

## CHAPTER 3 RULES OF ORIGIN

### Section A Rules of Origin

#### Article 3.1 Definitions

For the purposes of this Chapter:

**“aquaculture”** means the farming of aquatic organisms, including fish, molluscs, crustaceans, other aquatic invertebrates and aquatic plants, from seed stock, including seed stock imported from non-Parties, such as eggs, fry, fingerlings, larvae, parr, smolts or other immature fish at a post-larval stage, by intervention in the rearing or growth processes to enhance production such as regular stocking, feeding, or protection from predators;

**“carrier”** means any vehicle for air, sea or land transport. However, the carriage of product can be made through multimodal transport;

**“competent authority”** means:

- (a) for India, in the case of exports from India, the Department of Commerce or agencies notified to issue the certificate of origin; and in the case of imports into India, the Central Board of Indirect Taxes and Customs (“CBIC”) or any of its successors; and
- (b) for the United Kingdom, its customs authority as defined in Article 1.4 (General Definitions - Initial Provisions and General Definitions);

**“exporter”** means a person, located in a Party, who, in accordance with the requirements laid down in the laws and regulations of that Party, exports a good;

**“fungible goods”** or **“fungible materials”** means goods or materials that are interchangeable for commercial purposes and the properties of which are essentially identical;

**“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;

**“indirect material”** 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:

- (a) fuel, energy, catalysts and solvents;
- (b) equipment, devices and supplies used to test or inspect the good;
- (c) gloves, glasses, footwear, clothing, safety equipment and supplies;
- (d) tools, dies and moulds;
- (e) spare parts and materials used in the maintenance of equipment buildings;
- (f) lubricants, greases, compounding materials and other materials used in production or used to operate equipment buildings; and
- (g) any other material that is not incorporated into the good but the use of which in the production of the good can reasonably be demonstrated to be a part of that production;

**“issuing authority”** means the authorities in India designated for issuance of certificates of origin;

**“material”** means any good (including ingredients, raw inputs, components or parts) used in the production of another good and physically incorporated into it;

**“net weight”** means the weight of the material or good excluding the weight of any packaging;

**“non-originating good”** or **“non-originating material”** means a good or material that does not qualify as originating, including those of unprovable origin, in accordance with this Chapter;

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

**“producer”** means a person who engages in the production of a good;

**“production”** means operations including growing, cultivating, raising, mining, harvesting, fishing, trapping, hunting, capturing, collecting, breeding, extracting, aquaculture, gathering, manufacturing, working, processing, or assembling a good other than simple assembly<sup>1</sup>;

**“tariff classification”** means the classification of a good according to the Harmonized System;

**“territorial sea”** means waters extending up to 12 nautical miles from the baseline as defined by the Parties in line with the United Nations Convention on the Law of the Sea, 1982; and

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<sup>1</sup> “simple assembly” is defined as an activity which neither requires special skills nor machines, apparatus or equipment especially produced or installed to carry out the activity.

**“Working Group on Rules of Origin”** means the Working Group on Rules of Origin established pursuant to paragraph 1 of the Article 3.28 (Working Group on Rules of Origin).

### **Article 3.2** **Origin Criteria**

1. Except as otherwise provided in this Chapter, each Party shall provide that a good is originating if it is:
  - (a) wholly obtained or produced entirely in the territory of one or both of the Parties as established in Article 3.3 (Wholly Obtained);
  - (b) produced entirely in the territory of one or both of the Parties, exclusively from originating materials; or
  - (c) produced entirely in the territory of one or both of the Parties using non-originating materials, provided the good satisfies all applicable requirements of Annex 3A (Product-Specific Rules of Origin),in each case, provided the good satisfies all other applicable requirements of this Chapter<sup>2</sup>.

### **Article 3.3** **Wholly Obtained**

1. Each Party shall provide that for the purposes of subparagraph 1(a) of Article 3.2 (Origin Criteria) the following goods shall be considered as wholly obtained or produced entirely in one or both of the Parties if they are:
  - (a) minerals, mineral goods and other non-living natural resources extracted or taken from there;
  - (b) plant and plant goods, including fruits, flowers, vegetables, trees, seaweed, and live plants, or fungi, or algae, grown, harvested, cultivated, picked or gathered there;
  - (c) live animals born and raised there;
  - (d) goods obtained from live animals raised<sup>3</sup> there;
  - (e) goods obtained by hunting, trapping, fishing or aquaculture conducted there, but not beyond the outer limits of a Party’s territorial sea;
  - (f) fish, shellfish and other marine life taken from the sea, seabed or subsoil outside the territorial sea of each Party and outside the territorial sea of

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<sup>2</sup> For greater clarity, final production of a good must have occurred in the exporting Party, except those activities as defined in subparagraph 2(b) of Article 3.14 (Non-Alteration).

<sup>3</sup> For greater clarity, this includes heifers imported into a Party and then raised there.

non-Parties in accordance with international law, by vessels that are registered with a Party and entitled to fly the flag of that Party;

- (g) a good produced from the goods referred to in subparagraph (f) on a factory ship that is registered with a Party and entitled to fly the flag of that Party;
- (h) minerals, mineral goods and other non-living natural resources, taken or extracted from the seabed or subsoil, outside the territories of the Parties, and beyond areas over which non-parties exercise jurisdiction; provided that that Party or person of the Party has rights to exploit such seabed or subsoil;
- (i) a good, excluding precious metals, that is:
  - (i) waste or scrap derived from consumption or production there; or
  - (ii) waste or scrap derived from used goods collected there, provided that those goods are fit only for the recovery of raw materials; or
- (j) goods and their derivatives produced there exclusively from goods referred to in subparagraphs (a) through (i).

