

Chapter Four
Rules of Origin and Origin Procedures
Section A - Rules of Origin

Article 4.1: Originating Goods

1. Except as otherwise provided in this Chapter, a good is originating where:
 - (a) the good is wholly obtained or produced entirely in the territory of one or both of the Parties;
 - (b) the good is produced entirely in the territory of one or both of the Parties and
 - (i) each of the non-originating materials used in the production of the good undergoes an applicable change in tariff classification specified in Annex 4.1, or
 - (ii) the good otherwise satisfies any applicable regional value content or other requirements specified in Annex 4.1,and the good satisfies all other applicable requirements of this Chapter; or
 - (c) the good is produced entirely in the territory of one or both of the Parties exclusively from originating materials.
2. A good shall not be considered to be an originating good and a material shall not be considered to be an originating material by virtue of having undergone:
 - (a) simple combining or packaging operations; or
 - (b) mere dilution with water or with another substance that does not materially alter the characteristics of the good or material.

Article 4.2: Regional Value Content

1. Where Annex 4.1 specifies a regional value content test to determine whether a good is originating, each Party shall provide that the person claiming preferential tariff treatment for the good may calculate regional value content on the basis of one or the other of the following methods:

- (a) Builddown method

$$RVC = \frac{AV - VNM}{AV} \times 100$$

- (b) Buildup method

$$RVC = \frac{VOM}{AV} \times 100$$

where RVC is the regional value content, expressed as a percentage;

AV is the adjusted value;

VNM is the value of non-originating materials used by the producer in the production of the good; and

VOM is the value of originating materials used by the producer in the production of the good.

Article 4.3: Value of Materials

1. Each Party shall provide that for purposes of calculating the regional value content of a good, and for purposes of applying the *de minimis* rule, the value of a material:

- (a) for a material that is imported by the producer of the good, is the adjusted value of the material with respect to that importation;
- (b) for a material acquired in the territory where the good is produced, is the producer's price actually paid or payable for the material, except for materials within the meaning of subparagraph (c);
- (c) for a material provided to the producer without charge, or at a price reflecting a discount or similar reduction, is determined by computing the sum of:
 - (i) all expenses incurred in the growth, production, or manufacture of the material, including general expenses; and
 - (ii) an amount for profit; and
- (d) for a material that is self-produced, is determined by computing the sum of:

- (i) all expenses incurred in the production of the material, including general expenses; and
- (ii) an amount for profit.

2. Each Party shall provide that the person claiming preferential tariff treatment for a good may adjust the value of materials as follows:

- (a) for originating materials, the following expenses may be added to the value of the material where not included under paragraph 1:
 - (i) the costs of freight, insurance, packing, and all other costs incurred in transporting the material to the location of the producer;
 - (ii) duties, taxes, and customs brokerage fees on the material paid in the territory of one or both of the Parties, other than duties and taxes that are waived, refunded, refundable, or otherwise recoverable, including credit against duty or tax paid or payable; and
 - (iii) the cost of waste and spoilage resulting from the use of the material in the production of the good, less the value of renewable scrap or byproduct.
- (b) for non-originating materials, the following expenses may be deducted from the value of the material where included under paragraph 1:
 - (i) the costs of freight, insurance, packing, and all other costs incurred in transporting the material to the location of the producer;
 - (ii) duties, taxes, and customs brokerage fees on the material paid in the territory of one or both of the Parties, other than duties and taxes that are waived, refunded, refundable, or otherwise recoverable, including credit against duty or tax paid or payable;
 - (iii) the cost of waste and spoilage resulting from the use of the material in the production of the good, less the value of renewable scrap or byproducts; and
 - (iv) the cost of originating materials used in the production of the non-originating material in the territory of a Party.

Article 4.4: Accessories, Spare Parts, and Tools

Each Party shall provide that accessories, spare parts, or tools delivered with a good that form part of the good's standard accessories, spare parts, or tools, shall be regarded as a material used in the production of the good, provided that:

- (a) the accessories, spare parts, or tools are classified with and not invoiced separately from the good; and
- (b) the quantities and value of the accessories, spare parts, or tools are customary for the good.

