Rules of Origin

U.S. Free Trade Agreements

Australia	Chapter 5 Rules of Origin
Bahrain	Chapter 4 Rules of Origin
	Chapter 3 Rules of Origin (Textiles)
Cafta-DR	Chapter 4 Rules of Origin and Origin Procedures
Chile	Chapter 4 Rules of Origin and Origin Procedures
Israel	Annex 3 Rules of Origin
Jordan	Annex 2.2 Rules of Origin
Morocco	Chapter 5 Rules of Origin Chapter 4 Rules of Origin (Textiles)
Nafta	Chapter 4 Rules of Origin
Singapore	Chapter 3 Rules of Origin

Australia

RULES OF ORIGIN

SECTION A : RULES OF ORIGIN

ARTICLE 5.1 : ORIGINATING GOODS

For the purposes of this Agreement, an **originating good** means:

(a) a good wholly obtained or produced entirely in the territory of one or both of the Parties;

(b) a good produced entirely in the territory of one or both of the Parties where

(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-A (Textile and Apparel Specific Rules of Origin) or Annex 5-A (Product-Specific Rules of Origin); or

(ii) the good otherwise satisfies any applicable regional value content; or

(iii) the good meets any other requirements specified in Annex 4-A or Annex 5-A; and

the good satisfies all other applicable requirements of this Chapter or Chapter 4;

(c) a good produced entirely in the territory of one or both of the Parties exclusively from originating materials; or

(d) a good that otherwise qualifies as an originating good under this Chapter or Chapter 4.

ARTICLE 5.2 : *DE MINIMIS*

1. Each Party shall provide that a good that does not undergo a change in tariff classification pursuant to Annex 5-A is nonetheless an originating good if:

(a) the value of all non-originating materials used in the production of the good that do not undergo the required change in tariff classification does not exceed 10 percent of the adjusted value of the good; and

(b) the good meets all other applicable criteria set forth in this Chapter for qualifying as an originating good.

The value of such non-originating materials shall, however, be included in the value of non-originating materials for any applicable regional value content requirement for the good.

2. Paragraph 1 does not apply to a:

(a) non-originating material provided for in Chapter 4 of the Harmonized System or in subheading 1901.90 that is used in the production of a good provided for in Chapter 4 of the Harmonized System;

(b) non-originating material provided for in Chapter 4 of the Harmonized System or in subheading 1901.90 that is used in the production of a good provided for in the following provisions: subheadings 1901.10, 1901.20, or 1901.90; heading 2105; or subheadings 2106.90, 2202.90, or 2309.90;

(c) non-originating material provided for in heading 0805 or subheadings 2009.11 through 2009.30 that is used in the production of a good provided for in subheadings 2009.11 through 2009.30, or subheadings 2106.90 or 2202.90;

(d) 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;

(e) non-originating material provided for in heading 1701 that is used in the production of a good provided for in headings 1701 through 1703;

(f) non-originating material provided for in Chapter 17 of the Harmonized System or heading 1805 that is used in the production of a good provided for in subheading 1806.10;

(g) non-originating material provided for in headings 2203 through 2208 that is used in the production of a good provided for in headings 2207 or 2208; and

(h) 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 or apparel good, Article 4.2.6 (Rules of Origin and Related Matters: *De Minimis*) applies in place of paragraph 1.

ARTICLE 5.3 : ACCUMULATION

1. Originating materials from the territory of a Party, used in the production of a good in the territory of the other Party, shall be considered to originate in the territory of the other Party.

2. A good is an originating good when it is produced in the territory of one or both Parties by one or more producers, provided that the good satisfies the

requirements in Article 5.1 and all other applicable requirements of this Chapter or Chapter 4.

ARTICLE 5.4 : REGIONAL VALUE CONTENT

1. Except for goods covered by paragraph 2, where Annex 5-A refers to a regional value content, each Party shall provide that for purposes of claims for preferential treatment in accordance with Article 5.12, an importer, exporter, or producer may calculate regional value content based on one of the following methods:

(a) Build-down Method

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

where

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

AV is the adjusted value; and

VNM is the value of non-originating materials that are acquired and used by the producer in the production of the good. VNM does not include the value of a material that is self-produced.

(b) Build-up Method

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

where

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

AV is the adjusted value; and

VOM is the value of originating materials that are acquired or self-produced, and used by the producer in the production of the good.

2. When regional value content is required for certain automotive goods[5-2] under Annex 5-A to determine if a good is originating, each Party shall provide that the regional value content of a good shall be calculated solely on the basis of the following method:

[5-2]HS 8407.31 through 34 (engines), 8407.20 (diesel engines for vehicles), 84.09 (parts of engines) 87.01 through 87.05 (motor vehicles), 87.06 (chassis), 87.07 (bodies), and 87.08 (motor vehicle parts).

Method for Automotive Products ("Net Cost Method")

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

where

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

NC is the net cost of the good;

VNM is the value of non-originating materials acquired and used by the producer in the production of the good. VNM does not include the value of a material that is self-produced.

3. Each Party shall provide that, for the purpose of regional value content under paragraph 2 for motor vehicles,[5-3] the importer, exporter, or producer may use a calculation averaged over the producer's fiscal year using any one of the following categories:

(a) the same model line of motor vehicles in the same class of vehicles produced in the same plant in the territory of a Party;

(b) the same class of motor vehicles produced in the same plant in the territory of a Party; or

(c) the same model line of motor vehicles produced in the territory of a Party,

on the basis of all motor vehicles in the category or only those motor vehicles in the category that are exported to the territory of the other Party.

4. Each Party shall provide that, for the purpose of calculating regional value content under paragraph 2 for automotive materials[5-4] produced in the same plant, the importer, exporter, or producer may use a calculation:

(a) averaged:

over the fiscal year of the motor vehicle producer to whom the good is sold,

(i) over any quarter or month, or

(ii) over its fiscal year,

[5-3] Motor Vehicles: HS 87.01 through 87.05 (motor vehicles).
[5-4] Automotive Components or Materials: HS 8407.31 through 34 (engines), 8407.20 (diesel engines for vehicles), 84.09 (parts of engines), 87.06 (chassis), 87.07 (bodies), and 87.08 (motor vehicle parts).

provided that the good was produced during the fiscal year, quarter, or month forming the basis for the calculation;

(b) in which the average referred to in subparagraph (a) is calculated separately for such goods sold to one or more motor vehicle producers; or

(c) in which the average in subparagraph (a) or (b) is calculated separately for those goods that are exported to the territory of the other Party.

ARTICLE 5.5 : VALUE OF MATERIALS

1. Each Party shall provide that for the purpose of Articles 5.2 and 5.4, the value of a material is:

(a) for a material imported by the producer of the good, the adjusted value of the material;

(b) for a material acquired in the territory where the good is produced, the value, determined in accordance with Articles 1 through 8, Article 15, and the corresponding interpretative notes of the Customs Valuation Agreement, *i.e.*, in the same manner as for imported goods, with such reasonable modifications as may be required due to the absence of an importation; or

(c) for a material that is self-produced, the sum of all expenses incurred in the production of the material, including general expenses, and an amount for profit equivalent to the profit added in the normal course of trade.

2. Each Party shall provide that the value of materials may be adjusted as follows:

(a) for originating materials, the following expenses may be added to the value of the material if not included under paragraph 1:

(i) the costs of freight, insurance, packing, and all other costs incurred in transporting the material within or between the Parties' territories 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 by-products; and

(b) for non-originating materials, where included under paragraph 1, the following expenses may be deducted from the value of the material:

(i) the costs of freight, insurance, packing, and all other costs incurred in transporting the material within or between the Parties' territories 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 by-products;

(iv) the cost of processing incurred in the territory of a Party in the production of the non-originating material; and

(v) the cost of originating materials used in the production of the non-originating material in the territory of a Party.

ARTICLE 5.6 : 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 treated as originating goods if the good is an originating good, and shall be disregarded in determining whether all the non-originating materials used in the production of the good undergo the applicable change in tariff classification, provided that:

(a) the accessories, spare parts, or tools are not invoiced separately from the good;

(b) the quantities and value of the accessories, spare parts, or tools are customary for the good; and

(c) if the good is subject to a regional value content requirement, the value of the accessories, spare parts, or tools 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 5.7 : FUNGIBLE GOODS AND MATERIALS

1. Each Party shall provide that the determination of whether fungible goods or materials are originating goods shall be made either by physical segregation of each 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 that an inventory management method selected under paragraph 1 for particular fungible goods or materials shall continue to be used for those fungible goods or materials throughout the fiscal year of the person that selected the inventory management method.

ARTICLE 5.8 : 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 the non-originating materials used in the production of the good undergo the applicable change in tariff classification set out in Annex 5-A or Annex 4-A, 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 5.9 : 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 the applicable change in tariff classification set out in Annex 5-A or Annex 4-A; and

(b) the good satisfies a regional value content requirement.

ARTICLE 5.10 : INDIRECT MATERIALS

Each Party shall provide that an indirect material shall be treated as an originating material without regard to where it is produced and its value shall be the cost registered in the accounting records of the producer of the good.

ARTICLE 5.11 : THIRD COUNTRY TRANSPORTATION

A good shall not be considered to be 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 operation necessary to preserve it in good condition or to transport the good to the territory of a Party.

Section B : Supporting Information and Verification

ARTICLE 5.12 : CLAIMS FOR PREFERENTIAL TREATMENT

1. Each Party shall provide that an importer may make a claim for preferential treatment under this Agreement based on the importer's knowledge or on information in the importer's possession that the good qualifies as an originating good.

2. Each Party may require that an importer be prepared to submit, on request, a statement setting forth the reasons that the good qualifies as an originating good, including pertinent cost and manufacturing information. The statement need not be in a prescribed format, and may be submitted electronically, where feasible.

ARTICLE 5.13 : OBLIGATIONS RELATING TO IMPORTATIONS

1. Each Party shall grant a claim for preferential treatment under this Agreement, made in accordance with this Chapter unless the Party possesses information that the claim is invalid.

2. A Party may deny preferential treatment under this Agreement to an imported good if the importer fails to comply with any requirement of this Chapter.

3. If a Party denies a claim for preferential treatment under this Agreement, it shall issue a written determination containing findings of fact and the legal basis for the determination.

4. The importing Party shall not subject an importer to any penalty for making an invalid claim for preferential treatment if the importer:

(a) on becoming aware that such claim is not valid, promptly and voluntarily corrects the claim and pays any duty owing; and

(b) in any event, corrects the claim and pays any duty owing within a period determined by the Party, which shall be at least one year from the submission of the invalid claim.

5. Nothing in this Article shall prevent a Party from taking action under Article 4.3.8 (Customs Cooperation).

ARTICLE 5.14 : RECORD KEEPING REQUIREMENT

Each Party may require that importers maintain, for up to five years after the date of importation, records relating to the importation of the good, and may require, as set out in Article 5.12.2, that an importer provide, on request, records necessary to demonstrate that a good qualifies as an originating good, including records concerning:

(a) the purchase, cost and value of, and payment for, the good;

(b) the purchase, cost, and value of, and payment for, all materials, including indirect materials, used in the production of the good; and

(c) the production of the good in the form in which the good was exported.

ARTICLE 5.15 : VERIFICATION

1. For the purpose of determining whether a good imported into its territory from the territory of the other Party qualifies as an originating good, a Party may conduct a verification by means of one or more of the following:

(a) requests for information from the importer;

(b) written requests for information to an exporter or a producer in the territory of the other Party;

(c) requests for the importer to arrange for the producer or exporter to provide information directly to the Party conducting the verification;

(d) information received directly by the importing Party from an importer as a result of a request described in Article 5.12.2;

(e) visits to the premises of an exporter or a producer in the territory of the other Party, in accordance with any procedures that the Parties jointly adopt;

(f) for textile or apparel goods, procedures set forth in Article 4.3 (Customs Cooperation); or

(g) such other procedures as the Parties may agree.

2. A Party may deny preferential tariff treatment to a good where the importer, exporter, or producer fails to provide information that the Party requests in a verification conducted in accordance with paragraph 1 demonstrating that the good is an originating good.