#### **Article 3.4** **Value of the Good**

1. For the purposes of this Chapter, each Party shall provide that the value of the good may be ex-works price or free-on-board (FOB) value.
2. The ex-works price is either:
  - (a) the price paid or payable for the good to the producer at the place where the last production was carried out, and shall include the value of all materials; or
  - (b) the price actually paid or payable for the good when sold for export.
3. If there is no price paid or payable or if it does not include the value of all materials, the ex-works price:
  - (a) shall include the value of all materials and the cost of production employed in producing the good, calculated in accordance with generally accepted accounting principles; and
  - (b) may include amounts for general expenses and profit to the producer that can be reasonably allocated to the good.
4. For the purposes of calculating the value of the good in accordance with paragraphs 2 or 3, the ex-works price shall:

- (a) not take into account any internal taxes which are, or may be, repaid when the good obtained is exported; and
  - (b) exclude any costs incurred subsequent to the good leaving the place where the last production was carried out, such as transportation, loading, unloading, handling or insurance.
5. The FOB value shall be the price actually paid or payable to the exporter for a good when loaded onto the carrier at the named port of exportation, including the cost of the product, and all costs necessary to bring the good onto the carrier, not taking into account any internal taxes which are, or may be, repaid when the good obtained is exported.

### **Article 3.5 Qualifying Value Content**

1. Where Annex 3A (Product Specific Rules of Origin) specifies a qualifying value content test to determine whether a good is originating, each Party shall provide that the qualifying value content shall be calculated using one of the following methods:

- (a) Build-Down Method: based on the value of non-originating materials

$$QVC = \frac{\text{value of the good} - \text{value of non-originating materials}}{\text{value of the good}} \times 100$$

- (b) Build-Up Method: based on the value of originating materials

$$QVC = \frac{\text{value of originating materials}}{\text{value of the good}} \times 100$$

where, **QVC** is the qualifying value content of a good, expressed as a percentage.

2. Each Party shall provide that the value of a material shall be:
- (a) for a material imported by the producer of the good, the price actually paid or payable for the material at the time of importation, or other value determined in accordance with the Customs Valuation Agreement, including the costs incurred in transporting the material to the port or place of importation, such as transportation, loading, unloading, handling or insurance;
  - (b) for a material acquired in the territory where the good is produced:
    - (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; or
  - (c) for a material that is self-produced, all the costs incurred in the production of the material, which includes general expenses.
- 3. For an originating material, the following expenses may be added to the value of the material, if not included under paragraph 2:
  - (a) the costs of freight, insurance, packing, and all other costs incurred to transport the material 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 and taxes that are waived, refunded, refundable, or otherwise recoverable, which include 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.
- 4. For a non-originating material or material of undetermined origin, the following expenses, where included under paragraph 2, may be deducted from the value of the material:
  - (a) the costs of freight, insurance, packing, and all other costs incurred in transporting the material to the location of the producer of the good;
  - (b) duties, taxes, and customs brokerage fees on the material paid in the territory of one or both Parties, other than duties and taxes that are waived, refunded, refundable, or otherwise recoverable, which include 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.
- 5. If the cost or expense listed in paragraphs 3 or 4 is unknown or documentary evidence of the amount of the adjustment is not available, then no adjustment is allowed for that particular cost or expense.

### **Article 3.6**

#### **Materials Used in Production**

1. Each Party shall provide that if a non-originating material undergoes further production such that it satisfies the requirements of this Chapter, the material is 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.

2. Each Party shall provide that if a non-originating material is used in the production of a good, the following may be counted as originating content in determining whether the resulting good meets a qualifying value content requirement:
  - (a) the value of processing of the non-originating material undertaken in the territory of the exporting Party; and
  - (b) the value of any originating material used in the production of the non-originating material undertaken in the territory of one or both of the Parties.

### **Article 3.7** **Non-Qualifying Operations**

1. Each Party shall provide that, notwithstanding any provisions in this Chapter, a good shall not be considered to be originating merely by undergoing any of the following operations in the territory of that Party:
  - (a) operations to ensure the preservation of products in good condition during transport and storage (such as drying, freezing or thawing, keeping in brine, removal of damaged parts) and other similar operations;
  - (b) changes of packaging and breaking up and assembly of packages;
  - (c) washing, cleaning, removal of dust, oxide, oil, paint or other coverings;
  - (d) for textiles: attaching accessory articles such as straps, bands, beads, cords, rings and eyelets; ironing or pressing of textiles;
  - (e) simple painting and polishing;
  - (f) husking, partial or total bleaching, polishing, and glazing of cereals and rice;
  - (g) operations to colour sugar or form sugar lumps;
  - (h) peeling and removal of stones and shells from fruits, nuts and vegetables;
  - (i) sharpening, simple grinding or simple cutting;
  - (j) simple operations such as removal of dust, sifting, screening, sorting, classifying, grading, or matching;
  - (k) simple placing in bottles, cans, flasks, bags, cases, boxes, fixing on cards or boards and all other simple packaging operations;
  - (l) affixing or printing marks, labels, logos and other like distinguishing signs on products or their packaging;

- (m) simple mixing of goods, whether or not of different kinds; mixing of sugar or any other sweetening matter to any good;
  - (n) simple assembly of parts of articles to constitute a complete article or disassembly of products into parts;
  - (o) slaughter of animals;
  - (p) simple testing, calibration, inspection or certification;
  - (q) dilution with water or another substance that does not materially alter the characteristics of the good;
  - (r) a production or pricing practice in respect of which it may be demonstrated, on the basis of a preponderance of evidence, that the object was to circumvent the provisions of this Chapter; or
  - (s) any combination of two or more operations in subparagraphs (a) through (r)
2. For the purposes of paragraph 1, “simple” describes an activity which needs neither special skills nor machines, apparatus or equipment especially produced or installed to carry out the activity.

