraph (c) has been conducted.

exporting Party and state the proposed date and location for the visit and its specific purpose.

3. On request of the importing Party, a verification visit to the premises of the exporter or producer may be conducted with the consent and assistance of the exporting Party, according to the procedures agreed between the importing Party and exporting Party.
4. For a verification under subparagraphs 1(a) through (d), the importing Party shall:
  - (a) allow the importer, exporter, producer, or the issuing body or competent authority of the exporting Party between 30 and 90 days from the date of receipt of the written request for information under subparagraphs 1(a) through (c) to respond;
  - (b) allow the exporter, producer, or the competent authority to consent or refuse the request within 30 days of the date of its receipt of the written request for a verification visit under subparagraph 1(d); and
  - (c) endeavour to make a determination following a verification within 90 and 180 days of the date of its receipt of the information necessary to make the determination.
5. For the purposes of paragraph 1, the importing Party shall provide a written notification of the result of verification with the reasons for that result to the importer, exporter, or producer of the good, or the issuing body or competent authority of the exporting Party that received the verification request.
6. The customs authority of the importing Party may suspend the application of preferential tariff treatment while waiting for the result of verification. The importing Party shall permit the release of the good, but may require that such release be subject to lodgment of a security in accordance with its laws and regulations.

#### **Article 3.25: Denial of Preferential Tariff Treatment**

1. The customs authority of the importing Party may deny preferential tariff treatment where:
  - (a) the good does not meet the requirements of this Chapter;

or

- (b) the importer, exporter, or producer of the good fails or has failed to comply with any of the relevant requirements of this Chapter for obtaining preferential tariff treatment.
- 2. If the customs authority of the importing Party denies a claim for preferential tariff treatment, it shall provide the decision in writing to the importer that includes the reasons for the decision.
- 3. The customs authority of the importing Party may determine that a good does not qualify as an originating good and may deny preferential tariff treatment where:
  - (a) the customs authority of the importing Party has not received sufficient information to determine that the good is originating;
  - (b) the exporter, producer, or the competent authority of the exporting Party fails to respond to a written request for information in accordance with Article 3.24 (Verification); or
  - (c) the request for a verification visit in accordance with Article 3.24 (Verification) is refused.

#### **Article 3.26: Minor Discrepancies or Errors**

The customs authority of an importing Party shall disregard minor discrepancies or errors, such as slight discrepancies between documents, omissions of information, typing errors, or protrusions from the designated field, provided that these minor discrepancies or errors do not create doubt as to the originating status of the good.

#### **Article 3.27: Record-Keeping Requirement**

- 1. Each Party shall require that:
  - (a) its exporters, producers, issuing bodies, or competent authorities retain, for at least a period of three years from the date of issuance of the Proof 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 Proof of Origin was issued was originating; and



- (b) its importers retain, for at least a period of three 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 3.28: Consultations**

The Parties shall consult when necessary to ensure that this Chapter is administered effectively, uniformly, and consistently in order to achieve the spirit and objectives of this Agreement.

### **Article 3.29: Electronic System for Origin Information Exchange**

The Parties may develop an electronic system for origin information exchange to ensure the effective and efficient implementation of this Chapter in a manner jointly determined by the relevant Parties.

### **Article 3.30: Transitional Provisions for Goods in Transit**

A Party shall grant preferential tariff treatment to an originating good that, on the date of entry into force of this Agreement for that Party:

- (a) was being transported to that Party in accordance with Article 3.15 (Direct Consignment); or
- (b) had not been imported into that Party,

if a valid claim under Article 3.22 (Claim for Preferential Tariff Treatment) for preferential tariff treatment is made within 180 days of the date of entry into force of this Agreement for that Party.

### **Article 3.31: Penalties**

Each Party shall adopt or maintain appropriate penalties or other measures against violations of its laws and regulations relating to this Chapter.

### **Article 3.32: Communication Language**

Communications between the importing Party and the exporting Party shall be conducted in the English language.

### **Article 3.33: Contact Points**

Each Party shall, within 30 days of the date of entry into force of this Agreement for that Party, designate one or more contact points for the implementation of this Chapter and notify the other Parties of the contact details of that contact point or those contact points. Each Party shall promptly notify the other Parties of any change to those contact details.

### **Article 3.34: Transposition of Product-Specific Rules**

1. Prior to the entry into force of any amended version of the Harmonized System, the Parties shall consult to prepare updates to this Chapter and Annex 3A (Product-Specific Rules) that are necessary to reflect changes to the Harmonized System.
2. The Parties shall ensure that the transposition of Annex 3A (Product-Specific Rules) is carried out without impairing the Product-Specific Rules and is completed in a timely manner.
3. The transposition of Annex 3A (Product-Specific Rules) that is in the nomenclature of any revised Harmonized System following periodic amendments to the Harmonized System, shall be adopted by the RCEP Joint Committee, upon recommendation of the Committee on Goods. The Parties shall promptly publish the adopted transposition of Annex 3A (Product-Specific Rules) in the nomenclature of the revised Harmonized System.
4. For the purposes of this Article, “transposition” means the measures necessary to support the effective implementation of the Product-Specific Rules set out in Annex 3A (Product-Specific Rules), to reflect the periodic updates of the Harmonized System nomenclature.

### **Article 3.35: Amendments to Annexes**

Amendments relating only to Annex 3A (Product-Specific Rules) and Annex 3B (Minimum Information Requirements) may be endorsed by the

RCEP Joint Committee by consensus. The amendment shall enter into force in accordance with Article 20.4 (Amendments).<sup>8</sup>

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<sup>8</sup> For Japan, for the purposes of this Article, “the completion of their respective applicable legal procedures” referred to in Article 20.4 (Amendments) shall be read as “the completion of internal procedures within the Government of Japan”.