Section C : Consultation And Modifications

ARTICLE 5.16 : CONSULTATION AND MODIFICATIONS

1. The Parties shall consult and cooperate to ensure that this Chapter is applied in an effective and uniform manner. Unless the Parties otherwise agree, the Parties shall consult within six months of the date of entry into force of this Agreement regarding the implementation and application of this Chapter.

2. The Parties shall consult regularly pursuant to Article 21.5 (Consultations) to discuss necessary amendments to this Chapter and its Annexes, taking into account developments in technology, production processes, and other related matters.

Section D : Application and Interpretation

ARTICLE 5.17 : APPLICATION AND INTERPRETATION

For the purposes of this Chapter:

(a) the basis for tariff classification is the Harmonized System;

(b) any cost and value referred to in this Chapter shall be recorded and maintained in accordance with the generally accepted accounting principles applicable in the territory of the Party in which the good is produced.

SECTION E : DEFINITIONS

ARTICLE 5.18 : DEFINITIONS

For the purposes of this Chapter:

1. **adjusted value** means the value determined under Articles 1 through 8, Article 15, and the corresponding interpretative notes of the Customs Valuation Agreement, as adjusted to exclude any costs, charges, or expenses incurred for transportation, insurance, and related services incidental to the international shipment of the good from the country of exportation to the place of importation;

2. **class of motor vehicles** means any one of the following categories of motor vehicles:

(a) motor vehicles provided for in subheading 8701.20, motor vehicles for the transport of 16 or more persons provided for in subheadings 8702.10 or 8702.90, and motor vehicles of subheadings 8704.10, 8704.22, 8704.23, 8704.32, or 8704.90, or headings 87.05 and 87.06;

(b) motor vehicles provided for in subheadings 8701.10 or 8701.30 through 8701.90;

(c) motor vehicles for the transport of 15 or fewer persons provided for in subheadings 8702.10 or 8702.90, and motor vehicles of subheadings 8704.21 and 8704.31; or

(d) motor vehicles provided for in subheadings 8703.21 through 8703.90;

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

4. **generally accepted accounting principles** means the recognized consensus or 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 standards may encompass broad guidelines of general application as well as detailed standards, practices, and procedures;

5. **good wholly obtained or produced entirely in the territory of one or both of the Parties** means a good that is:

(a) a mineral good extracted there;

(b) a vegetable good, as such good is defined in the Harmonized System, harvested there;

(c) a live animal born and raised there;

(d) a good obtained from hunting, trapping, fishing, or aquaculture conducted there;

(e) a good (fish, shellfish, and any other marine life) taken from the sea by vessels registered or recorded with a Party and flying its flag;

(f) a good produced exclusively from products referred to in subparagraph (e) on board factory ships registered or recorded with a Party and flying its flag;

(g) a good taken by a Party, or a person of a Party, from the seabed or beneath the seabed outside territorial waters, provided that the Party has rights to exploit such seabed;

(h) a good taken from outer space, provided it is 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 there; or

(ii) used goods collected there, provided such goods are fit only for the recovery of raw materials;

(j) a recovered good derived there, from goods that have passed their life expectancy, or are no longer useable due to defects, and utilized there in the production of remanufactured goods; or

(k) a good produced there exclusively from goods referred to in subparagraphs (a) through (i), or from their derivatives, at any stage of production;

6. **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 moulds;

(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;

7. **material** means a good that is used in the production of another good;

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

9. **model line** means a group of motor vehicles having the same platform or model name;

10. **net cost** means total cost minus sales promotion, marketing, and after-sales service costs, royalties, shipping and packing costs, and non-allowable interest costs that are included in the total cost;

11. **net** cost of the good means the net cost that can be reasonably allocated to the good under one of the following methods:

(a) calculate the total cost incurred with respect to all goods produced by that producer, subtract any sales promotion, marketing and after-sales service costs, royalties, shipping and packing costs, and non-allowable interest costs that are included in the total cost of all such goods, and then reasonably allocate the resulting net cost of those goods to the good;

(b) calculate the total cost incurred with respect to all goods produced by that producer, reasonably allocate the total cost to the good, and then subtract any sales promotion, marketing, and after-sales service costs, royalties, shipping and packing costs, and non-

allowable interest costs that are included in the portion of the total cost allocated to the good; or

(c) reasonably allocate each cost that forms part of the total cost incurred with respect to the good so that the aggregate of these costs does not include any sales promotion, marketing, and after-sales service costs, royalties, shipping and packing costs, and non-allowable interest costs,

provided that the allocation of all such costs is consistent with the provisions regarding the reasonable allocation of costs set out in generally accepted accounting principles;

12. **non-allowable interest costs** means interest costs incurred by a producer that exceed 700 basis points above the Party's applicable official interest rate for comparable maturities;

13. **non-originating material** means a material that has not satisfied the requirements of this Chapter;

14. **preferential treatment** means the customs duty rate and treatment under Article 2.12 (Merchandise Processing Fee) that is applicable to an originating good pursuant to this Agreement;

15. **producer** means a person who grows, raises, mines, harvests, fishes, traps, hunts, manufactures, processes, assembles, or disassembles a good;

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

17. **reasonably allocate** means to apportion in a manner appropriate under generally accepted accounting principles;

18. **recovered goods** means materials in the form of individual parts that result from:

(a) the complete disassembly of goods which have passed their life expectancy, or are no longer useable due to defects, into individual parts; and

(b) cleaning, inspecting, or testing, or other processes as necessary for improvement to sound working condition of such individual parts;

19. **remanufactured good** means an industrial good assembled in the territory of a Party, falling within Chapter 84, 85, or 87 or heading 90.26, 90.31, or 90.32, except a good under heading 84.18, 85.16, or 87.01 through 87.06 that:

(a) is entirely or partially comprised of recovered goods;

(b) has a similar life expectancy to, and meets the same performance standards as, a new good; and

(c) enjoys a factory warranty similar to such a new good;

20. **total cost** means all product costs, period costs, and other costs for a good incurred in the territory of one or both of the Parties; and

21. **used** means used or consumed in the production of goods.

Bahrain
RULES OF ORIGIN

ARTICLE 4.1: ORIGINATING GOODS

Except as otherwise provided in this Chapter or Chapter Three (Textiles and Apparel), each Party shall provide that a good is an originating good where it is imported directly from the territory of one Party into the territory of other Party, and,

(a) it is a good wholly the growth, product, or manufacture of one or both of the Parties; or

(b) for goods other than those covered by the rules in Annex 3-A or Annex 4-A, the good is a new or different article of commerce that has been grown, produced, or manufactured in the territory of one or both of the Parties; and the sum of (i) the value of materials produced in the territory of one or both of the Parties, plus (ii) the direct costs of processing operations performed in the territory of one or both of the Parties is not less than 35 percent of the appraised value of the good at the time it is imported into the territory of a Party; or

(c) for goods covered by the rules in Annex 3-A or Annex 4-A, the good has satisfied the requirements specified in that Annex.

ARTICLE 4.2: NEW OR DIFFERENT ARTICLE OF COMMERCE

For purposes of this Chapter, **new or different article of commerce** means a good that has been substantially transformed from a good or material that is not wholly the growth, product, or manufacture of one of both of the Parties and that has a new name, character, or use distinct from the good or material from which it was transformed.

ARTICLE 4.3: NON-QUALIFYING OPERATIONS

Each Party shall provide that, for purposes of Article 4.1, no good shall be considered a new or different article of commerce by virtue of having merely 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.

ARTICLE 4.4: CUMULATION

1 Each Party shall provide that direct costs of processing operations performed in the territory of one or both of the Parties as well as the value of materials produced in the territory of one or both of the Parties may be counted without limitation toward satisfying the 35 percent value-content requirement specified in Article 4.1(b).

2. Each Party shall provide that an originating good or a material produced in the territory of one or both of the Parties, incorporated into a good in the territory of the other Party, shall be considered to originate in the territory of the other Party.

3. Each Party shall provide that a good shall originate where the good is grown, produced, or manufactured 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 or Chapter Three (Textiles and Apparel).

ARTICLE 4.5: VALUE OF MATERIALS

1. For purposes of this Chapter, each Party shall provide that the value of a material produced in the territory of one or both of the Parties includes:

(a) the price actually paid or payable by the producer of the good for the material;

(b) when not included in the price actually paid or payable by the producer of the good for the material, the freight, insurance, packing, and all other costs incurred in transporting the material to the producer's plant;

(c) the cost of waste or spoilage, less the value of recoverable scrap; and

(d) taxes or customs duties imposed on the material by one or both of the Parties, provided the taxes or customs duties are not remitted upon exportation.

2. Each Party shall provide that 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 paragraph 1 is otherwise not applicable, the value of the material produced in the territory of one or both of the Parties includes:

(a) all expenses incurred in the growth, production, or manufacture of the material, including general expenses;

(b) a reasonable amount for profit; and

(c) 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** means those costs either directly incurred in, or that can be reasonably allocated to, the growth, production, or manufacture of the good. Such costs include the following, to the extent that they are includable in the appraised value of goods imported into the territory of a Party:

(a) 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;

(b) tools, dies, molds, and other indirect materials, and depreciation on machinery and equipment that are allocable to the specific good;

(c) research, development, design, engineering, and blueprint costs to the extent that they are allocable to the specific good;

(d) costs of inspecting and testing the specific good; and

(e) costs of packaging the specific good for export to the territory of the other Party.

2. For greater certainty, those items that are not included as direct costs of processing operations are those that are not directly attributable to the good or are not costs of growth, production, or manufacture of the good. These include:

(a) profit; and

(b) 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 insurance, advertising, and salesmen's salaries, commissions, or expenses.

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

Each Party shall provide that packaging and packing materials and containers in which a good is packaged for retail sale and for shipment, if classified with the good, shall be disregarded in determining whether the good qualifies as an originating good, except that the value of originating packaging and packing materials and containers may be counted toward satisfying, where applicable, the 35 percent value-content requirement specified in Article 4.1(b).

ARTICLE 4.8: INDIRECT MATERIALS

Each Party shall provide that indirect materials shall be disregarded in determining whether the good qualifies as an originating good, except that the cost of such indirect materials may be counted toward satisfying the 35 percent value-content requirement where applicable.

ARTICLE 4.9: TRANSIT AND TRANSSHIPMENT

For purposes of this Chapter, a good shall not be considered to be imported directly from the territory of the other Party if the good undergoes subsequent production, manufacturing, 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 the other Party.

ARTICLE 4.10: IMPORTER REQUIREMENTS

Each Party shall provide that whenever an importer makes a claim for preferential tariff treatment, the importer:

(a) shall be deemed to have certified that such good qualifies for preferential tariff treatment; and

(b) shall submit to the customs authorities of the importing Party, upon request, a declaration setting forth all pertinent information concerning the growth, production, or manufacture of the good. Each Party may require that the information on the declaration should contain at least the following pertinent details:

(i) a description of the good, quantity, invoice numbers, and bills of lading;

(ii) a description of the operations performed in the growth, production, or manufacture of the good in the territory of one or both of the Parties and, where applicable, identification of the direct costs of processing operations;

(iii) a description of any materials used in the growth, production, or manufacture 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 the territory of one or both of the Parties so as to be materials produced in the territory of one or both of the Parties, or are claimed to have undergone an applicable change in tariff classification specified in Annex 3-A or Annex 4-A; and

(v) a description of the origin and value of any foreign materials used in the good that are not claimed to have been substantially transformed in the territory of one or both of the Parties, or are not claimed to have undergone an applicable change in tariff classification specified in Annex 3-A or Annex 4-A.

The importing Party should request a declaration only when that Party has reason to question the accuracy of a deemed certification referred to in subparagraph (a), when that Party's risk assessment procedures indicate that verification of a claim is appropriate, or when the Party conducts a random verification. The importer shall retain the information necessary for the preparation of the declaration for five years from the date of importation of the good.

ARTICLE 4.11: OBLIGATIONS RELATING TO IMPORTATION

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 or Chapter Three (Textiles and Apparel).

2. To determine whether a good imported into its territory qualifies for preferential tariff treatment, the importing Party may, through its customs authority, verify the origin.

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. Nothing in this Article shall prevent a Party from taking action under Article 3.3 (Customs Cooperation).