Article 4.5: Fungible Goods and Materials

1. Each Party shall provide that the person claiming preferential tariff treatment for a good may claim that a fungible good or material is originating based on either the physical segregation of each fungible good or material, or through the use of any inventory management method, such as averaging, last-in, first-out, or first-in, first-out, recognized in the Generally Accepted Accounting Principles of the Party in which the production is performed or otherwise accepted by the Party in which the production is performed.

2. Each Party shall provide that the inventory management method selected under paragraph 1 for particular fungible goods or materials shall continue to be used for those goods or materials throughout the fiscal year of the person that selected the inventory management method.

Article 4.6: Accumulation

1. Each Party shall provide that originating goods or materials of a Party, incorporated into a good in the territory of the other Party, shall be considered to originate in the territory of the other Party.

2. Each Party shall provide that a good is originating where the good is produced in the territory of one or both Parties by one or more producers, provided that the good satisfies the requirements in Article 4.1 and all other applicable requirements in this Chapter.

Article 4.7: De Minimis Rule

1. Each Party shall provide that a good that does not undergo a change in tariff classification pursuant to Annex 4.1 is nonetheless originating if the value of all non-originating materials that are used in the production of the good and that do not undergo the applicable change in tariff classification does not exceed 10 percent of the adjusted value of

the good, provided that the value of such non-originating materials shall be included in the value of non-originating materials for any applicable regional value content requirement and that the good meets all other applicable requirements in this Chapter.

2. Paragraph 1 does not apply to:

- (a) a non-originating material provided for in Chapter 4 of the Harmonized System, or a non-originating dairy preparation containing over 10 percent by weight of milk solids provided for in subheadings 1901.90 or 2106.90 of the Harmonized System, that is used in the production of a good provided for in Chapter 4 of the Harmonized System;
- (b) a non-originating material provided for in Chapter 4 of the Harmonized System, or non-originating dairy preparations containing over 10 percent by weight of milk solids provided for in subheading 1901.90 of the Harmonized System, that are used in the production of the following goods: infant preparations containing over 10 percent in weight of milk solids provided for in subheading 1901.10 of the Harmonized System; mixes and doughs, containing over 25 percent by weight of butterfat, not put up for retail sale, provided for in subheading 1901.20 of the Harmonized System; dairy preparations containing over 10 percent by weight of milk solids provided for in subheadings 1901.90 or 2106.90 of the Harmonized System; goods provided for in heading 2105 of the Harmonized System; beverages containing milk provided for in subheading 2202.90 of the Harmonized System; or animal feeds containing over 10 percent by weight of milk solids provided for in subheading 2309.90 of the Harmonized System;
- (c) a non-originating material provided for in heading 0805 of the Harmonized System or subheadings 2009.11 through 2009.30 of the Harmonized System that is used in the production of a good provided for in subheadings 2009.11 through 2009.30 of the Harmonized System, or in fruit or vegetable juice of any single fruit or vegetable, fortified with minerals or vitamins, concentrated or unconcentrated, provided for in subheadings 2106.90 or 2202.90 of the Harmonized System;
- (d) a non-originating material provided for in Chapter 15 of the Harmonized System that is used in the production of a good provided for in headings 1501 through 1508, 1512, 1514, or 1515 of the Harmonized System;
- (e) a non-originating material provided for in heading 1701 of the Harmonized System that is used in the production of a good provided for in headings 1701 through 1703 of the Harmonized System;

- (f) a non-originating material provided for in Chapter 17 or in heading 1805 of the Harmonized System that is used in the production of a good provided for in subheading 1806.10 of the Harmonized System;
- (g) a non-originating material provided for in headings 2203 through 2208 of the Harmonized System that is used in the production of a good provided for in heading 2207 or 2208 of the Harmonized System; and
- (h) a non-originating material used in the production of a good provided for in Chapters 1 through 21 of the Harmonized System unless the non-originating material is provided for in a different subheading than the good for which origin is being determined under this Article.

3. With respect to a textile and apparel good provided for in Chapters 50 through 63 of the Harmonized System, Article 3.20(6) (Rules of Origin and Related Matters) applies in place of paragraph 1.

Article 4.8: Indirect Materials Used in Production

Each Party shall provide that an indirect material shall be considered to be an originating material without regard to where it is produced.

