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CHAPTER FOUR
RULES OF ORIGIN

ARTICLE 4.1: ORIGINATING GOODS

A good is originating where it is imported directly from one Party into the other Party, and,

- (a) for goods other than those covered by the rules in Annex IV
 - (i) the good is wholly the growth, product or manufacture of one or both of the Parties; or
 - (ii) the good is a new or different article of commerce that has been grown, produced, or manufactured in one or both of the Parties; and the sum of (i) the value of the materials produced in one or both of the Parties, plus (ii) the direct costs of processing operations performed in one or both of the Parties is not less than 35 percent of the appraised value of the good at the time it is entered into a Party; or
- (b) for goods covered by the rules in Annex IV
 - (i) the good is wholly the growth, product or manufacture of one or both of the Parties; or
 - (ii) the good has satisfied the requirements specified in Annex IV.

ARTICLE 4.2: NEW OR DIFFERENT ARTICLE OF COMMERCE

For purposes of this Chapter, the expression “new or different article of commerce” refers to a good or material, not wholly the growth, product, or manufacture of one or both of the Parties, that is substantially transformed into a new and different article of commerce, having a new name, character, or use distinct from the good or material from which it was so transformed.

Article 4.3: Non-Qualifying Operations

No good shall be considered a new or different article of commerce under this Agreement by virtue of having merely undergone (a) simple combining or packaging operations or (b) mere

Draft
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June 23, 2004

dilution with water or with another substance that does not materially alter the characteristics of the good.

ARTICLE 4.4: ACCUMULATION

1. Direct costs of processing operations performed in one or both of the Parties as well as the value of materials produced in one or both of the Parties may be count without limitation toward satisfying the 35 percent value-content requirement specified in Article 4.1(a)(ii).
2. Originating goods or materials produced in one or both of the Parties, incorporated into a good in the other Party, shall be considered to originate in the other Party.
3. A good shall originate where the good is produced in the territory of one or both of the Parties by one or more producers, provided that the good satisfies the requirements of Article 4.1 and all other applicable requirements in this Chapter.

ARTICLE 4.5: VALUE OF MATERIALS

1. For purposes of this Chapter, the value of materials produced in one or both of the Parties includes:
 - (a) the price actually paid or payable by the producer of the good for the materials,
 - (i) when not included in the price actually paid or payable by the producer of the good for the materials, the freight, insurance, packing, and all other costs incurred in transporting the materials to the producer's plant,
 - (ii) the cost of waste or spoilage (material list), less the value of recoverable scrap, and
 - (iv) taxes and/or duties imposed on the materials by one or both of the Parties, provided they are not remitted upon exportation.
 - (b) Where the relationship between the producer of the good and the seller of the material influenced the price actually paid or payable for the material, or where subparagraph (a) is otherwise not applicable, the value of the materials produced in one or both of the Parties includes:

Draft
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- (i) all expenses incurred in the growth, production, or manufacture of the material, including general expenses,
- (ii) a reasonable amount for profit, and
- (iii) freight, insurance, packing, and all other costs incurred in transporting the material to the producer's plant.

ARTICLE 4.6: DIRECT COSTS OF PROCESSING OPERATIONS

1. For purposes of this Chapter, direct costs of processing operations performed in one or both of the Parties mean those costs either directly incurred in, or that can be reasonably allocated to, the growth, production or manufacture of the specific good under consideration. Such costs include, but are not limited to the following, to the extent that they are includable in the appraised value of goods imported into a Party:

- (i) all actual labor costs involved in the growth, production, or manufacture of the specific good, including fringe benefits, on-the-job training, and the cost of engineering, supervisory, quality control, and similar personnel;
 - (ii) dies, molds, tooling, indirect materials and depreciation on machinery and equipment that are allocable to the specific good;
 - (iii) research, development, design, engineering, and blueprint costs insofar as they are allocable to the specific good;
 - (iv) costs of inspecting and testing the specific good; and
 - (v) cost of packaging the specific good for export to the other Party.
- (b) Those items that are not included as direct costs of processing operations are those that are not directly attributable to the goods or are not costs of growth, production, or manufacture of the product. These include, but are not limited to:
- (i) profit; and
 - (ii) general expenses of doing business that are either not allocable to the specific good or are not related to the growth, production or manufacture of the good, such as administrative salaries, casualty and liability

Draft
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insurance, advertising, and salesmen's salaries, commissions, or expenses.