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 objectives of this Agreement.

2. The Parties may establish *ad hoc* working groups, or a subcommittee of the Joint Committee established pursuant to Article 18.2 (Joint Committee), to consider any matter related to this Chapter (including Annex 4-A). On request of a Party, the

Parties may direct a working group or subcommittee to review operation of this Chapter (including Annex 4-A) and develop recommendations for amendments in the light of any pertinent developments, including changes in technology and production processes, and other relevant factors.

ARTICLE 4.13: REGIONAL CUMULATION

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:

foreign material means a material other than a material produced in the territory of one or both of the Parties;

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;

(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 (f) 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 or manufacture 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 goods; and

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

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 growth, production, or manufacture of another good that is a new or different article of commerce that has been grown, produced, or manufactured in the territory of one or both of the Parties;

material produced in the territory of one or both of the Parties means a good that is either wholly the growth, product, or manufacture of one or both of the Parties or a new or different article of commerce that has been grown, produced, or manufactured in the territory of 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;

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

simple combining or packaging operations means operations such as adding batteries to devices, fitting together a small number of components by bolting, gluing, or soldering, and repacking or packaging components together; and

substantially transformed means, with respect to a good or material, changed as the result of a manufacturing or processing operation where: (1) the good or material has multiple uses and is converted into a good or material with limited uses; (2) the physical properties of the good or material are changed to a significant extent; or (3) the operation undergone by the 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 to perform these processes; and the good or material loses its separate identity in the resulting, new good or material.

Bahrain
CERTAIN PRODUCT-SPECIFIC RULES OF ORIGIN

Section A: Interpretative Notes

1. For goods covered in this Annex, a good is an originating good if:

   (a) each of the non-originating materials used in the production of the good undergoes an applicable change in tariff classification specified in this Annex as a result of production occurring entirely in the territory of one or both of the Parties, or the good otherwise satisfies the applicable requirements of this Annex where a change in tariff classification for each non-originating material is not specified; and

   (b) the good satisfies any other applicable requirements of this Chapter.

2. For purposes of interpreting the rules of origin set out in this Annex:

   (a) the specific rule, or specific set of rules, that applies to a particular heading or subheading is set out immediately adjacent to the heading or subheading;

   (b) a rule applicable to a subheading shall take precedence over a rule applicable to the heading which is parent to that subheading;

   (c) a requirement of a change in tariff classification applies only to non-originating materials; and

   (d) the following definitions apply:

   chapter means a chapter of the Harmonized System;

   heading means the first four digits in the tariff classification number under the Harmonized System; and

   subheading means the first six digits in the tariff classification number under the Harmonized System.

Section B: Specific Rules

Annex Note:

A good containing over 10 percent by weight of milk solids classified under chapter 4 or heading 1901, 2105, 2106 or 2202 must be made from originating milk.

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 heading 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 sweetened cocoa powder 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 subheading 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 subheading 2009.11 through 2009.39, or from subheading 2202.90.

Bahrain
TEXTILES AND APPAREL

ARTICLE 3.1: BILATERAL EMERGENCY ACTION

1. If, as a result of the reduction or elimination of a duty under this Agreement, a textile or apparel good benefiting from preferential tariff treatment is being imported into the territory of a Party in such increased quantities, in absolute terms or relative to the domestic market for that good, and under such conditions as to cause serious damage, or actual threat thereof, to a domestic industry producing a like or directly competitive good, the Party may, to the extent and for such time as may be necessary to prevent or remedy such damage and to facilitate adjustment, take emergency action, consisting of an increase in the rate of duty on the good to a level not to exceed the lesser of:

(a) the most-favored-nation ("MFN") applied rate of duty in effect at the time the action is taken; and

(b) the MFN applied rate of duty in effect on the date of entry into force of this Agreement.

2. In determining serious damage, or actual threat thereof, the importing Party:

(a) shall examine the effect of increased imports of the good from the exporting Party on the particular industry, as reflected in changes in such relevant economic variables as output, productivity, utilization of capacity, inventories, market share, exports, wages, employment, domestic prices, profits, and investment, none of which shall necessarily be decisive; and

(b) shall not consider changes in technology or consumer preference as factors supporting a determination of serious damage or actual threat thereof.

3. The importing Party may take an emergency action under this Article only following an investigation by its competent authorities.

4. The importing Party shall deliver to the exporting Party, without delay, written notice of its intent to take emergency action and, on the request of the exporting Party, shall enter into consultations with that Party regarding the matter.

5. An importing Party:

(a) shall not maintain an emergency action for a period exceeding three years;

(b) shall not take or maintain an emergency action against a good beyond ten years after the Party must eliminate customs duties on that good pursuant to this Agreement;

(c) shall not take an emergency action more than once against the same good of the other Party; and

(d) shall, on termination of the emergency action, apply to the good that was subject to the emergency action the rate of duty that would have been in effect but for the action.

6. The importing Party shall provide to the exporting Party mutually agreed

trade liberalizing compensation in the form of concessions having substantially equivalent trade effects or equivalent to the value of the additional duties expected to result from the emergency action. Such concessions shall be limited to textile and apparel goods, unless the Parties agree otherwise. If the Parties are unable to agree on compensation, the exporting Party may suspend tariff concessions under this Agreement having trade effects substantially equivalent to the trade effects of the emergency action. Such tariff action may be taken against any goods of the importing Party. The exporting Party shall apply the tariff action only for the minimum period necessary to achieve the substantially equivalent trade effects. The importing Party's obligation to provide trade compensation and the exporting Party's right to take tariff action shall terminate when the emergency action terminates.

7. Nothing in this Agreement shall be construed to limit a Party's right to restrain imports of textile and apparel goods in a manner consistent with the Agreement on Textiles and Clothing or the Safeguards Agreement. However, a Party may not take or maintain an emergency action under this Article against a textile or apparel good that is subject, or becomes subject, to a safeguard measure that a Party takes pursuant to either such agreement.

ARTICLE 3.2: RULES OF ORIGIN AND RELATED MATTERS

Application of Chapter Four

1. Except as provided in this Chapter, including its Annexes, Chapter Four (Rules of Origin) applies to textile and apparel goods.

2. For greater certainty, the rules of origin set forth in this Agreement shall not apply in determining the country of origin of a textile or apparel good for non-preferential purposes.

Consultations

3. On the request of either Party, the Parties shall consult to consider whether the rules of origin applicable to a particular textile or apparel good should be revised to address issues of availability of supply of fibers, yarns, or fabrics in the territories of the Parties.

4. In the consultations referred to in paragraph 3, each Party shall consider all data presented by the other Party that demonstrate substantial production in its territory of a particular fiber, yarn, or fabric. The Parties shall consider that there is substantial production if a Party demonstrates that its domestic producers are capable of supplying commercial quantities of the fiber, yarn, or fabric in a timely manner.

5. The Parties shall endeavor to conclude consultations within 60 days after delivery of a request. If the Parties agree in the consultations to revise a rule of origin, the agreement shall supersede that rule of origin when approved by the Parties in accordance with Article 21.2 (Amendments).

De Minimis

6. A textile or apparel good that is not an originating good because certain fibers or yarns used in the production of the component of the good that determines the tariff classification of the good do not undergo an applicable change in tariff classification set out in Annex 3-A, shall nonetheless be considered to be an originating good if the total weight of all such fibers or yarns in that component is not more than seven percent of the total weight of that component. Notwithstanding the preceding sentence, a good containing elastomeric yarns in the component of the good that determines the tariff classification of the good shall be considered to be an

originating good only if such yarns are wholly formed in the territory of a Party.

Treatment of Sets

7. Notwithstanding the specific rules of origin set out in Annex 3-A, textile or apparel goods classified under General Rule of Interpretation 3 of the Harmonized System as goods put up in sets for retail sale shall not be regarded as originating goods unless each of the goods in the set is an originating good or the total value of the non-originating goods in the set does not exceed 10 percent of the value of the set determined for purposes of assessing customs duties.

Preferential Tariff Treatment for Certain Non-Originating Textile and Apparel Goods

8. Subject to paragraph 9, each Party shall accord preferential tariff treatment to the following goods, if they meet the applicable conditions for preferential tariff treatment under this Agreement other than the condition that they be originating goods:

(a) cotton or man-made fiber fabric goods provided for in Chapters 52, 54, 55, 58, and 60 of the Harmonized System that are wholly formed in the territory of a Party from yarn produced or obtained outside the territory of a Party;

(b) cotton or man-made fiber fabric goods provided for in Annex 3-B that are wholly formed in the territory of a Party from yarn spun in the territory of a Party from fiber produced or obtained outside the territory of a Party;

(c) cotton or man-made fiber apparel goods provided for in Chapters 61 or 62 of the Harmonized System that are cut or knit to shape, or both, and sewn or otherwise assembled in the territory of a Party from fabric or yarn produced or obtained outside the territory of a Party; and

(d) cotton or man-made fiber made-up goods provided for in Chapter 63 that are cut or knit to shape, or both, and sewn or otherwise assembled in the territory of a Party from fabric wholly formed in a Party from yarn produced or obtained outside the territory of a Party.

9. The treatment described in paragraph 8 shall be limited to goods imported into the territory of a Party up to an annual total quantity of 65 million square meters equivalent in each of the first ten years after entry into force of this Agreement. Upon the request of an exporting Party, the importing Party shall allocate such quantity among the four categories of goods described in paragraph 8, in accordance with such request. To determine the quantity in square meters equivalent that is charged against the annual quantity, the importing Party shall apply the conversion factors listed in the *Correlation: U.S. Textile and Apparel Category System with the Harmonized Tariff Schedule of the United States of America ("The Textile Correlation")*, 2003, U.S. Department of Commerce, Office of Textiles and Apparel, or successor publication.

10. At the written request of an exporting Party, an importing Party shall require an importer claiming preferential tariff treatment under paragraph 8 to submit to the importing Party a certificate of eligibility. An importing Party shall not accept such a claim unless the certificate of eligibility is properly completed and signed by an authorized official of the exporting Party and is presented at the time the preferential tariff treatment is claimed.

11. Where an importing Party has reason to question the accuracy of a claim under paragraph 8, or where an importing Party seeks such information in the course of a verification under Article 3.3, it may require an importer claiming preferential tariff treatment for a textile or apparel good under paragraph 8 to prepare, sign, and submit to its competent authority a declaration supporting such a claim for preferential tariff treatment and to provide all pertinent information concerning the production of the good, including:

(a) a description of the good, quantity, invoice numbers, and bills of lading;

(b) a description of the operations performed in the production of the good in the territory of one or both of the Parties;

(c) a reference to the specific provision of paragraph 8 that forms the basis for the claim for preferential tariff treatment; and

(d) a statement as to any fiber, yarn, or fabric of a non-Party and the origin of such materials used in the production of the good.

The importing Party may require the importer to retain all documents relied upon to prepare the declaration for a period of five years.

ARTICLE 3.3: CUSTOMS COOPERATION

1. The Parties shall cooperate for purposes of:

(a) enforcing or assisting in the enforcement of their measures affecting trade in textile or apparel goods;

(b) verifying the accuracy of claims of origin;

(c) enforcing or assisting in the enforcement of measures implementing international agreements affecting trade in textile or apparel goods; and

(d) preventing circumvention of international agreements affecting trade in textile or apparel goods.

2. On the request of the importing Party, the exporting Party shall conduct a verification for purposes of enabling the importing Party to determine that a claim of origin for a textile or apparel good is accurate. The exporting Party shall conduct such a verification, regardless of whether an importer claims preferential tariff treatment for the good. The exporting Party also may conduct such a verification on its own initiative.

3. Where the importing Party has a reasonable suspicion that an exporter or producer of the exporting Party is engaging in unlawful activity relating to trade in textile or apparel goods, the exporting Party shall conduct, on the request of the importing Party, a verification for purposes of enabling the importing Party to determine that the exporter or producer is complying with applicable customs measures regarding trade in textile or apparel goods, including measures that the exporting Party adopts and maintains pursuant to this Agreement and measures of either Party implementing other international agreements affecting trade in textile or apparel goods, or to determine that a claim of origin regarding textile or apparel goods exported or produced by that enterprise is accurate. For purposes of this paragraph, a **reasonable suspicion of unlawful activity** means a suspicion based on

relevant factual information of the type set forth in Article 5.5 (Cooperation) or information that indicates:

(a) circumvention by the exporter or producer of applicable customs measures regarding trade in textile or apparel goods, including measures adopted to implement this Agreement; or

(b) conduct that facilitates the violation of measures relating to any other international agreement regarding trade in textile or apparel goods.