Article 4.9: Packaging Materials and Containers for Retail Sale

Each Party shall provide that packaging materials and containers in which a good is packaged for retail sale, if classified with the good, shall be disregarded in determining whether all non-originating materials used in the production of the good undergo the applicable change in tariff classification set out in Annex 4.1, and, if the good is subject to a regional value content requirement, the value of such packaging materials and containers shall be taken into account as originating or non-originating materials, as the case may be, in calculating the regional value content of the good.

Article 4.10: Packing Materials and Containers for Shipment

Each Party shall provide that packing materials and containers for shipment shall be disregarded in determining whether:

- (a) the non-originating materials used in the production of the good undergo an applicable change in tariff classification set out in Annex 4.1; and
- (b) the good satisfies a regional value content requirement.

Article 4.11: Transit and Transshipment

1. Each Party shall provide that a good shall not be considered an originating good if the good undergoes subsequent production or any other operation outside the territories of the Parties, other than unloading, reloading, or any other process necessary to preserve the good in good condition or to transport the good to the territory of a Party.
2. The importing Party may require that a person claiming that a good is originating demonstrate, to the satisfaction of the Party's customs authority, that any subsequent operations on the good performed outside the territories of the Parties comply with the requirements in paragraph 1.

Section B - Origin Procedures

Article 4.12: Claims of Origin

1. Each Party shall require that an importer claiming preferential tariff treatment for a good:
 - (a) make a written declaration in the importation document that the good qualifies as originating;
 - (b) be prepared to submit, on the request of the importing Party's customs authority, a certificate of origin or information demonstrating that the good qualifies as originating;
 - (c) promptly make a corrected declaration and pay any duties owing where the importer has reason to believe that the certificate or other information on which the declaration was based is incorrect.
2. Each Party, where appropriate, may request that an importer claiming preferential tariff treatment for a good demonstrate to the Party's customs authority that the good qualifies as originating under Section A, including that the good satisfies the requirements in Article 4.11.
3. Each Party shall provide that, where an originating good was imported into the territory of that Party but no claim for preferential tariff treatment was made at the time of importation, the importer of the good may, no later than one year after the date on which the good was imported, apply for a refund of any excess duties paid as the result of the good not having been accorded preferential tariff treatment, on presentation of:

- (a) a written declaration that the good qualified as originating at the time of importation;
- (b) a copy of a certificate of origin or other information demonstrating that the good qualifies as originating; and
- (c) such other documentation relating to the importation of the good as the importing Party may require.

Article 4.13: Certificates of Origin

1. Each Party shall provide that an importer may satisfy a request under Article 4.12(1)(b) by providing a certificate of origin that sets forth a valid basis for a claim that a good is originating. Each Party shall provide that the certificate of origin need not be in a prescribed format, and that the certificate may be submitted electronically.

2. Each Party shall provide that a certificate of origin may be issued by the importer, exporter, or producer of the good. Where an exporter or importer is not the producer of the good, each Party shall provide that the exporter or importer may issue a certificate of origin based on:

- (a) a certificate of origin issued by the producer; or
- (b) knowledge of the exporter or importer that the good qualifies as an originating good.

3. Each Party shall provide that a certificate of origin may cover the importation of one or more goods or several importations of identical goods within a period specified in the certificate.

4. Each Party shall provide that a certificate of origin is valid for four years from the date on which the certificate was issued.

5. A Party may require that a certificate of origin for a good imported into its territory be completed in either Spanish or English.

6. For an originating good that is imported into the territory of a Party on or after the date of entry into force of this Agreement, each Party shall accept a certificate of origin issued by the importer, exporter, or producer of the good prior to that date, unless the Party possesses information indicating that the certificate is invalid.

7. Neither Party may require a certificate of origin or information demonstrating that the good qualifies as originating for:

- (a) the importation of goods with a customs value not exceeding US\$2,500, or the equivalent amount in Chilean currency, or such higher amount as may be established by the importing Party; or
- (b) the importation of other goods as may be identified in the importing Party's laws governing claims of origin under this Agreement,

unless the importation can be considered to have been carried out or planned for the purpose of evading compliance with the Party's laws governing claims of origin under this Agreement.