### **Article 3.8 Cumulation**

Each Party shall provide that an originating good or material in the territory of one Party, under the terms of Article 3.2 (Origin Criteria) and all the other applicable requirements of this Chapter, that is incorporated in the production of a good in the territory of the other Party is considered to originate in the territory of the other Party.

### **Article 3.9 Tolerance**

1. Each Party shall provide that a good containing non-originating materials that does not satisfy the applicable change in tariff classification requirement or wholly obtained requirement specified in Annex 3A (Product Specific Rules of Origin) for the good is nonetheless originating if:
- (a) in the case of a good in Chapters 1 through 3, 5, 6, 10 and 14 of the Harmonized System:
    - (i) the value of those non-originating materials does not exceed 7.5 percent of the value of the good; or
    - (ii) the net weight of those non-originating materials does not exceed 7.5 percent of the net weight of the good;
- and the good satisfies all other applicable requirements of this Chapter;



- (b) in the case of a good in Chapters 4, 7 through 9, 11 through 13 and 15 through 24 of the Harmonized System:
    - (i) the value of those non-originating materials does not exceed 12.5 percent of the value of the good; or
    - (ii) the net weight of those non-originating materials does not exceed 12.5 percent of the net weight of the good;
 and the good satisfies all other applicable requirements of this Chapter; or
  - (c) in the case of a good in Chapters 25 through 98 of the Harmonized System, the value of those non-originating materials does not exceed 12.5 percent of the value of the good and the good satisfies all other applicable requirements of this Chapter.
2. If a good 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 any applicable qualifying value content requirement.

### **Article 3.10**

#### **Fungible Goods and Materials**

1. Each Party shall provide that a fungible good or material is treated as originating based on the:
  - (a) physical segregation of each fungible 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 the fungible good or material is commingled, provided that the inventory management method selected is used throughout the fiscal year of the person that selected the inventory management method.
2. The inventory management method chosen must:
  - (a) allow a clear distinction to be made between originating and non-originating materials including materials of undetermined origin acquired or kept in stock; and
  - (b) ensure that, over the relevant accounting period of 12 months, no more goods or materials receive originating status than would have been the case if the fungible goods or materials had been physically segregated.
3. For greater certainty and in accordance with subparagraph 1(b) of Article 3.24 (Record Keeping Requirements), a producer using an inventory management system shall keep records of the operation of the system that are necessary for the authority of the Party concerned to verify compliance with the provisions of this Chapter.

**Article 3.11**  
**Accessories, Spare Parts or Tools**

1. Each Party shall provide that the origin of the accessories, spare parts, tools or instructional or other information materials presented with a good:
  - (a) shall be disregarded in determining whether a good satisfies a process or change in tariff classification or wholly obtained requirement for the good; 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 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 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 3.12**  
**Packaging and Packing Materials**

1. Each Party shall provide that for the purpose of determining whether a good is originating, packaging and packing materials and containers in which a good is packaged for retail sale shall, if classified with the good, be:
  - (a) disregarded in determining whether a good satisfies a process or change in tariff classification or wholly obtained requirement for the good; and
  - (b) taken into account as originating or non-originating materials, as the case may be, in calculating the qualifying value content of the good.
2. Each Party shall provide that packaging and packing materials and containers, used for the shipment of a good shall be disregarded in determining whether a good is originating.

**Article 3.13**  
**Indirect Materials**

Indirect materials shall neither be considered originating nor non-originating for the purposes of calculating qualifying value content pursuant to Article 3.5 (Qualifying Value Content).

**Article 3.14**  
**Non-Alteration**

1. Each Party shall provide that an originating good retains its originating status if the good has been transported to the importing Party without passing through the territory of a non-Party.
2. Each Party shall provide that an originating good transported through or stored in a non-Party shall retain its originating status provided it:
  - (a) remains under customs control, such as in a warehouse, and is not released to free circulation or trade<sup>4</sup> in the territory of any non-Party; and
  - (b) does not undergo further production or any other operation outside the territories of the Parties, other than unloading, reloading, splitting up of loads, separation from bulk, storing, labelling, marking, bottling,<sup>5</sup> or any operation necessary to preserve it in good condition.
3. An importer shall provide to the customs authority of the importing Party upon request:
  - (a) information, including documentation, demonstrating that the conditions set out in paragraph 2 have been fulfilled; and
  - (b) where bottling has taken place in a non-Party, transportation documents and commercial documents indicating the entire transport route of the good from the exporting party to the importing party, and information including documentation demonstrating that the good remained under customs control, such as a non-manipulation certificate issued by a customs authority in the non-party.

**Section B**  
**Origin Procedures**

**Article 3.15**  
**Proof of Origin**

1. Each Party shall provide that a claim for preferential tariff treatment is based on an applicable proof of origin:
  - (a) for importers in the United Kingdom, an applicable proof of origin shall be:

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<sup>4</sup> For greater clarity, free circulation includes trade or consumption.

<sup>5</sup> For greater certainty, bottling applies only to filling into bottles from bulk of goods of heading 2208 of the Harmonized System and where appropriate mere dilution with water that does not alter the origin of the bottled good.