4. The exporting Party, through its competent authorities, shall permit the importing Party, through its competent authorities, to assist in a verification conducted pursuant to paragraph 2 or 3, including by conducting, along with the competent authorities of the exporting Party, visits in the territory of the exporting Party to the premises of an exporter, producer, or any other enterprise involved in the movement of a textile or apparel good from the territory of the exporting Party to the territory of the importing Party. If an exporter, producer, or other enterprise refuses to consent to a visit by the competent authorities of the importing Party, the importing Party may consider that the verification cannot be completed and the determination described in paragraph 2 or 3 cannot be made and may take appropriate action as described in paragraph 8.

5. Each Party shall provide to the other Party, consistent with the Party's law, production, trade, and transit documents and other information necessary for the exporting Party to conduct a verification under paragraph 2 or 3. Each Party shall treat any documents or information exchanged in the course of such a verification in accordance with Article 5.6 (Confidentiality).

6. While a verification is being conducted, the importing Party may, consistent with its law, take appropriate action, which may include suspending the application of preferential tariff treatment to:

(a) the textile or apparel good for which a claim of origin has been made, in the case of a verification under paragraph 2; or

(b) any textile or apparel good exported or produced by the person subject to a verification under paragraph 3, where the reasonable suspicion of unlawful activity relates to that good.

7. The Party conducting a verification under paragraph 2 or 3 shall provide the other Party with a written report on the results of the verification, which shall include all documents and facts supporting any conclusion that the Party reaches.

8. (a) If the importing Party is unable to make the determination described in paragraph 2 within 12 months after its request for a verification, or makes a negative determination, it may, consistent with its law, take appropriate action, including denying preferential tariff treatment to the textile or apparel good subject to the verification, and to similar goods exported or produced by the person that exported or produced the good.

(b) If the importing Party is unable to make a determination described in paragraph 3 within 12 months after its request for a verification, or makes a negative determination, it may, consistent with its law, take appropriate action, including denying preferential tariff treatment to any textile or apparel good exported or produced by the person subject to the verification.

9. (a) The importing Party may deny preferential tariff treatment or entry under paragraph 8 only after notifying the other Party of its intention to do so.

(b) If the importing Party takes action under paragraph 8 because it is unable to make a determination described in paragraph 2 or 3, it may continue to take appropriate action under paragraph 8 until it receives information sufficient to enable it to make the determination.

10. On the request of either Party, the Parties shall consult to resolve any technical or interpretive difficulties that may arise under this Article or to discuss ways to improve the effectiveness of their cooperative efforts. In addition, either Party may request technical or other assistance from the other Party in implementing this Article. The Party receiving such a request shall make every effort to respond favorably and promptly.

ARTICLE 3.4: DEFINITIONS

For purposes of this Chapter:

claim of origin means a claim that a textile or apparel good is an originating good;

exporting Party means the Party from whose territory a textile or apparel good is exported;

importing Party means the Party into whose territory a textile or apparel good is imported; and

textile or apparel good means a good listed in the Annex to the Agreement on Textiles and Clothing.

CAFTA-DR

Rules of Origin and Origin Procedures

Section A: Rules of Origin

Article 4.1: Originating Goods

Except as otherwise provided in this Chapter, each Party shall provide that a good is originating where:

(a) it is a good wholly obtained or produced entirely in the territory of one or more of the Parties;

(b) it is produced entirely in the territory of one or more 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) it is produced entirely in the territory of one or more of the Parties exclusively from originating materials.

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 importer, exporter, or producer may use a calculation of regional value content based on one or the other of the following methods:

(a) Method Based on Value of Non-Originating Materials ("Build-down Method")

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

(b) Method Based on Value of Originating Materials ("Build-up 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 that are acquired and used by the producer in the production of the good; VNM does not include the value of a material that is self-produced; and

VOM is the value of originating materials acquired or self-produced, and used by the producer in the production of the good.

2. Each Party shall provide that all costs considered for the calculation of regional value content shall be recorded and maintained in conformity with the Generally Accepted Accounting Principles applicable in the territory of the Party where the good is produced.

3. Where Annex 4.1 specifies a regional value content test to determine if an automotive good[1] is originating, each Party shall provide that the importer, exporter, or producer may use a calculation of the regional value content of that good as provided in paragraph 1 or based on the following method:

Method for Automotive Products ("Net Cost Method")

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

where,

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

NC is the net cost of the good; and

VNM is the value of non-originating materials acquired and used by the producer in the production of the good; VNM does not include the value of a material that is self-produced.

4. Each Party shall provide that, for purposes of the regional value content method in paragraph 3, the importer, exporter, or producer may use a calculation averaged over the producer's fiscal year, using any one of the following categories, on the basis of all motor

[1] Paragraph 3 applies solely to goods classified under the following headings and subheadings: 8407.31 through 8407.34 (engines), 8408.20 (diesel engines for vehicles), 84.09 (parts of engines), 87.01 through 87.05 (motor vehicles), 87.06 (chassis), 87.07 (bodies), and 87.08 (motor vehicle parts).

vehicles in the category or only those motor vehicles in the category that are exported to the territory of one or more of the other Parties:

(a) the same model line of motor vehicles in the same class of vehicles produced in the same plant in the territory of a Party;

(b) the same class of motor vehicles produced in the same plant in the territory of a Party; or

(c) the same model line of motor vehicles produced in the territory of a Party.

5. Each Party shall provide that, for purposes of calculating regional value content under paragraph 3 for automotive materials[2] produced in the same plant, an importer, exporter, or producer may use a calculation:

(a) averaged:

(i) over the fiscal year of the motor vehicle producer to whom the good is sold;

(ii) over any quarter or month; or

(iii) over its fiscal year,

provided that the good was produced during the fiscal year, quarter, or month forming the basis for the calculation;

(b) in which the average in subparagraph (a) is calculated separately for such goods sold to one or more motor vehicle producers; or

(c) in which the average in subparagraph (a) or (b) is calculated separately for those goods that are exported to the territory of one or more of the Parties.

[2] Paragraph 5 applies solely to automotive materials classified under the following headings and subheadings: 8407.31 through 8407.34 (engines), 8408.20 (diesel engines for vehicles), 84.09 (parts of engines), 87.06 (chassis), 87.07 (bodies), and 87.08 (motor vehicle parts).

Article 4.3: Value of Materials

Each Party shall provide that, for purposes of Articles 4.2 and 4.6, the value of a material shall be:

(a) for a material imported by the producer of the good, the adjusted value of the material;

(b) for a material acquired in the territory where the good is produced, the value, determined in accordance with Articles 1 through 8, Article 15, and the corresponding interpretative notes of the Customs Valuation Agreement in the same manner as for imported goods, with such reasonable modifications as may be required due to the absence of an importation; or

(c) for a material that is self-produced,

(i) all the expenses incurred in the production of the material, including general expenses, and

(ii) an amount for profit equivalent to the profit added in the normal course of trade.

Article 4.4: Further Adjustments to the Value of Materials

1. Each Party shall provide that, for originating materials, the following expenses, where not included under Article 4.3, may be added to the value of the material:

(a) the costs of freight, insurance, packing, and all other costs incurred in transporting the material within a Party's territory or between the territories of two or more Parties to the location of the producer;

(b) duties, taxes, and customs brokerage fees on the material paid in the territory of one or more 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

(c) 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 by-product.

2. Each Party shall provide that, for non-originating materials, the following expenses, where included under Article 4.3, 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 within a Party's territory or between the territories of two or more Parties to the location of the producer;

(b) duties, taxes and customs brokerage fees on the material paid in the territory of one or more 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;

(c) 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 by-product; and

(d) the cost of originating materials used in the production of the non-originating material in the territory of a Party.

Article 4.5: Accumulation

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

2. Each Party shall provide that a good is originating where the good is produced in the territory of one or more of the 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 4.6: De Minimis

1. Except as provided in Annex 4.6, 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 used in the production of the good and that do not undergo the applicable change in tariff classification does not exceed ten 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. With respect to a textile or apparel good, Article 3.25.7 (Rules of Origin and Related Matters) applies in place of paragraph 1.

Article 4.7: Fungible Goods and Materials

1. Each Party shall provide that an importer may claim that a fungible good or material is originating where the importer, exporter, or producer has:

(a) physically segregated each fungible good or material; or

(b) used any inventory management method, such as averaging, last-in-first-out (LIFO) or first-in-first-out (FIFO), 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 a particular fungible good or material shall continue to be used for that good or material throughout the fiscal year of the person that selected the inventory management method.

Article 4.8: Accessories, Spare Parts, and Tools

1. Each Party shall provide that a good's standard accessories, spare parts, or tools delivered with the good shall be treated as originating goods if the good is an originating good and shall be disregarded in determining whether all the non-originating materials used in the production of the good undergo the applicable change in tariff classification, provided that:

(a) the accessories, spare parts, or tools are classified with and not invoiced separately from the good, regardless of whether they appear specified or separately identified in the invoice itself; and

(b) the quantities and value of the accessories, spare parts, or tools are customary for the good.

2. If a good is subject to a regional value content requirement, the value of accessories, spare parts, or tools 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 4.9: 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 shall, if classified with the good, be disregarded in determining whether all the 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 good is originating.

Article 4.11: 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 4.12: Transit and Transshipment

Each Party shall provide that a good shall not be considered to be an originating good if the good:

(a) undergoes subsequent production or any other operation outside the territories of the Parties, other than unloading, reloading, or any other operation necessary to preserve the good in good condition or to transport the good to the territory of a Party; or

(b) does not remain under the control of customs authorities in the territory of a non-Party.

Article 4.13: Sets of Goods

1. Each Party shall provide that if goods are classified as a set as a result of the application of rule 3 of the General Rules of Interpretation of the Harmonized System, the set is originating only if each good in the set is originating and both the set and the goods meet all other applicable requirements in this Chapter.

2. Notwithstanding paragraph 1, a set of goods is originating if the value of all the non-originating goods in the set does not exceed 15 percent of the adjusted value of the set.

3. With respect to a textile or apparel good, Article 3.25.9 (Rules of Origin and Related Matters) applies in place of paragraphs 1 and 2.

Article 4.14: Consultation and Modifications

1. The Parties shall consult regularly to ensure that this Chapter is administered effectively, uniformly, and consistently with the spirit and objectives of this Agreement, and shall cooperate in the administration of this Chapter.

2. A Party that considers that a specific rule of origin set out in Annex 4.1 requires modification to take into account developments in production processes, lack of supply of originating materials, or other relevant factors may submit a proposed modification along with supporting rationale and any studies to the Commission for consideration.

3. On submission by a Party of a proposed modification under paragraph 2, the Commission may refer the matter to an *ad hoc* working group within 60 days or on such other date as the

Commission may decide. The working group shall meet to consider the proposed modification within 60 days of the date of referral or on such other date as the Commission may decide.

4. Within such period as the Commission may direct, the working group shall provide a report to the Commission, setting out its conclusions and recommendations, if any.

5. On receipt of the report, the Commission may take appropriate action under Article 19.1.3(b) (The Free Trade Commission).

6. With respect to a textile or apparel good, paragraphs 1 through 3 of Article 3.25 (Rules of Origin and Related Matters) apply in place of paragraphs 2 through 5.

Section B: Origin Procedures

Article 4.15: Obligations Relating to Importations

1. Each Party shall grant any claim for preferential tariff treatment made in accordance with this Chapter, unless the Party issues a written determination that the claim is invalid as a matter of law or fact.

2. A Party may deny preferential tariff treatment to a good if the importer fails to comply with any requirement in this Chapter.

3. No Party may subject an importer to any penalty for making an invalid claim for preferential tariff treatment if the importer:

(a) did not engage in negligence, gross negligence, or fraud in making the claim and pays any customs duty owing; or

(b) on becoming aware that such a claim is not valid, promptly and voluntarily corrects the claim and pays any customs duty owing.