ARTICLE 4.7: PACKAGING AND PACKING MATERIALS AND CONTAINERS FOR RETAIL SALE AND FOR SHIPPING

Packaging and packing materials and containers for retail sale and for shipment shall be disregarded in determining whether the good qualifies as an originating good as set out in Article 4.1, except to the extent that the value of such packaging and packing materials and containers may be counted toward satisfying the 35% value content requirement for goods subject to that requirement.

ARTICLE 4.8: INDIRECT MATERIALS

Indirect materials shall be disregarded in determining whether the good qualifies as an originating good as set out in Article 4.1, except that the cost of such indirect materials may be counted toward satisfying the 35% value content requirement for goods subject to that requirement.

ARTICLE 4.9: TRANSIT AND TRANSSHIPPMENT

For purposes of this Chapter, a good shall not be considered to be imported directly from a Party if the good undergoes subsequent production or any other operation outside the territories of the Parties, other than unloading, reloading or any other operation necessary to preserve it in good condition or to transport the good to the territory of a Party.

ARTICLE 4.10: IMPORTER REQUIREMENTS

Whenever an importer enters a good as eligible for the preferential treatment provided by this Agreement

- (a) the importer shall be deemed to certify that such good qualifies for the preferential treatment provided by this Agreement; and
- (b) the importer shall be prepared to submit to the customs authorities of the importing Party, upon request, a declaration setting forth all pertinent information concerning the production of the good. The information on the declaration should contain at least the following pertinent details:

Draft
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June 23, 2004

- (i) a description of the good, quantity, numbers, and marks of packages, invoice numbers, and bills of lading;
- (iii) a description of the operations performed in the production of the good in one or both of the Parties and identification of the direct costs of processing operations;
- (iv) a description of any materials used in production of the good that are wholly the growth, product, or manufacture of one or both of the Parties, and a statement as to the value of such materials;
- (iv) a description of the operations performed on, and a statement as to the origin and value of, any foreign materials used in the good that are claimed to have been sufficiently processed in one or both of the Parties so as to be materials produced in one or both of the Parties, or are claimed to have undergone an applicable change in tariff classification specified in Annex IV; and
- (v) a description of the origin and value of any foreign materials used in the good that have not been substantially transformed in one or both of the Parties, or are not claimed to have undergone an applicable change in tariff classification specified in Annex IV.

This declaration shall be prepared, signed, and submitted by the importer upon request by the importing Party. A declaration should only be requested when the importing Party has reason to question the accuracy of the certification that, by operation of subparagraph (a), is deemed to have occurred, or when the importing Party's procedures for assessing the risk of improper or incorrect entry of an imported good indicate that verification of an entry is appropriate, or when a random verification is conducted. The information necessary for the preparation of the declaration shall be retained in the files of the importer for a period of 5 years.

ARTICLE 4.11: PROCEDURES FOR VERIFICATION OF ORIGIN

1. Each Party shall grant any claim for preferential tariff treatment made in accordance with this Chapter, unless the Party possesses information indicating that the importer's claim fails to comply with any requirement under this Chapter;
2. To determine whether a good imported into its territory qualifies for preferential treatment

Draft
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June 23, 2004

under this Chapter, 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.

ARTICLE 4.12: CONSULTATIONS AND MODIFICATIONS

1. The Parties shall consult and cooperate to ensure that this Chapter is applied in an effective and uniform manner, in accordance with the spirit and objectives of this Agreement, and to this end may establish ad hoc committees or working groups to consider any issues arising between them;
2. The functions of any ad hoc committees or working groups established under paragraph 1 may include reviewing this Chapter in light of any issue related to the implementation and application of this Chapter and its Annex, including developments in technology and production processes. To this end, these committees or working groups shall develop recommendations for amendments to this Chapter and its Annex.