- (i) an origin declaration completed by the exporter or producer;
    - (ii) a certificate of origin issued by an issuing authority; or
    - (iii) the importer's knowledge that the good is originating; and
  - (b) for importers in India, an applicable proof of origin shall be an origin declaration completed by the exporter or producer.
2. Each Party shall provide that an origin declaration or a certificate of origin:
- (a) is valid for 12 months from the date of completion in the case of an origin declaration, or date of issue in the case of a certificate of origin, or for such longer period specified by the laws and regulations of the importing Party;
  - (b) is submitted to the customs authority of the importing Party in accordance with the laws and regulations of the importing Party;
  - (c) shall follow the appropriate prescribed structure as set out in Annex 3B (Origin Declaration Template) or Annex 3C (Certificate of Origin Template);
  - (d) must be in writing, including electronic format;
  - (e) must be accompanied by an invoice or any other commercial document that describes the goods concerned in sufficient detail to enable them to be identified;
  - (f) may apply to importations of a single shipment of one or more goods; and
  - (g) shall be in the English language.
3. For the United Kingdom, an origin declaration or a certificate of origin may apply to importations of multiple shipments of identical goods within any period specified in the origin declaration or the certificate of origin, where such period does not exceed 12 months.
4. In exceptional circumstances, the customs authority of the importing Party may accept a proof of origin for the purpose of granting preferential tariff treatment even after the expiry of its validity provided the failure to observe the time limit results from force majeure or other valid reasons beyond the control of the exporter and the goods have been imported before the expiry of the validity period.
5. An importing Party shall not deny a claim for preferential tariff treatment for the sole reason that an invoice or other commercial document referred to in subparagraph 2(e) was issued in a non-Party or not issued by the exporter or producer of a good, provided that it meets the requirements in this Chapter.
6. Subject to paragraph 7, each Party shall provide that a proof of origin shall be issued or completed prior to or at the time of importation.

7. Notwithstanding paragraph 6, a proof of origin may be completed after importation, provided that the good was originating at the time of importation in order to qualify for a late claim as set out in Article 3.20 (Refunds and Claims for Preferential Tariff Treatment after Importation). A proof of origin completed after importation shall bear the words “completed retrospectively” and shall include an explanation as to why the proof of origin is completed retrospectively.
8. A late claim made in accordance with Article 3.20 (Refunds and Claims for Preferential Tariff Treatment after Importation) shall not be rejected based on the explanation referenced in paragraph 7, if the good was originating at the time of importation.
9. If unassembled or disassembled goods within the meaning of General Rule 2(a) of the Harmonized System are imported by more than one shipment, a single origin declaration for such goods may be used on request of the importer and in accordance with the requirement laid down by the customs authority of the importing Party.<sup>6</sup>

#### **Article 3.16**

##### **Basis of a Claim for Preferential Tariff Treatment**

1. The United Kingdom shall provide that if the importer of a good makes a claim for preferential tariff treatment based on the importer’s knowledge that the good is originating, the claim is made subject to the importer having documentation demonstrating that the good is originating. Such documentation may have been provided to the importer by the exporter, producer or any other person.
2. Each Party shall provide that if a producer declares the origin of a good, the origin declaration is completed on the basis of the producer having information that the good is originating.
3. Each Party shall provide that, if the exporter is not the producer of the good and the exporter declares the origin of a good, the origin declaration is completed on the basis of the exporter having information to demonstrate that the good is originating, which may include a reliance on the producer’s information.
4. India shall provide that if the issuing authority issues a certificate of origin, the certificate of origin is issued on the basis of the issuing authority receiving information that the good is originating from the exporter or the producer.
5. For greater certainty, nothing in this Article shall be construed to allow the importing Party to require an importer to request the exporter or producer to provide confidential information to the importer.
6. For the purpose of enabling India to establish the authenticity of an origin declaration prior to an Indian importer making a claim for preferential tariff treatment, subject to paragraph 8 and Annex 3E (Data Protection and

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<sup>6</sup> For India, this includes a requirement to use a single import declaration for such goods.

Processing of Personal Information), there shall be an authentication process that is provided for in accordance with paragraph 7.

- 7 The Parties shall, on entry into force of this Agreement, agree and provide for the modalities of the authentication process referred to in paragraph 6 which shall include ensuring that the necessary systems for enabling the electronic exchange of information are in place, following the framework set out in Annex 3D (Framework for the Authentication Process of Origin Declarations).
8. Annex 3E (Data Protection and Processing of Personal Information) shall apply to information processed by the Parties or shared between the Parties pursuant to the authentication process referred to in paragraph 7 and Annex 3D (Framework for the Authentication Process of Origin Declarations). The Parties shall, if appropriate, mutually agree to modify Annex 3E (Data Protection and Processing of Personal Information).

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

1. A certificate of origin shall be issued by an issuing authority.
2. India shall exchange names of the issuing authorities and their specimen seals with His Majesty's Revenue and Customs.
3. India shall promptly inform His Majesty's Revenue and Customs of any change in names of the issuing authorities and their specimen seals.

### **Article 3.18 Exemptions from Proof of Origin Requirements**

1. For the United Kingdom, by way of derogation from Articles 3.15 (Proof of Origin) and 3.16 (Basis of a Claim for Preferential Tariff Treatment), provided that a good has been declared to customs as meeting the requirements of this Chapter and the customs authority of the United Kingdom has no reasonable doubts as to the veracity of that customs declaration, the United Kingdom shall grant preferential tariff treatment to that good if:
  - (a) the customs value of the importation does not exceed 1,000 pounds sterling or any higher amount as the United Kingdom may specify; or
  - (b) it is a good for which the United Kingdom has waived the requirements set out in Articles 3.15 (Proof of Origin) and 3.16 (Basis of a Claim for Preferential Tariff Treatment).
2. At the first meeting of the Working Group on Rules of Origin, the Parties may commence a review of this Article. The review shall consider the introduction of an exception to Articles 3.15 (Proof of Origin) and 3.16 (Basis of a Claim for Preferential Tariff Treatment) for all low value goods.