4. Each Party may require that an importer who claims preferential tariff treatment for a good imported into its territory:

(a) declare in the importation document that the good is originating;

(b) have in its possession at the time the declaration referred to in subparagraph (a) is made a written or electronic certification as described in Article 4.16, if the certification forms the basis for the claim;

(c) provide a copy of the certification, on request, to the importing Party's customs authority, if the certification forms the basis for the claim;

(d) when the importer has reason to believe that the declaration in subparagraph (a) is based on inaccurate information, correct the importation document and pay any customs duty owing;

(e) when a certification by a producer or exporter forms the basis for the claim, either provide or have in place, at the importer's option, an arrangement to have the producer or exporter provide, on request of the importing Party's customs authority, all information relied on by such producer or exporter in making such certification; and

(f) demonstrate, on request of the importing Party's customs authority, that the good is originating under Article 4.1, including that the good satisfies the requirements of Article 4.12.

5. Each Party shall provide that, where a good was originating when it was imported into its territory, but the importer of the good did not make a claim for preferential tariff treatment at the time of importation, that importer may, no later than one year after the date of importation, make a claim for preferential tariff treatment and apply for a refund of any excess duties paid as the result of the good not having been accorded preferential tariff treatment on presentation to its customs authority of:

(a) a written declaration, stating that the good was originating at the time of importation;

(b) on request of its customs authority, a copy of a written or electronic certification if a certification forms the basis for the claim, or other information demonstrating that the good was originating; and

(c) such other documentation relating to the importation of the good as its customs authority may require.

6. Each Party may provide that the importer is responsible for complying with the requirements of paragraph 4, notwithstanding that the importer may have based its claim for preferential tariff treatment on a certification or information that an exporter or producer provided.

7. Nothing in this Article shall prevent a Party from taking action under Article 3.24.6 (Customs Cooperation).

Article 4.16: Claims of Origin

1. Each Party shall provide that an importer may make a claim for preferential tariff treatment based on either:

(a) a written or electronic[3] certification by the importer, exporter, or producer; or

(b) the importer's knowledge that the good is an originating good, including reasonable reliance on information in the importer's possession that the good is an originating good.[4]

2. Each Party shall provide that a certification need not be made in a prescribed format, provided that the certification is in written or electronic form, including but not limited to the following elements:

(a) the name of the certifying person, including as necessary contact or other identifying information;

(b) tariff classification under the Harmonized System and a description of the good;

(c) information demonstrating that the good is originating;

(d) date of the certification; and

(e) in the case of blanket certification issued as set out in paragraph 4(b), the period that the certification covers.

3. Each Party shall provide that a certification by the producer or exporter of the good may be completed on the basis of:

(a) the producer's or exporter's knowledge that the good is originating; or

(b) in the case of an exporter, reasonable reliance on the producer's written or electronic certification that the good is originating.

No Party may require an exporter or producer to provide a written or electronic certification to another person.

4. Each Party shall provide that a certification may apply to:

(a) a single shipment of a good into the territory of a Party; or

[3] Each Central American Party and the Dominican Republic shall authorize importers to provide electronic certifications beginning no later than three years after the date of entry into force of this Agreement.

[4] Each Central American Party and the Dominican Republic shall implement subparagraph (b) no later than three years after the date of entry into force of this Agreement.

(b) multiple shipments of identical goods within any period specified in the written or electronic certification, not exceeding 12 months from the date of the certification.

5. Each Party shall provide that a certification shall be valid for four years after the date it was issued.

6. Each Party shall allow an importer to submit a certification in the language of the importing Party or the exporting Party. In the latter case, the customs authority of the importing Party may require the importer to submit a translation of the certification in the language of the importing Party.

Article 4.17: Exceptions

No Party may require a certification or information demonstrating that the good is originating where:

(a) the customs value of the importation does not exceed 1,500 U.S. dollars or the equivalent amount in the currency of the importing Party, or such higher amount as may be established by the importing Party, unless the importing Party considers the importation to be part of a series of importations carried out or planned for the purpose of evading compliance with the certification requirements; or

(b) it is a good for which the importing Party does not require the importer to present a certification or information demonstrating origin.

Article 4.18: Obligations Relating to Exportations

1. Each Party shall provide that:

(a) an exporter or a producer in its territory that has provided a written or electronic certification in accordance with Article 4.16 shall, on request, provide a copy to the appropriate authority of the Party;

(b) a false certification by an exporter or a producer in its territory that a good to be exported to the territory of another Party is originating shall be subject to penalties equivalent to those that would apply to an importer in its territory that makes a false statement or representation in connection with an importation, with appropriate modifications; and

(c) when an exporter or a producer in its territory has provided a certification and has reason to believe that the certification contains or is based on incorrect information, the exporter or producer shall promptly notify in writing every

person to whom the exporter or producer provided the certification of any change that could affect the accuracy or validity of the certification.

2. No Party may impose penalties on an exporter or a producer for providing an incorrect certification if the exporter or producer voluntarily notifies in writing all persons to whom it has provided the certification that it was incorrect.

Article 4.19: Record Keeping Requirements

1. Each Party shall provide that an exporter or a producer in its territory that provides a certification in accordance with Article 4.16 shall maintain, for a minimum of five years from the date the certification was issued, all records and documents necessary to demonstrate that a good for which the producer or exporter provided a certification was an originating good, including records and documents concerning:

(a) the purchase of, cost of, value of, and payment for, the exported good;

(b) the purchase of, cost of, value of, and payment for, all materials, including indirect materials, used in the production of the exported good; and

(c) the production of the good in the form in which it was exported.

2. Each Party shall provide that an importer claiming preferential tariff treatment for a good imported into the Party's territory shall maintain, for a minimum of five years from the date of importation of the good, all records and documents necessary to demonstrate the good qualified for the preferential tariff treatment.

Article 4.20: Verification

1. For purposes of determining whether a good imported into its territory from the territory of another Party is an originating good, each Party shall ensure that its customs authority or other competent authority may conduct a verification by means of:

(a) written requests for information from the importer, exporter, or producer;

(b) written questionnaires to the importer, exporter, or producer;

(c) visits to the premises of an exporter or producer in the territory of the other Party, to review the records referred to in Article 4.19 or observe the facilities used in the production of the good, in accordance with the framework that the Parties develop pursuant to Article 4.21.2;

(d) for a textile or apparel good, the procedures set out in Article 3.24 (Customs Cooperation); or

(e) such other procedures to which the importing and exporting Parties may agree.

2. A Party may deny preferential tariff treatment to an imported good where:

(a) the exporter, producer, or importer fails to respond to a written request for information or questionnaire within a reasonable period, as established in the importing Party's law;

(b) after receipt of a written notification for a verification visit to which the importing and exporting Parties have agreed, the exporter or producer does not provide its written consent within a reasonable period, as established by the importing Party's law; or

(c) the Party finds a pattern of conduct indicating that an importer, exporter, or producer has provided false or unsupported declarations that a good imported into its territory is an originating good.

3. Except as provided in Article 3.24.6(d) (Customs Cooperation), a Party conducting a verification shall provide the importer a determination, in writing, of whether the good is originating. The Party's determination shall include factual findings and the legal basis for the determination.

4. If an importing Party makes a determination under paragraph 3 that a good is not originating, the Party shall not apply that determination to an importation made before the date of the determination where:

(a) the customs authority of the exporting Party issued an advance ruling regarding the tariff classification or valuation of one or more materials used in the good under Article 5.10 (Advance Rulings);

(b) the importing Party's determination is based on a tariff classification or valuation for such materials that is different than that provided for in the advance ruling referred to in subparagraph (a); and

(c) the customs authority issued the advance ruling before the importing Party's determination.

5. Where an importing Party determines through verification that an importer, exporter, or producer has engaged in a pattern of conduct in providing false or unsupported statements, declarations, or certifications that a good imported into its territory is originating the Party may suspend preferential tariff treatment to identical goods covered by subsequent statements, declarations, or certifications by that importer, exporter, or producer until the importing Party determines that the importer, exporter, or producer is in compliance with this Chapter.

Article 4.21: Common Guidelines

1. 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) and shall endeavor to do so by the date of entry into force of this Agreement. The Parties may agree to modify the common guidelines.

2. The Parties shall endeavor to develop a framework for conducting verifications pursuant to Article 4.20.1(c).

Article 4.22: 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;

class of motor vehicles means any one of the following categories of motor vehicles:

(a) motor vehicles provided for in subheading 8701.20, motor vehicles for the transport of 16 or more persons provided for in subheading 8702.10 or 8702.90, and motor vehicles of subheading 8704.10, 8704.22, 8704.23, 8704.32, or 8704.90, or heading 87.05 or 87.06;

(b) motor vehicles provided for in subheading 8701.10 or subheadings 8701.30 through 8701.90;

(c) motor vehicles for the transport of 15 or fewer persons provided for in subheading 8702.10 or 8702.90, and motor vehicles of subheading 8704.21 or 8704.31; or

(d) motor vehicles provided for in subheadings 8703.21 through 8703.90;

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 recognized consensus or substantial authoritative support given 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. Generally Accepted Accounting Principles may encompass broad guidelines for general application, as well as detailed standards, practices, and procedures;

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

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

(a) plants and plant products harvested or gathered in the territory of one or more of the Parties;

(b) live animals born and raised in the territory of one or more of the Parties;

(c) goods obtained in the territory of one or more of the Parties from live animals;

(d) goods obtained from hunting, trapping, fishing, or aquaculture conducted in the territory of one or more of the Parties;

(e) minerals and other natural resources not included in subparagraphs (a) through (d) extracted or taken from the territory of one or more of the Parties;

(f) fish, shellfish, and other marine life taken from the sea, seabed, or subsoil outside the territory of one or more of the Parties 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 (f), 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 subsoil outside territorial waters, provided that a Party has rights to exploit such seabed or subsoil;

(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) manufacturing or processing operations in the territory of one or more of the Parties, or

  (ii) used goods collected in the territory of one or more of the Parties, provided such goods are fit only for the recovery of raw materials;

(k) recovered goods derived in the territory of one or more of the Parties from used goods, and utilized in the territory of one or more of the Parties in the production of remanufactured goods; and

(l) goods produced in the territory of one or more of the Parties exclusively from goods referred to in subparagraphs (a) through (j), or from their derivatives, at any stage of production;

identical goods means "identical goods" as defined in the Customs Valuation Agreement;

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 good;

(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;

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

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

model line means a group of motor vehicles having the same platform or model name;

net cost means total cost minus sales promotion, marketing, and after-sales service costs, royalties, shipping and packing costs, and non-allowable interest costs that are included in the total cost;

net cost of the good means the net cost that can be reasonably allocated to the good under one of the following methods:

(a) by calculating the total cost incurred with respect to all goods produced by that producer, subtracting any sales promotion, marketing and after-sales service costs, royalties, shipping and packing costs, and non-allowable interest costs that are included in the total cost of all such goods, and then reasonably allocating the resulting net cost of those goods to the good;

(b) calculating the total cost incurred with respect to all goods produced by that producer, reasonably allocating the total cost to the good, and then subtracting any sales promotion, marketing and after-sales service costs, royalties, shipping and packing costs, and non-allowable interest costs that are included in the portion of the total cost allocated to the good; or

(c) reasonably allocating each cost that forms part of the total cost incurred with respect to the good so that the aggregate of these costs does not include any sales promotion, marketing, and after-sales service costs, royalties, shipping and packing costs, and non-allowable interest costs,

provided that the allocation of all such costs is consistent with the provisions regarding the reasonable allocation of costs set out in Generally Accepted Accounting Principles;

non-allowable interest costs means interest costs incurred by a producer that exceed 700 basis points above the yield on debt obligations of comparable maturities issued by the central level of government of the Party in which the producer is located;

non-originating good or **non-originating material** means a good or material that is not 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;

reasonably allocate means to apportion in a manner appropriate under Generally Accepted Accounting Principles;

recovered goods means materials in the form of individual parts that are the result of: (a) the disassembly of used goods into individual parts; and (b) cleaning, inspecting, testing, or other processes as necessary for improvement to sound working condition;

remanufactured goods means goods classified under Harmonized System chapter 84, 85, or 87 or heading 90.26, 90.31, or 90.32, except goods classified under heading 84.18 or 85.16, that:

(a) are entirely or partially comprised of recovered goods; and

(b) have a similar life expectancy and enjoy a factory warranty similar to such a new good;

total cost means all product costs, period costs, and other costs for a good incurred in the territory of one or more of the Parties;

used means used or consumed in the production of goods; and

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

Annex 4.6

Exceptions to Article 4.6

Article 4.6 shall not apply to:

(a) a non-originating material classified under chapter 4 of the Harmonized System, or a non-originating dairy preparation containing over ten percent by weight of milk solids classified under subheading 1901.90 or 2106.90, that is used in the production of a good classified under chapter 4 of the Harmonized System;

(b) a non-originating material classified under chapter 4 of the Harmonized System, or a non-originating dairy preparation containing over ten percent by weight of milk solids classified under subheading 1901.90, that is used in the production of the following goods: infant preparations containing over ten percent in weight of milk solids classified under subheading 1901.10; mixes and doughs, containing over 25 percent by weight of butterfat, not put up for retail sale, classified under subheading 1901.20; dairy preparations containing over ten percent by weight of milk solids, classified under subheading 1901.90 or 2106.90; heading 21.05; beverages containing milk classified under subheading 2202.90; or animal feeds containing over ten percent by weight of milk solids classified under subheading 2309.90;

(c) a non-originating material classified under heading 08.05 or subheadings 2009.11 through 2009.30 that is used in the production of a good classified under subheadings 2009.11 through 2009.30, or in fruit or vegetable juice of any single fruit or vegetable, fortified with minerals or vitamins, concentrated or unconcentrated, classified under subheading 2106.90 or 2202.90;

(d) a non-originating material classified under heading 09.01 or 21.01, that is used in the production of a good classified under heading 09.01 or 21.01;

(e) a non-originating material classified under heading 10.06 that is used in the production of a good classified under heading 11.02 or 11.03 or subheading 1904.90;

(f) a non-originating material classified under chapter 15 of the Harmonized System that is used in the production of a good classified under chapter 15 of the Harmonized System;

(g) a non-originating material classified under heading 17.01 that is used in the production of a good classified under heading 17.01 through 17.03;

(h) a non-originating material classified under chapter 17 of the Harmonized System that is used in the production of a good classified under subheading 1806.10; or

(i) except as provided under subparagraph (a) through (h) and in the specific rules of origin under Annex 4.1, a non-originating material used in the production of a good classified under chapter 1 through 24 of the Harmonized System unless the non-originating material is classified under a different subheading than the good for which origin is being determined.

Chile

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

U.S. / Israel Free Trade Agreement
ANNEX 3
[Rules of Origin]

1. This Agreement shall apply to any article if:

   (a) that article is wholly the growth, product, or manufacture of a party or is a new or different article of commerce that has been grown, produced, or manufactured in a Party;

   (b) that article is imported directly from one Party into the other Party; and

   (c) the sum of

      (i) the cost or value of the materials produced in the exporting Party, plus

      (ii) the direct costs of processing operations performed in the exporting Party is not less than 35 percent of the appraised value of the article at the time it is entered into the other Party.

2. No article shall be considered a new or different article of commerce under this Agreement and no material shall be eligible for inclusion as domestic content under this Agreement by virtue of having merely undergone (1) simple combining or packaging operations or (2) mere dilution with water or with another substance that does not materially alter the characteristics of the article or material.

3. For the purposes of this Agreement, the expression "wholly the growth, product, or manufacture of a Party" refers both to any article which has been entirely grown, produced, or manufactured in a Party and to all materials incorporated in an article which have been entirely grown, produced, or manufactured in a Party, as distinguished from articles or materials imported into a Party from a non-participating country, whether or not such articles or materials were substantially transformed into new or different articles of commerce after their importation into the Party.

4. For the purposes of this Agreement, "country of origin" requires that an article or material, not wholly the growth, product, or manufacture, of a Party, be substantially transformed into a new and different article of commerce, having a new name, character, or use, distinct from the article or material from which it was so transformed.

5. For purposes of determining the 35 percent domestic content requirement under this Agreement, the cost or value of materials which are used in the production of an article in one Party, and which are products of the other Party, may be counted in an amount up to 15 percent of the appraised value of the article. Such materials must in fact be products of the importing Party under the country of origin criteria set forth in this Agreement.

6. (a) For the purposes of this Agreement, the cost or value of materials produced in a Party includes:

      (i) The manufacturer's actual cost for the materials;

(ii) When not included in the manufacturer's actual cost for the materials, the freight, insurance, packing, and all other costs incurred in transporting the materials to the manufacturer's plant

(iii) The actual cost of waste or spoilage (material list), less the value of recoverable scrap; and

(iv) Taxes and/or duties imposed on the materials by a Party, provided they are not remitted upon exportation.

(b) Where a material is provided to the manufacturer without charge, or at less than fair market value, its cost or value shall be determined by computing the sum of:

(i) All expenses incurred in the growth, production, or manufacture of the material, including general expenses;

(ii) An amount for profit; and

(iii) Freight, insurance, packing, and all other costs incurred in transporting the material to the manufacturer's plant. If the pertinent information needed to compute the cost or value of a material is not available, the appraising officer may ascertain or estimate the value thereof using all reasonable ways and means at his disposal.

7. For the purposes of this Agreement, direct costs of processing operations performed in a Party mean those costs either directly incurred in, or which can be reasonably allocated to, the growth, production, manufacture, or assembly, of the specific article under consideration. Such costs include, but are not limited to the following, to the extent that they are includible in the appraised value of articles imported into a Party:

(a) all actual labor costs involved in the growth, production, manufacture, or assembly, of the specific article, including fringe benefits, on-the-job training, and the cost of engineering, supervisory, quality control, and similar personnel;

(b) dies, molds, tooling and depreciation on machinery and equipment which are allocable to the specific article;

(c) research, development, design, engineering, and blueprint costs insofar as they are allocable to the specific article; and

(d) costs of inspecting and testing the specific article.

Those items that are not included as direct costs of processing operations are those which are not directly attributable to the articles under consideration or are not costs of manufacturing the product. These include, but are not limited to:

(i) profit; and

(ii) general expenses of doing business which are either not allocable to the specific article or are not related to the growth, production, manufacture, or assembly, of the article, such as administrative salaries, casualty and liability insurance, advertising, and salesmen's salaries, commissions, or expenses.

8. For the purposes of this Agreement, "imported directly" means:

(a) direct shipment from one Party into the other Party without passing through the territory of any intermediate country; or

(b) if shipment is through the territory of an intermediate country, the articles in the shipment do not enter into the commerce of any intermediate country and the invoices, bills of lading, and other shipping documents, show the other Party as the final destination; or

(c) if shipment is through an intermediate country and the invoices and other documents do not show the other Party as the final destination, then the articles in the shipment, upon arrival in that Party, are imported directly only if they

(i) remain under the control of the customs authority in an intermediate country;

(ii) do not enter into the commerce of an intermediate country except for the purpose of a sale other than at retail, provided that the articles are imported as a result of the original commercial transaction between the importer and the producer or the latter's sales agent;

(iii) have not been subjected to operations other than loading and unloading, and other activities necessary to preserve the article in good condition; and

(iv) comply with the origin requirements for articles exported to a Party from the other Party under this Agreement as stated in the documents required under the certification procedure.

9. All articles entered under this Agreement shall be documented by a certificate, specimens of which are given in the attachment to this Annex, signed by the exporter to be completed in accordance with the rules specified in the certificate. The certificate should contain sufficient information to identify the articles described on the certificate as the articles to be exported and a statement as to the percentage of value added in a Party and that the articles comply with the country of origin requirements set forth in this Agreement. The certificate will be presented to the Customs authorities of the importing Party in accordance with its internal regulations.

Notwithstanding the above, either Party may waive production of the certificate on a case by case basis for articles imported into such Party and for which the benefits of this Agreement are claimed, if the Party is otherwise satisfied that the imported articles comply with the country of origin requirements set forth in this Agreement.

The exporter or person signing the certificate of origin shall be prepared to submit a declaration setting forth all pertinent details, concerning the production or manufacture of the articles, which were used to prepare the certificate of origin. The information on the declaration should contain at least the following pertinent details:

A. a description of the article, quantity, numbers and marks of packages, invoice numbers, and bills of lading;

B. a description of the operations performed in the production of the article in a Party and identification of the direct costs of processing operations;

C. a description of any materials used in production of the article which are wholly the growth, product, or manufacture of either Party, and a statement as to the cost or value of such materials;

D. a description of the operations performed on, and a statement as to the origin and cost or value of, any foreign materials used in the article which are claimed to have been sufficiently processed in a Party so as to be materials produced in that Party; and

E. a description of the origin and cost or value of any foreign materials used in the article which have not been substantially transformed in a Party.

This declaration shall be prepared and submitted upon request by a Party. A declaration should only be requested when a Party has reason to question the accuracy of the statements on a certificate of origin, or when a Party randomly verifies certificates of origin.

10. In order to further the administration of this Agreement, the Parties agree to assist each other in obtaining information for the purpose of reviewing transactions made under this Agreement in order to verify compliance with the conditions set forth in this Agreement.

11. The Parties will consult from time to time on the interpretation of these provisions and on practical problems which may arise with a view to prevent unnecessary barriers to trade which are inconsistent with the objectives of this Agreement. In this connection, amendments of the present rules could be proposed.

Jordan

RULES OF ORIGIN

1. This Agreement shall apply to any article if:

(a) that Article is wholly the growth, product or manufacture of a Party or is a new or different article of commerce that has been grown, produced, or manufactured in a Party;

(b) that article is imported directly from one Party into the other Party; and

(c) the sum of (i) the cost or value of the materials produced in the exporting Party, plus (ii) the direct costs of processing operations performed in the exporting Party is not less than 35 percent of the appraised value of the article at the time it is entered into the other Party.

2. No article shall be considered a new or different article of commerce under this Agreement and no material shall be eligible for inclusion as domestic content under this Agreement by virtue of having merely 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 article or material.

3. For purposes of this Agreement, the expression "wholly the growth, product, or manufacture of a Party" refers both to any article which has been entirely grown, produced, or manufactured in a Party and to all materials incorporated in an article which have been entirely grown, produced, or manufactured in a Party, as distinguished from articles or materials imported into a Party from a non-participating country, whether or not such articles or materials were substantially transformed into new or different articles of commerce after their importation into the Party.

4. For the purposes of this Agreement, "country of origin" requires that an article or material, not wholly the growth, product, or manufacture of a Party, be substantially transformed into a new and different article of commerce, having a new name, character, or use distinct from the article or material from which it was so transformed.[1]

5. For purposes of determining the 35 percent domestic content requirement under this Agreement, the cost or value of materials which are used in the production of an article in one Party, and which are products of the other Party, may be counted in an amount up to 15 percent of the appraised value of the article. Such materials must in fact be products of the importing Party under the country of origin criteria set forth in this Agreement.

6. (a) For purposes of this Agreement, the cost or value of materials produced in a Party includes:

(i) The manufacturer's actual cost for the materials,

(ii) When not included in the manufacturer's actual cost for the materials, the freight, insurance, packing, and all other costs incurred in transporting the materials to the manufacturer's plant,

(iii) The actual cost of waste or spoilage (material list), less the value of recoverable scrap, and

[1] For the purposes of this Agreement, the processing of goods imported under Harmonized Commodity Description and Coding System (HS) subheading 0805 into goods classified under HS subheadings 2009.11 through 2009.30 does not satisfy the requirements of paragraph 1(a).

(iv) Taxes and/or duties imposed on the materials by a Party, provided they are not remitted upon exportation.

(b) Where a material is provided to the manufacturer without charge, or at less than fair market value, its cost or value shall be determined by computing the sum of:

i. All expenses incurred in the growth, production, or manufacture of the material, including general expenses,

ii. an amount for profit, and

iii. Freight, insurance, packing, and all other costs incurred in transporting the material to the manufacturer's plant.