ARTICLE 4.13: REGIONAL ACCUMULATION

At a time to be determined by the Parties, and in the light of their desire to promote regional integration, the Parties shall enter into discussions with a view to deciding the extent to which materials that are products of countries in the region may be counted for purposes of satisfying the origin requirement under this Agreement as a step toward achieving regional integration.

ARTICLE 4.14: DEFINITIONS

For purposes of this Chapter:

good means any merchandise, product, article or material;

goods wholly the growth, product or manufacture of one or both of the Parties means goods consisting entirely of one or more of the following:

- (a) mineral goods extracted in the territory of one or both of the Parties;

Draft
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June 23, 2004

- (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 live animals raised in the territory of one or both of the Parties;
- (e) goods obtained from hunting, trapping or fishing in the territory of one or both of the Parties;
- (f) goods (fish, shellfish and other marine life) taken from the sea by vessels registered or recorded with a Party and flying its flag;
- (g) goods produced on board factory ships from the goods referred to in subparagraph (v) provided such factory ships are registered or recorded with that Party and fly its flag;
- (h) 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;
- (i) 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;
- (j) 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;
- (k) recovered goods derived in the territory of a Party from used goods, and utilized in the Party's territory in the production of remanufactured products; and
- (l) goods produced in the territory of one or both of the Parties exclusively from goods referred to in subparagraphs (i) through (x), or from their derivatives, at any stage of production;

Draft
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indirect material means a good used in the growth, production, manufacture, 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 growth, production or manufacture 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 the growth, production or manufacture of a good 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 growth, production or manufacture of the good can reasonably be demonstrated to be a part of that growth, production or manufacture;

material means a good, including a part or ingredient, that is used in the production of another good that is a new or different article of commerce that has been grown, produced or manufactured in one or both of the Parties;

materials produced means goods that are either wholly the growth, product or manufacture of one or both of the Parties or new or different articles of commerce that have been grown, produced or manufactured in one or both of the Parties;

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 by means of 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 product;

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

simple combining or packaging operations means operations such as, but not limited to, the addition of batteries to devices, fitting together a small number of components by bolting, gluing, soldering, etc., and repacking or packaging components together;

substantial transformation means the result of a manufacturing or processing operation undergone by a good or material if: (1) such good or material with multiple uses is converted into a good or material with limited uses; (2) the physical properties of such good or material are changed to a significant extent; or (3) the operation undergone by such good or material is complex in terms of the number of different processes and materials involved as well as the time and level of skill required; and such good or material loses its separate identity in the new and resulting good.

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ANNEX 4-A
CERTAIN PRODUCT-SPECIFIC RULES OF ORIGIN

Annex Notes:

1. Products containing over 10% by weight of milk solids classified under chapter 4 and headings 1901, 2105, 2106 and 2202 must be made from milk originating in one of the Parties.

Section IV Prepared Foodstuffs; Beverages, Spirits and Vinegar; Tobacco and Manufactured Tobacco Substitutes.

Chapter 17. Sugars and Sugar Confectionary.

17.01-17.03 A change to headings 17.01 through 17.03 from any other chapter.

Chapter 18. Cocoa and Cocoa Preparations.

1806.10 A change to sweetened cocoa powder of subheading 1806.10 from any other heading, provided that such product does not contain non-originating sugar of chapter 17.

Chapter 20. Preparations of Vegetables, Fruit, Nuts or Other Parts of Plants.

2009.11-2009.39 A change to subheadings 2009.11 through 2009.39 from any other chapter, except from heading 0805.

Chapter 21. Miscellaneous Edible Preparations.

2106.90 A change to concentrated juice of any single fruit or vegetable fortified with vitamins or minerals of subheading 2106.90 from any other chapter, except from heading 0805, from subheadings 2009.11 through 2009.39 and from subheading 2022.90.