3. Paragraph 1 does not apply if the importation forms part of a series of importations which the customs authority of the United Kingdom reasonably considers to have been carried out or planned for the purpose of evading compliance with its laws and regulations governing claims for preferential tariff treatment made under this Agreement.
4. A Party shall provide that the importer shall be responsible for the correctness of the declaration referred to in paragraph 1 of this Article and for compliance with the requirements of this Chapter.

### **Article 3.19**

#### **Determinations of Claims for Preferential Tariff Treatment**

1. Except as otherwise provided in paragraph 2, each Party shall grant a claim for preferential tariff treatment made in accordance with this Chapter for a good that, on or after the date of entry into force of this Agreement, arrives in that Party or is released from customs control in that Party.
2. 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 requirements of this Chapter;
  - (b) pursuant to a verification under Article 3.25 (Verification of Origin), it has not received sufficient information, including any information that may have been received or provided by the competent authority of the exporting Party, to determine:
    - (i) that the good qualifies as originating, or
    - (ii) that the importer, exporter, or producer has complied with the requirements of this Chapter;
  - (c) the exporter, producer, or importer fails to respond to a written request for information in accordance with Article 3.25 (Verification of Origin); or
  - (d) the importer, exporter, or producer fails to comply with the relevant requirements for obtaining preferential tariff treatment.
3. If the importing Party denies a claim for preferential tariff treatment, it shall issue a determination to the importer that includes the reasons for the determination. The customs authority of the importing Party may also share the determination and reasons for the determination with the customs authority of the exporting Party.

**Article 3.20**  
**Refunds and Claims for Preferential Tariff Treatment After Importation**

1. Each Party shall provide that:
  - (a) an importer may make a late claim for preferential tariff treatment; and
  - (b) subject to paragraph 2, it shall refund 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 at the time of importation.
2. As a condition for a refund of excess duties under subparagraph 1(b), the importing Party shall require that the importer:
  - (a) makes a claim for preferential tariff treatment in accordance with Article 3.15 (Proof of Origin); and
  - (b) provides such documentation relating to the importation of the good as the importing Party may require. This may include a copy of the origin declaration where a claim is based on an origin declaration.
3. Each Party shall provide that a late claim for preferential tariff treatment may be made no later than one year after the date of importation or a longer period if specified in the importing Party's laws and regulations.

**Article 3.21**  
**Incorrect Claims for Preferential Tariff Treatment**

1. Each Party shall provide that, if the importer has reason to believe that the claim for preferential tariff treatment is based on incorrect information that could affect the accuracy or validity of the claim, the importer shall immediately correct the documentation relating to importation, notify the customs authority of the importing Party and pay any customs duty and, if applicable, penalties owed.
2. Each Party shall encourage its customs authority, when considering imposing a penalty in relation to a claim for preferential tariff treatment, to consider as a significant mitigating factor a notification given prior to the discovery of that error by the Party and, provided that in accordance with paragraph 1, the importer corrects the error and pays any duties owing.

**Article 3.22**  
**Errors and Discrepancies**

1. A Party shall not reject a proof of origin due to minor errors or discrepancies, omissions of information or typing errors or formatting errors, provided these minor errors or discrepancies do not create doubt as to the originating status of a good.



2. Each Party shall provide that, if its customs authority determines that a proof of origin in respect of a good imported into that Party is illegible or defective on its face, the importer shall be granted a period of 30 days from the date of communication from the customs authority of the importing Party to provide a copy of the corrected proof of origin.

### **Article 3.23**

#### **Penalties**

Each Party shall adopt or maintain measures imposing, where appropriate, criminal, civil, or administrative penalties for violations of its laws and regulations relating to this Chapter.

### **Article 3.24**

#### **Record Keeping Requirements**

1. Each Party shall provide that an importer claiming preferential tariff treatment is required to keep and provide to the customs authority of the importing Party upon request:
  - (a) the documentation related to the importation, including any origin declaration or certificate of origin that served as the basis for the claim; and
  - (b) any records necessary to demonstrate the good satisfies the requirements for obtaining originating status for a period of at least four years from the date of importation of the good, or such longer period as required by the laws and regulations of the importing Party.
2. Each Party shall provide that a producer or exporter is required to keep for a period of five years from the date of issuance of the certificate of origin or completion of the origin declaration, or such longer period as the exporting Party specifies, documentation related to the importation, including any origin declaration or certificate of origin and, where applicable, information from the supplier and all records thereof to prove origin.<sup>7</sup>
3. Each Party shall provide that an importer, exporter or producer in that Party may choose to maintain the records in paragraphs 1 and 2 in any medium that allows for prompt retrieval, including electronic, optical, magnetic, or written form in accordance with that Party's laws and regulations.<sup>8</sup>
4. For greater certainty, these obligations shall apply to the inventory management system of the producer.

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<sup>7</sup> For India, this paragraph shall also apply to the issuing authority.

<sup>8</sup> For India, this paragraph shall also apply to the issuing authority.