Article 4.14: Obligations Relating to Importations

1. Each Party shall provide that the importer is responsible for submitting a certificate of origin or other information demonstrating that the good qualifies as originating, for the truthfulness of the information and data contained therein, for submitting any supporting documents requested by the Party's customs authority, and for the truthfulness of the information contained in those documents.

2. Each Party shall provide that the fact that the importer has issued a certificate of origin based on information provided by the exporter or the producer shall not relieve the importer of the responsibility referred to in paragraph 1.

3. Each Party shall provide that an importer claiming preferential tariff treatment for a good imported into the Party's territory shall maintain, for a period of five years after the date of importation of the good, a certificate of origin or other information demonstrating that the good qualifies as originating, and all other documents that the Party may require relating to the importation of the good, including records associated with:

- (a) the purchase, cost, value of, and payment for, the good;
- (b) where appropriate, the purchase, cost, value of, and payment for, all materials, including recovered goods and indirect materials, used in the production of the good; and
- (c) where appropriate, the production of the good in its exported form.

Article 4.15: Obligations Relating to Exportations

1. For purposes of cooperation under Article 5.5 (Cooperation), each Party shall provide that an exporter or producer that issues a certificate of origin for a good exported from the Party's territory shall provide a copy of the certificate to the Party's customs authority upon its request.

2. Each Party shall provide that an exporter or producer that has issued a certificate of origin for a good exported from the Party's territory shall maintain, for a period of at least five years after the date the certificate was issued, all records and supporting documents related to the origin of the good, including:

- (a) purchase, cost, value of, and payment for, the good;
- (b) where appropriate, the purchase, cost, value of, and payment for, all materials, including recovered goods, used in the production of the good; and
- (c) where appropriate, the production of the good in the form in which it was exported.

3. Each Party shall provide that where an exporter or producer has issued a certificate of origin, and has reason to believe that the certificate contains or is based on incorrect information, the exporter or producer shall immediately notify, in writing, every person to whom the exporter or producer issued the certificate of any change that could affect the accuracy or validity of the certificate. Neither Party may impose penalties on an exporter or producer in its territory for issuing an incorrect certificate if it voluntarily provides written notification in conformity with this paragraph.

Article 4.16: Procedures for Verification of Origin

1. Each Party shall grant any claim for preferential tariff treatment made in accordance with this Section, unless the Party possesses information indicating that the importer's claim fails to comply with any requirement under Section A or Article 3.20 (Rules of Origin and Related Matters), except as otherwise provided in Article 3.21 (Customs Cooperation).

2. To determine whether a good imported into its territory qualifies as originating, the importing Party may, through its customs authority, verify the origin in accordance with its customs laws and regulations.

3. Where a Party denies a claim for preferential tariff treatment, it shall issue a written determination containing findings of fact and the legal basis for its determination. The Party shall issue the determination within a period established under its law.

4. A Party shall not subject an importer to penalties where the importer that made an incorrect declaration voluntarily makes a corrected declaration.

5. Where a Party determines through verification that an importer has certified more than once, falsely or without substantiation, that a good qualifies as originating, the Party may suspend preferential tariff treatment to identical goods imported by that person until the importer proves that it has complied with the Party's laws and regulations governing claims of origin under this Agreement.

6. Each Party that carries out a verification of origin in which Generally Accepted Accounting Principles are pertinent shall apply those principles in the manner that they are applied in the territory of the Party from which the good was exported.

Article 4.17: Common Guidelines

By the date of entry into force of this Agreement, the Parties shall agree on and publish common guidelines for the interpretation, application, and administration of this Chapter and the relevant provisions of Chapter Three (National Treatment and Market Access for Goods). As appropriate, the Parties may subsequently agree to modify the common guidelines.