(c) If the pertinent information is not available, the appraising officer may ascertain or estimate the value thereof using all reasonable ways and means at his disposal.

7. Direct costs of processing operations

(a) For purposes of this Agreement, direct costs of processing operations performed in a Party mean those costs either directly incurred in, or which can be reasonably allocated to, the growth, production, manufacture, or assembly, of the specific article under consideration. Such costs include, but are not limited to the following, to the extent that they are includible in the appraised value of articles imported into a Party:

(i) all actual labor costs involved in the growth, production, manufacture, or assembly, of the specific article, including fringe benefits, on-the-job training, and the cost of engineering, supervisory, quality control, and similar personnel;

(ii) dies, molds, tooling and depreciation on machinery and equipment which are allocable to the specific article;

(iii) research, development, design, engineering, and blueprint costs insofar as they are allocable to the specific article; and

(iv) costs of inspecting and testing the specific article.

(b) Those items that are not included as direct costs of processing operations are those which are not directly attributable to the articles or are not costs of manufacturing the product. These include, but are not limited to:

(i) profit; and

(ii) general expenses of doing business which are either not allocable to the specific article or are not related to the growth, production, manufacture, or assembly of the article, such as administrative salaries, casualty and liability insurance, advertising, and salesmen's salaries, commissions, or expenses.

8. For purposes of this Agreement, "imported directly" means:

(a) direct shipment from one Party into the other Party without passing through the territory of any intermediate country; or

(b) if shipment is through the territory of an intermediate country, the articles

in the shipment do not enter into the commerce of any intermediate country and the invoices, bills of lading, and other shipping documents, show the other Party as the final destination, or

(c) if shipment is through an intermediate country and the invoices and other documents do not show the other Party as the final destination, then the articles in the shipment, upon arrival in that Party are imported directly only if they

(i) remain under the control of the customs authority in an intermediate country;

(ii) do not enter into the commerce of an intermediate country except for the purpose of a sale other than at retail, provided that the articles are imported as a result of the original commercial transaction between the importer and the producer or the producer's sales agent; and

(iii) have not been subjected to operations other than loading and unloading, and other activities necessary to preserve the article in good condition.

9. Textile and apparel products

(a) General rule. A textile or apparel product shall be considered to be wholly the growth, product or manufacture of a Party, or a new or different article of commerce that has been grown, produced, or manufactured in a Party; only if

(i) the product is wholly obtained or produced in a Party;

(ii) the product is a yarn, thread, twine, cordage, rope, cable, or braiding, and,

(1) the constituent staple fibers are spun in that Party, or

(2) the continuous filament is extruded in that Party;

(iii) the product is a fabric, including a fabric classified under chapter 59 of the Harmonized Commodity Description and Coding System, and the constituent fibers, filaments, or yarns are woven, knitted, needled, tufted, felted, entangled, or transformed by any other fabric-making process in that Party; or

(iv) the product is any other textile or apparel product that is wholly assembled in that Party from its component pieces.

(b) Special rules.

(i) Notwithstanding subparagraph (a)(iv), and except as provided in subparagraphs (b)(iii) and (b)(iv), whether this Agreement shall apply to a good that is classified under one of the following HTS headings or subheadings shall be determined under subparagraphs (i), (ii), or (iii) of subparagraph (a), as appropriate: 5609, 5807, 5811, 6209.20.50.40, 6213, 6214, 6301, 6302, 6304, 6305, 6306, 6307.10, 6307.90, 6308, or 9404.90.

(ii) Notwithstanding subparagraph (a)(iv), and except as provided in subparagraphs (b)(iii) and (b)(iv), this Agreement shall apply to a textile or apparel product which is knit to shape in a Party.

(iii) Notwithstanding subparagraph (a)(iv), this Agreement shall apply to goods classified under HTS heading 6117.10, 6213.00, 6214.00, 6302.22,

6302.29, 6302.52, 6302.53, 6302.59, 6302.92, 6302.93, 6302.99, 6303.92, 6303.99, 6304.19, 6304.93, 6304.99, 9404.90.85, or 9404.90.95, except for goods classified under such headings as of cotton or of wool or consisting of fiber blends containing 16 percent or more by weight of cotton, if the fabric in the goods is both dyed and printed, when such dyeing and printing is accompanies by 2 or more of the following finishing operations: bleaching, shrinking, fulling, napping, decating, permanent stiffening, weighting, permanent embossing, or moireing.

(iv) Notwithstanding subparagraph (a)(iii), this Agreement shall apply to fabric classified under the HTS as of silk, cotton, man-made fiber, or vegetable fiber if the fabric is both dyed and printed in a Party, and such dyeing and printing is accompanied by 2 or more of the following finishing operations: bleaching, shrinking, fulling, napping, decating, permanent stiffening, weighting, permanent embossing, or moireing.

(c) Multicountry rule. If the application of this Agreement cannot be determined under subparagraphs (a) and (b), then this Agreement shall apply if

(i) the most important assembly or manufacturing process occurs in a Party, or

(ii) if the application of this Agreement cannot be determined under subparagraph (c)(i), the last important assembly or manufacturing occurs in a Party.

10. Whenever an importer enters an article as eligible for the preferential treatment provided by this Agreement –

(a) the importer shall be deemed to certify that such article qualifies for the preferential treatment provided by this Agreement.

(b) the importer shall be prepared to submit to the customs authorities of the importing country, upon request, a declaration setting forth all pertinent information concerning the production or manufacture of the article. The information on the declaration should contain at least the following pertinent details:

(i) a description of the article, quantity, numbers, and marks of packages, invoice numbers, and bills of lading;

(ii) a description of the operations performed in the production of the article in a Party and identification of the direct costs of processing operations;

(iii) a description of any materials used in production of the article which are wholly the growth, product, or manufacture of either Party, and a statement as to the cost or value of such materials;

(iv) a description of the operations performed on, and a statement as to the origin and cost or value of, any foreign materials used in the article which are claimed to have been sufficiently processed in a Party so as to be materials produced in that Party; and

(v) a description of the origin and cost or value of any foreign materials used in the article which have not been substantially transformed in a Party.

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 article 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.

11. In order to further the administration of this Agreement, the Parties agree to assist each other in obtaining information for the purpose of reviewing transactions made under this Agreement in order to verify compliance with the conditions set forth in this Agreement.

12. The Parties will consult from time to time on the interpretation of these provisions and on any practical problems which may arise with a view to prevent unnecessary barriers to trade which are inconsistent with the objectives of this Agreement. In this connection, amendments of the present rules could be proposed.

13. Within six months of the entry into force of this agreement, the Parties shall enter into discussions with a view to deciding the extent to which the cost or value of materials which are products of a territory contiguous to Jordan may be counted in the appraised value of the Article for purposes of determining the 35 percent content requirement under this Agreement.

Chapter 4: Substantial Transformation

"1. This Agreement shall apply to any article if:

(a) that article…is a new or different article of commerce that has been grown, produced, or manufactured in a Party

…

4. For the purposes of this Agreement, "country of origin" requires that an article or material, not wholly the growth, product or manufacture of a Party, be substantially transformed into a new and different article of commerce, having a new name, character or use distinct from the article or material from which it was so transformed."

Overview

4.1 The "substantial transformation" test is intended to identify the country of origin of an imported product when the product is manufactured in more than one country and/or incorporates materials, parts, or components from more than one country. More particularly, the test is intended to identify that country where the most significant manufacturing or processing operation took place; that is, the country in which the imported product was given its essential character.

4.2 Under the FTA, the origin of such a product is that country in which it was last substantially transformed into a new and different article of commerce with a name, character or use different from all foreign materials, parts, components used in its manufacture.

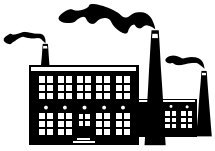
"Name, Character and Use" Test

4.3 Whether a product undergoes a change in name, character or use that is sufficient to constitute a substantial transformation is highly dependent upon the particular manufacturing operation involved. In all cases, it is a question of degree; the transformation or change to imported materials brought about by manufacturing or other processing must be "substantial." Over a number of years, U.S. Customs and the U.S. trade courts have developed general principles that can be used for guidance in applying this test. These are as follows:

New Name

4.4 A change in name requires a change in the commercial designation or commercial identity of the product. This might be shown by trade literature, catalogues, or brochures, for example.

U.S. Processing

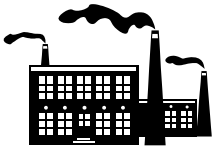
Materials Imported into the U.S. →  → Finished Product Exported to Jordan

4.5 Both Jordan and the United States use the Harmonized System as the basis for their respective tariff codes. The Harmonized System is a system of product classification based largely on commercial designation. Accordingly, a change in the tariff classification of a product (particularly at the 4-digit level) can be persuasive evidence of a change in name.

Shelled peanuts	→	Peanuts are roasted, blanched, split and ground into a paste. The paste is mixed with U.S.-origin paste and salt, sweeteners and stabilizers to create peanut butter.	→	Peanut Butter

! This is a substantial transformation. As a result of U.S. processing, the imported peanuts undergo a change in name, to peanut butter.

U.S. Processing

Materials Imported into the U.S. →  → Finished Product Exported to Jordan

Ceramic blank (undecorated) vase	→	Vase is hand painted with original design by U.S. artist	→	Vase

! This is NOT a substantial transformation. There is no change in name; the name of the imported material (vase) remains the same despite the U.S. processing.

4.6 Although the origin test is stated in the alternative (a change in name OR character OR use), in practice a change in name alone is generally not considered sufficient to constitute a substantial transformation. In practice,

it has been necessary to show that the change in name is accompanied by a change in character or use of the article.

New Character

4.7 A change in the character or use of the article as a result of a manufacturing or processing operation are generally considered the strongest indications of a substantial transformation.

4.8 A change of character requires that the manufacturing or processing operation results in a change to the physical aspects of a product, such as a change in its physical dimensions (*e.g.*, size, weight, shape), chemical composition, or physical qualities (*e.g.*, strength, hardness).

4.9 Cosmetic or surface changes, such as painting, cleaning, lacquering, zinc-plating, or waterproofing, which do not significantly affect the physical dimensions or qualities or chemical composition of the product, are usually not considered sufficient to constitute a substantial transformation.

Examples

1. A hand-carved totem pole imported from Indonesia is partially painted in the United States, and attached to a base. The totem pole is NOT substantially transformed as a result of the U.S. processing. The partial painting is a minor operation that does not change the physical identity of the imported article.
2. Gold-plating imported jewelry does not constitute a substantial transformation.

New Use

4.10 A change in use of an article will generally be considered sufficient to constitute a substantial transformation if the manufacturing or processing operation:

(1) changes a product that has one use into a product with a different use;

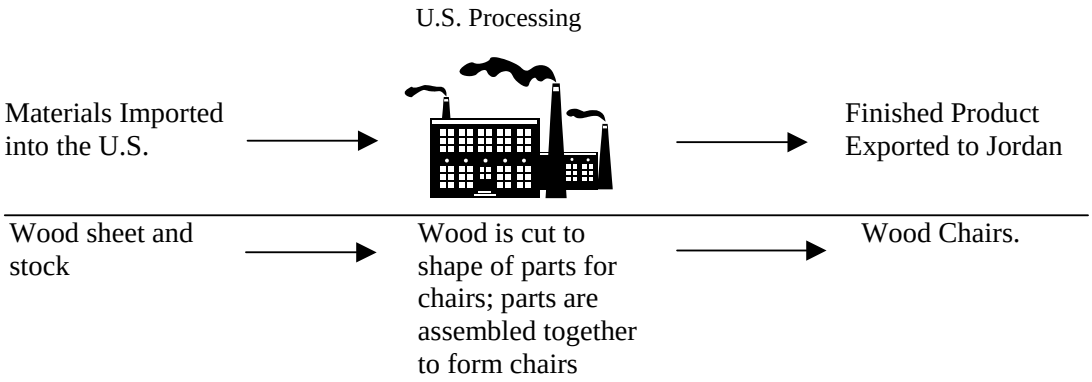
(2) changes a product with many potential uses into a product with one specific use; or

(3) narrows the range of possible uses of a multiple-use material or product.