### **Article 3.25**

#### **Verification of Origin**

1. For greater certainty, the verification of origin process set out below is subsequent to the checking of authenticity of the proof of origin in accordance with Article 3.16 (Basis of a Claim for Preferential Tariff Treatment). The mechanism based on Annex 3D (Framework for the Authentication Process of Origin Declarations) may be amended by mutual agreement by the Subcommittee on Trade in Goods further to consideration by the Working Group on Rules of Origin.
2. Where a claim for preferential tariff treatment is based on the importer's knowledge pursuant to paragraph 1 of Article 3.15 (Proof of Origin), for the purpose of determining whether a good imported into the United Kingdom is originating, the customs authority of the United Kingdom may conduct a verification by a written request for information from the importer of the good.<sup>9</sup>
3. Where a claim for preferential tariff treatment is based on an origin declaration or a certificate of origin, for the purpose of determining whether a good imported into the importing Party is originating, the customs authority of the importing Party may conduct a verification of the claim by requesting, in writing, information from the importer of the good in accordance with the laws and regulations of the importing Party.
4. Where the customs authority of the importing Party considers the information obtained under paragraph 3 is not sufficient to make a determination of origin, the customs authority of the importing Party shall make a written request for information from the competent authority of the exporting Party. The customs authority of the importing Party shall seek information necessary to verify the origin of the good and pertaining to the fulfilment of the requirements of this Chapter. The request shall be made no later than two years after the date on which the claim for preferential tariff treatment was made.
5. A request for assistance relating to the verification of origin in respect of a claim for preferential tariff treatment under this Agreement may be made after the two-year time period set out in paragraph 4 in accordance with the *Agreement between the Government of the United Kingdom of Great Britain and Northern Ireland and the Government of the Republic of India on Cooperation and Mutual Administrative Assistance in Customs Matters* signed in London on 31 May 2021.<sup>10</sup> Such requests may include a request for the information referred to in paragraph 6. For greater certainty, Article 3.19 (Determinations of Claims for Preferential Tariff Treatment) remains applicable pursuant to such a request. In the case of suspected fraud, collusion, wilful misstatement, and suppression of facts where such a request is made within a period of five years from the date on which the claim for preferential tariff treatment was made, the requested Party shall ensure that it responds to

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<sup>9</sup> For greater certainty, if a claim for preferential tariff treatment is based on the importer's knowledge that the good is originating, the customs authority of the United Kingdom shall not request information from the competent authority of India to complete a verification under this Chapter.

<sup>10</sup> Requests for information from the United Kingdom shall be made to the Department of Commerce in India.

the request within 12 months. In exceptional cases, the Parties may by mutual agreement agree to extend this period for a further six months.

6. A request made pursuant to paragraph 4 may also include a request for the competent authority of the exporting Party to verify specific information held by the exporter, producer or supplier necessary to determine the origin of the good, such as:
- (a) where the origin criterion is wholly obtained pursuant to subparagraph (a) of Article 3.2 (Origin Criteria), the applicable category (such as harvesting, mining, fishing), and the place of production;
  - (b) where the origin criterion is based on the good having been produced entirely pursuant to subparagraph (b) of Article 3.2 (Origin Criteria), the information on the origin of the materials used, including information referred to in subparagraphs (d), (e) and (f), and the place of production;
  - (c) where the origin criterion is based on the good satisfying all applicable requirements of Annex 3A (Product Specific Rules of Origin) in accordance with subparagraph (c) of Article 3.2 (Origin Criteria), the information on the origin of the materials, including information referred to in subparagraphs (d), (e) and (f), and the place of production;
  - (d) where the origin criterion is based on a change in tariff classification, a list of all the non-originating materials used in the production of the good in a Party, including their tariff classification (in two, four, or six-digit format, depending on the relevant product-specific rule of origin);
  - (e) where the origin criterion is based on a value method, the value of the final good and the value of all the non-originating materials used in the production of that good if the build down method is used or the value of all originating materials used in the production if the build-up method is used as well as other relevant elements, including expenses, in accordance with Article 3.5 (Qualifying Value Content).
  - (f) where the origin criterion is based on a specific production process, a description of that specific process;
  - (g) where the good has acquired originating status pursuant to paragraph 1 of Article 3.6 (Materials Used in Production) or Article 3.8 (Cumulation), information on the origin of the materials used and the final good, including information referred to in subparagraphs (d), (e) and (f), and the place of production;
  - (h) information on any tolerances relied on under Article 3.9 (Tolerance);
  - (i) information relating to compliance with the non-alteration provisions under Article 3.14 (Non-Alteration);
  - (j) any other information including specific documentation or production process; or

- (k) supporting documentation, where appropriate.
7. The competent authority of the exporting Party shall provide the customs authority of the importing Party with a written acknowledgement of receipt of the request made pursuant to paragraph 4 or 6 within a period of 30 days after the date of the request.
  8. Following a request under paragraph 4, the competent authority of the exporting Party may conduct a verification by one or more of the following activities:
    - (a) requesting, in writing, specific information and documentation from the exporter, producer or supplier referred to in paragraph 6;
    - (b) requesting, in writing (including by way of questionnaire), such information from the exporter, a producer, or a supplier to ascertain the veracity of the information that formed the basis of the proof of origin; and
    - (c) visiting the premises of the exporter, producer, or supplier to review the records referred to in paragraph 2 of Article 3.24 (Record Keeping Requirements), or to observe the facilities, processes, equipment or tools used in the production of the good, or to gather further evidence to verify the originating status of the goods.
  9. As soon as possible, and in any event within seven months of receiving a request under paragraph 4 the competent authority of the exporting Party shall provide the customs authority of the importing Party with a verification report. In exceptional cases, the Parties may agree, by mutual agreement, to extend this period by a further three months. The verification report shall include the following:
    - (a) subject to paragraph 10, any available information, including specific documentation, which the customs authority of the importing Party requested the competent authority of the exporting Party to verify, pursuant to paragraph 6;
    - (b) a description of the good that is subject to examination, including its tariff classification in 2, 4 or 6-digit format, depending on the origin criterion;
    - (c) a description of the production process;
    - (d) information on the manner in which the verification of the good pursuant to paragraph 8 was conducted including the subject and scope of the verification; and
    - (e) supporting documentation, where appropriate.
  10. Notwithstanding paragraph 9, the competent authority of the exporting Party shall not provide information to the customs authority of the importing Party if that information is deemed confidential by the exporter, producer or supplier. In such circumstances, the competent authority of the exporting Party shall

confirm if it has reviewed the information the importing Party requested it to verify pursuant to paragraphs 4 and 6 and shall list the sources of information reviewed, stating whether the information supports the claim for preferential tariff treatment.