Section C - Definitions

Article 4.18: Definitions

For purposes of this Chapter:

adjusted value means the value determined in accordance with Articles 1 through 8, Article 15, and the corresponding interpretative notes of the Customs Valuation Agreement, adjusted, if necessary, to exclude any costs, charges, or expenses incurred for transportation, insurance, and related services incident to the international shipment of the merchandise from the country of exportation to the place of importation;

exporter means a person who exports goods from the territory of a Party;

fungible goods or materials means goods or materials that are interchangeable for commercial purposes and whose properties are essentially identical;

Generally Accepted Accounting Principles means the principles, rules, and procedures, including both broad and specific guidelines, that define the accounting practices accepted in the territory of a Party;

good means any merchandise, product, article, or material;

goods wholly obtained or produced entirely in the territory of one or both of the Parties means:

- (a) mineral goods extracted in the territory of one or both of the Parties;
- (b) vegetable goods, as such goods are defined in the Harmonized System, harvested in the territory of one or both of the Parties;
- (c) live animals born and raised in the territory of one or both of the Parties;
- (d) goods obtained from hunting, trapping, or fishing in the territory of one or both of the Parties;
- (e) goods (fish, shellfish, and other marine life) taken from the sea by vessels registered or recorded with a Party and flying its flag;
- (f) goods produced on board factory ships from the goods referred to in subparagraph (e) provided such factory ships are registered or recorded with that Party and fly its flag;
- (g) goods taken by a Party or a person of a Party from the seabed or beneath the seabed outside territorial waters, provided that a Party has rights to exploit such seabed;
- (h) goods taken from outer space, provided they are obtained by a Party or a person of a Party and not processed in the territory of a non-Party;
- (i) waste and scrap derived from
 - (i) production in the territory of one or both of the Parties, or
 - (ii) used goods collected in the territory of one or both of the Parties, provided such goods are fit only for the recovery of raw materials;
- (j) recovered goods derived in the territory a Party from used goods, and utilized in the Party's territory in the production of remanufactured goods; and

- (k) goods produced in the territory of one or both of the Parties exclusively from goods referred to in subparagraphs (a) through (i), or from their derivatives, at any stage of production;

importer means a person who imports goods into the territory of a Party;

indirect material means a good used in the production, testing, or inspection of a good but not physically incorporated into the 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 molds;
- (c) spare parts and materials 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, safety equipment, and supplies;
- (f) equipment, devices, and supplies used for testing or inspecting the 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;

issued means prepared by and, where required under a Party's domestic law or regulation, signed by the importer, exporter, or producer of the good;

location of the producer means site of production of a good;

material means a good that is used in the production of another good, including a part, ingredient, or indirect material;

non-originating good or **non-originating material** means a good or material that does not qualify as originating under this Chapter;

packing materials and containers for shipment means the goods used to protect a good during its transportation, and does not include the packaging materials and containers in which a good is packaged for retail sale;

producer means a person who engages in the production of a good in the territory of a Party;

production means growing, mining, harvesting, fishing, raising, trapping, hunting, manufacturing, processing, assembling, or disassembling a good;

recovered goods means materials in the form of individual parts that are the result of: (1) the complete disassembly of used goods into individual parts; and (2) the cleaning, inspecting, testing, or other processing of those parts as necessary for improvement to sound working condition one or more of the following processes: welding, flame spraying, surface machining, knurling, plating, sleeving, and rewinding in order for such parts to be assembled with other parts, including other recovered parts in the production of a remanufactured good of Annex 4.18;

remanufactured goods means industrial goods assembled in the territory of a Party, listed in Annex 4.18, that: (1) are entirely or partially comprised of recovered goods; and (2) have the same life expectancy and meet the same performance standards as new goods; and (3) enjoy the same factory warranty as such new goods;

self-produced material means an originating material that is produced by a producer of a good and used in the production of that good; and

value means the value of a good or material for purposes of calculating customs duties or for purposes of applying this Chapter.

ANNEX 4.18

Goods classified in the following Harmonized System subheadings may be considered remanufactured goods, except for those designed principally for use in automotive goods of Harmonized System headings or subheadings 8702, 8703, 8704.21, 8704.31, 8704.32, 8706, and 8707:

8408.10
8408.20
8408.90
8409.91
8409.99
8412.21
8412.29
8412.39
8412.90
8413.30
8413.50
8413.60
8413.91
8414.30
8414.80
8414.90
8419.89
8431.20
8431.49
8481.20
8481.40
8481.80
8481.90
8483.10
8483.30
8483.40
8483.50
8483.60
8483.90
8503.00
8511.40
8511.50
8526.10
8537.10
8542.21

8708.31
8708.39
8708.40
8708.60
8708.70
8708.93
8708.99
9031.49