11. If, upon receiving the verification report under paragraph 9, the customs authority of the importing Party is unable to make a determination, it may request that the competent authority of the exporting Party verifies specific additional information, as set out in the request, relating to the origin of the good, which may include the information referred to in paragraph 6, by way of a written request to the exporter, producer or supplier.
12. In exceptional circumstances, if, following a request under paragraph 11, the customs authority of the importing Party is unable to make a determination, it may request that the competent authority of the exporting Party conducts a visit to the exporter, producer or supplier. The customs authority of the importing Party shall only make a request where it reasonably considers the visit necessary to make a determination. The request for such a verification visit shall be made no later than 30 days of the receipt of the response from the competent authority of the exporting Party to a request made under paragraph 11. The competent authority of the exporting Party shall respond to the request for a visit within 45 days.
13. Upon acceptance of a request for a visit under paragraph 12, the competent authority of the exporting Party shall give a notice of at least 21 days to the competent authority of the importing Party so as to enable arrangements for the visit.
14. Subject to any reasonable conditions set out by the competent authority of the exporting Party, such as health and safety requirements, the customs authority of the importing Party may designate up to two observers to be present during the verification visit conducted by the customs authority of the exporting Party under paragraph 12, provided that:
  - (a) any person designated as an observer is a government official of the importing Party; and
  - (b) any observer acts through the competent authority of the exporting Party and does not, on its own initiative, look for documents, conduct any searches, or question the exporter, producer or supplier directly.
15. The competent authority of the exporting Party shall share the information on the visit including the manner in which the visit was conducted as well as the subject and scope of the verification within 45 days of the conclusion of the visit.
16. A verification under this Article may be conducted at any time after the claim for preferential tariff treatment is made.
17. A request for verification under this Article shall be conducted on the basis of risk assessment methods, which may include random selection, or on the basis of intelligence.

18. During verification, the importing Party may 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. In accordance with the laws and regulations of the importing Party, if as a result of the verification the importing Party determines that the good meets all the requirements of this Chapter, 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.
19. The customs authority of the importing Party shall reserve the right to issue the final determination of origin in accordance with Article 3.19 (Determinations of Claims for Preferential Tariff Treatment), provided that the determination takes into account the information provided to it by the competent authority of the exporting Party as well as any independent findings or investigation.
20. The customs authority of the importing Party shall:
  - (a) make a determination following a verification as expeditiously as possible and no later than one year from the date it receives information which, in its opinion, is sufficient to enable it to make such a determination. If permitted by its laws and regulations, a Party may extend this period in exceptional cases, such as where the information concerned is complex. This time period will not apply to verifications pertaining to cases of suspected fraud, collusion, wilful misstatement, and suppression of facts referred to in paragraph 5;
  - (b) provide the importer with a written determination of whether the good is originating that includes the reasons for the determination; and
  - (c) provide the competent authority of the exporting Party with a written determination of whether the good is originating including the reasons for that determination.
21. The competent authorities of the Parties shall cooperate in the overall operation and administration of the verification process including establishing priorities, by mutual agreement, if there are a significant number of requests.
22. The customs authorities of the Parties shall bear their own costs in carrying out the activities referred to in this Article.

### **Article 3.26** **Temporary Suspension of Preferential Tariff Treatment<sup>11</sup>**

1. Subject to the possibility of exemption under paragraph 11, the importing Party may, in accordance with the procedure laid down in paragraph 3, temporarily suspend preferential tariff treatment in respect of a good for which an exporter or producer has completed a proof of origin, if:

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<sup>11</sup> For greater certainty, a good subject to verification which has been released subject to the payment of any duties or provision of any security in accordance with paragraph 18 of Article 3.25 (Verification of Origin) shall not constitute temporary suspension of preferential tariff treatment under this Article.

- (a) a good has been subject to verification in accordance with Article 3.25 (Verification of Origin) on at least two separate occasions and the second occasion is in respect of a proof of origin dated at least one month after the competent authority of the importing Party provides the determination to the competent authority of the exporting Party in respect of the first occasion; and
  - (b) each verification results in the denial of preferential tariff treatment in accordance with Article 3.19 (Determinations of Claims for Preferential Tariff Treatment).
- 2. Suspension of preferential tariff treatment under paragraph 1 shall only apply to a good imported after the suspension is initiated, if that good is:
  - (a) classified under the same classification code as specified in the import declaration of the good that was subject to verification under paragraph 1; and
  - (b) exported or produced by the exporter or producer who completed the proof of origin of the good that was subject to verification under paragraph 1.
- 3. If the importing Party intends to temporarily suspend preferential tariff treatment in accordance with paragraph 1, it shall notify the competent authority of the exporting Party at least 15 days prior to the commencement of any suspension. This notification shall include the following:
  - (a) the name of the exporter or producer and their reference number;
  - (b) detailed reasons for the intention to suspend preferential tariff treatment;
  - (c) a detailed description of the good subject to suspension, including the corresponding commodity code as specified in the import declaration, and the description of the good as set out in the proof of origin;
  - (d) the time period for which the temporary suspension is to be in effect;
  - (e) information on the measures necessary for the restoration of preferential tariff treatment; and
  - (f) any other relevant information.
- 4. Temporary suspension pursuant to paragraph 1 shall apply only for the period necessary to counteract breaches or circumventions of this Chapter and to protect the financial interests of the importing Party. The competent authority of the importing Party shall restore preferential tariff treatment suspended in accordance with paragraph 1 if the competent authority of the exporting Party provides evidence and the Parties agree that the conditions that gave rise to the suspension no longer persist. If the importing Party is not satisfied that the evidence provided by the competent authority of the exporting Party demonstrates that the conditions that gave rise to the suspension no longer persist, they shall provide their reasoning. Where the conditions that gave rise

to the suspension persist at the expiry of the period of the temporary suspension, the importing Party may decide to renew the suspension. Any renewal of suspension shall be notified to the competent authority of the exporting Party.

5. Subject to the possibility of exemption under paragraph 11, the importing Party may temporarily suspend the relevant preferential tariff treatment for future imports of the same good classified under an identified classification code as specified in the import declaration in accordance with the procedure laid down in paragraphs 7 to 9 if:
  - (a) the importing Party suspects, based on verifiable information that deliberate breaches of this Chapter have been committed in respect of that good;
  - (b) the good has been subject to verification in accordance with Article 3.25 (Verification of Origin) for at least two different exporters or producers, each being subject to verification on at least two separate occasions, and the second occasion is in respect of a proof of origin dated at least one month after the competent authority of the importing Party provides the determination to the competent authority of the exporting Party in respect of the first occasion; and
  - (c) each verification results in the denial of preferential tariff treatment in accordance with Article 3.19 (Determinations of Claims for Preferential Tariff Treatment).
6. For the purposes of paragraph 5, the exporters or producers subject to verification shall collectively account for the majority of the total exports of those goods from the exporting Party to the importing Party in the 12 months preceding the date of the first request for verification referred to in subparagraph 5(b).
7. If the importing Party intends to temporarily suspend preferential tariff treatment in accordance with paragraph 5, it shall notify the Working Group on Rules of Origin and, on the exporting Party's request, shall enter into consultations with the exporting Party. The importing Party shall provide that the notification to the Working Group on Rules of Origin includes evidence that the requirements in paragraphs 5 and 6 have been met. Consultations shall aim to clarify the grounds for intention to suspend, be used to discuss any mitigating factors, and explore possible solutions to avoid suspension. No suspension shall take place until the consultation process has concluded, unless the Parties agree otherwise.
8. If the Parties fail to agree on a mutually acceptable solution or no consultations have been entered into within one month after the date of notification made in accordance with paragraph 7, or such other period as the Parties may mutually agree, the importing Party may temporarily suspend the relevant preferential tariff treatment. In that case, the importing Party shall notify the temporary suspension, including the period during which it intends the temporary suspension to apply, to the Working Group on Rules of Origin without delay.
9. Temporary suspension pursuant to paragraph 5 shall apply only for the period necessary to counteract breaches or circumventions of this Chapter and to



protect the financial interests of the importing Party. The Parties shall keep any suspension under review through the Working Group on Rules of Origin and, where it is agreed by the Parties that the suspension is no longer necessary, the importing Party shall bring it to an end. Where the conditions that gave rise to the suspension pursuant to paragraph 5 persist at the expiry of the initial period of the temporary suspension, the importing Party may decide to renew the suspension. Any renewal of suspension shall be notified to the exporting Party.

10. Each Party shall publish, in accordance with its internal procedures, notices to importers about any decision concerning temporary suspension referred to in paragraph 5.
11. Notwithstanding paragraphs 1 and 5, if an exporter or producer is able to satisfy the exporting Party that such goods are fully compliant with the requirements of this Chapter and the importing Party agrees, the importing Party shall exempt those goods from the suspension.

### **Article 3.27 Confidentiality**

1. This Chapter shall not require a Party to furnish or allow access to information where the use or disclosure of that information would impede law enforcement or would be contrary to that Party's law.
2. Each Party shall maintain, in conformity with its law, the confidentiality of any information collected pursuant to this Chapter and shall protect that information from disclosure that could prejudice the competitive position of the person to whom the information relates.
3. Each Party shall ensure that confidential information collected pursuant to this Chapter shall not be used or disclosed for purposes other than the administration and enforcement of determination of origin or of customs matters, except with the permission of the person or Party who provided the confidential information.
4. Notwithstanding paragraph 2 and 3, if the Party receiving or obtaining the information is required by its law to disclose the information for purposes other than the administration and enforcement of determination of origin or of customs matters, that Party shall, where possible, notify the person or Party who provided the information of such use. That notification shall, where possible, be given in advance of such use.
5. Notwithstanding paragraph 3, a Party may allow information collected pursuant to this Chapter to be used in any administrative, judicial, or quasi-judicial proceedings instituted for failure to comply with customs-related laws and regulations implementing this Chapter. A Party shall, where possible, notify the person or Party who provided the information of such use. That notification shall, where possible, be given in advance of such use.

6. The Parties shall, if one of them so requests, exchange information on their respective law for the purpose of facilitating the operation and application of this Article.

**Article 3.28**  
**Working Group on Rules of Origin**

1. The Parties hereby establish a Working Group on Rules of Origin composed of government representatives of each Party responsible for rules of origin matters to consider any matters arising under this Chapter.
2. The functions of the Working Group on Rules of Origin shall include:
  - (a) cooperating in the administration and interpretation of this Chapter;
  - (b) exchanging information on matters related to this Chapter;
  - (c) communicating and updating the necessary contact details of the Working Group members for the purposes of this Chapter;
  - (d) considering any matter referred to it by the Subcommittee on Trade in Goods or the Joint Committee; and
  - (e) any other matter as the Working Group mutually agrees.
3. The Working Group on Rules of Origin shall meet within 12 months of the date of entry into force of this Agreement and thereafter at least once annually.
4. The Working Group on Rules of Origin shall report to the Subcommittee on Trade in Goods.