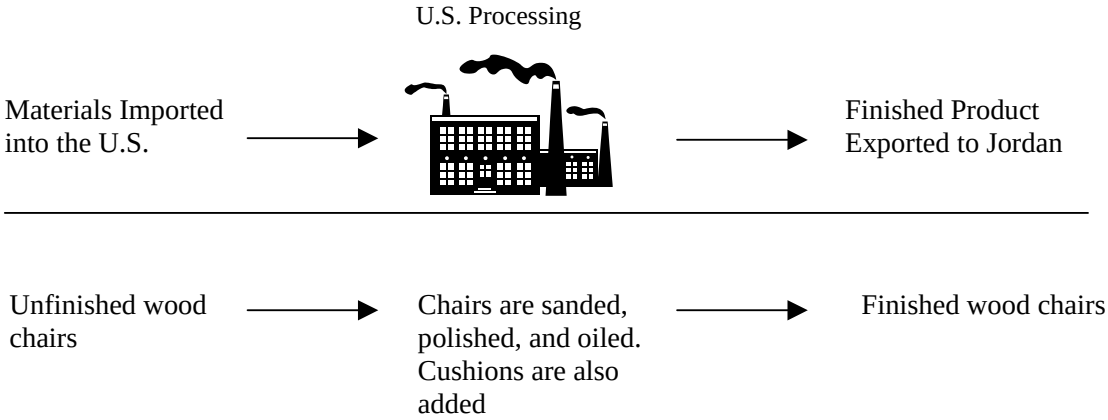
4.11 Cutting or bending a material (whether glass, steel or wood) to a defined shape or pattern is generally considered a change in use sufficient to constitute a substantial transformation. For example, cutting and shaping plywood sheet into furniture parts (drawers, cabinets, *etc*.) would be considered a substantial transformation. Similarly, cutting and shaping a glass sheet into the form of a windshield for a car would be considered a substantial transformation.

4.11.1 These are illustrations of the general principle that converting a multiple use article (a wood or glass sheet) into one suitable for a specific use (a furniture part or a windshield) will generally constitute a substantial transformation.

4.11.2 On the other hand, simply cutting a material to length or width is generally not considered a sufficient change in use. A material that is simply cut to length or width remains suitable for multiple uses. For example, cutting a steel pipe to a particular length would not be considered a substantial transformation; however, bending a steel pipe to a particular shape would be considered a substantial transformation.



! This is a substantial transformation. As a result of the U.S. processing, the imported wood has undergone a change in name (wood sheet and stock to "chair"), character (wood sheet has been cut and shaped to specific physical dimensions), and use (from a multi-use raw material to a product with a specific use).



- This is NOT a substantial transformation. The finished product has the same name as the imported material ('chair"); the operations performed do not significantly alter the physical dimensions or physical attributes of the imported chair; and the imported product does not undergo a change in use.

Assembly Operations

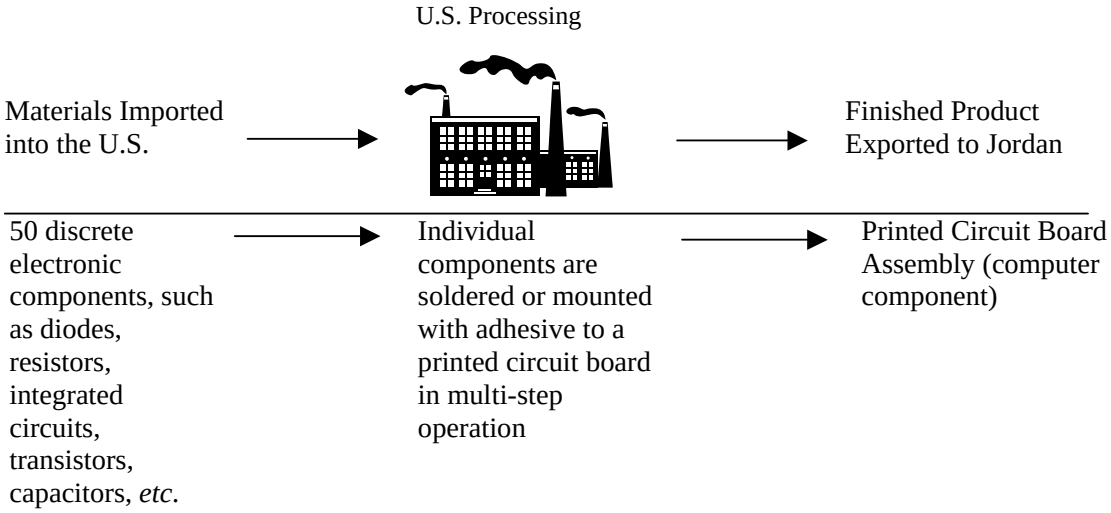
4.12 Some of the more difficult origin questions arise in connection with assembly operations. These are operations in which two or more components or subassemblies are joined to each other to form a new product. Examples of typical assembly operations might include assembly of wood parts to form chairs, tables or other furniture items; assembly of electronic components to form circuit boards for computers or other electronic appliances; or assembly of machines or vehicles from parts.

4.13 In some cases, an assembly may be simple but nevertheless result in an article with a new name, character or use. For example, the assembly of imported frames to U.S.-origin lenses may result in an article with a new identity – sunglasses – but this operation cannot be considered "substantial."

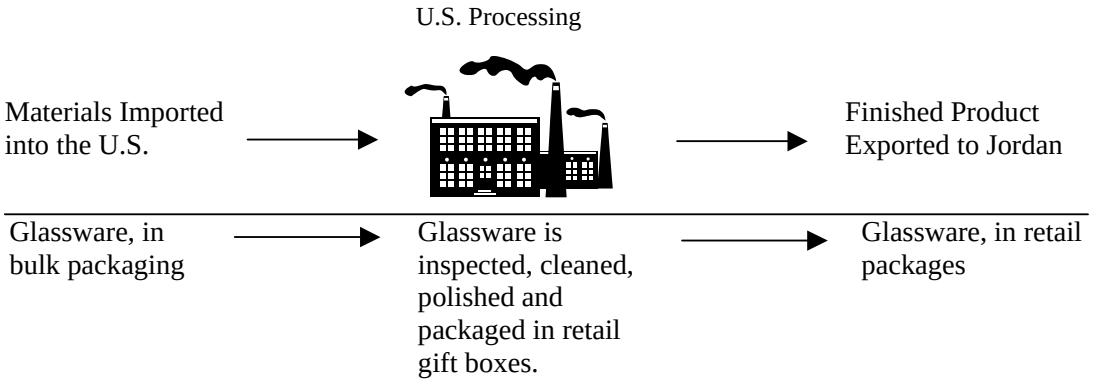
4.14 In U.S. Customs' practice, assembly operations will not result in a substantial transformation unless the operation is "complex and meaningful." Whether an operation is complex and meaningful depends upon the nature of the operation. The factors that might be considered include the time, cost and skill involved, the number of components assembled, the number of different operations, and attention to detail and quality control.

4.15 To ensure that simple assembly operations are not used to qualify goods under the Free Trade Agreement, Annex 2 of the Rules of Origin Annex provides:

> "2. No article shall be considered a new or different article of commerce under this agreement and no material shall be eligible for inclusion as domestic content under this Agreement by virtue of having merely 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 article or material."



! The U.S. processing substantially transforms of the imported components. The process involves considerable time to complete, a large number of components and a number of distinct skilled operations. The finished product (printed circuit board assembly) has a electronic function or use different than any of the individual components, as well as a different character and name.



! This is NOT a substantial transformation. The U.S. processing is a simple packaging operation that does not change the name, character or use of the glassware imported in bulk.

Requirement of a "New and Different Article of Commerce"

4.16 The importance of this requirement of a "new and different article of commerce" relates to the concept of "double substantial transformation." This will be discussed below (Chapter 7).

Origin of Citrus Juices

4.17 A footnote to Annex 2.2. provides:

> "For the purposes of this Agreement, the processing of goods imported under Harmonized Commodity Description and Coding System (HS) subheading 0805 into goods classified under HS subheadings 2009.11 through 2009.30 does not satisfy the requirements of [the substantial transformation test]."

4.18 Subheading 0805 of the Harmonized System is the tariff code for fresh citrus fruit (*i.e.*, oranges, lemons and limes, grapefruit). Subheadings 2009.11 through 2009.30 are the tariff codes for citrus juices.

4.19 Therefore, the meaning of this special rule is that the production of citrus juice from fruit may not be considered a substantial transformation. Accordingly, orange juice processed in the United States from Mexican-origin oranges, for example, would not qualify for duty-free treatment when exported to Jordan. In effect, the rule defines the country of origin of a citrus juice as the country where the fruit is grown.

Morocco
RULES OF ORIGIN

ARTICLE 5.1: ORIGINATING GOODS

Except as otherwise provided in this Chapter or Chapter Four (Textiles and Apparel), each Party shall provide that a good is an originating good where it is imported directly from the territory of one Party into the territory of the other Party, and

(a) it is a good wholly the growth, product, or manufacture of one or both of the Parties;

(b) for goods other than those covered by the rules in Annex 4-A or Annex 5-A , the good is a new or different article of commerce that has been grown, produced, or manufactured in the territory of one or both of the Parties; and the sum of (i) the value of materials produced in the territory of one or both of the Parties, plus (ii) the direct costs of processing operations performed in the territory of one or both of the Parties is not less than 35 percent of the appraised value of the good at the time it is imported into the territory of a Party; or

(c) for goods covered by the rules in Annex 4-A or Annex 5-A, the good has satisfied the requirements specified in that Annex.

ARTICLE 5.2: NEW OR DIFFERENT ARTICLE OF COMMERCE

For purposes of this Chapter, **new or different article of commerce** means a good that has been substantially transformed from a good or material that is not wholly the growth, product, or manufacture of one or both of the Parties and that has a new name, character, or use distinct from the good or material from which it was transformed.

ARTICLE 5.3: NON-QUALIFYING OPERATIONS

Each Party shall provide that, for purposes of Article 5.1, no good shall be considered a new or different article of commerce by virtue of having merely 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.

ARTICLE 5.4: CUMULATION

1. Each Party shall provide that direct costs of processing operations performed in one or both of the Parties as well as the value of materials produced in the territory of one or both of the Parties may be counted without limitation toward satisfying the 35 percent value-content requirement specified in Article 5.1(b).

2. Each Party shall provide that an originating good or a material produced in the territory of one or both of the Parties, incorporated into a good in the territory of the other Party, shall be considered to originate in the other Party.

3. Each Party shall provide that a good grown, produced, or manufactured in the territory of one or both of the Parties by one or more producers shall be an originating good, provided that it satisfies the requirements of Article 5.1 and all other applicable requirements in this Chapter and Chapter Four (Textiles and Apparel).

ARTICLE 5.5: VALUE OF MATERIALS

1. For purposes of this Chapter, each Party shall provide that the value of a material produced in the territory of one or both of the Parties includes:

(a) the price actually paid or payable by the producer of the good for the material;

(b) when not included in the price actually paid or payable by the producer of the good for the material, the freight, insurance, packing, and all other costs incurred in transporting the material to the producer's plant;

(c) the cost of waste or spoilage, less the value of recoverable scrap; and

(d) taxes or customs duties imposed on the material by one or both of the Parties, provided the taxes or customs duties are not remitted on exportation.

2. Each Party shall provide that 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 paragraph 1 is otherwise not applicable, the value of the material produced in the territory of one or both of the Parties includes:

(a) all expenses incurred in the growth, production, or manufacture of the material, including general expenses;

(b) a reasonable amount for profit; and

(c) freight, insurance, packing, and all other costs incurred in transporting the material to the producer's plant.

ARTICLE 5.6: DIRECT COSTS OF PROCESSING OPERATIONS

1. For purposes of this Chapter, **direct costs of processing operations** means those costs either directly incurred in, or that can be reasonably allocated to, the growth, production, or manufacture of the good. Such costs include the following, to the extent that they are includable in the appraised value of goods imported into the territory of a Party:

(a) all actual labor costs involved in the growth, production, or manufacture of the specific good, including fringe benefits, on-the-job training, and the costs of engineering, supervisory, quality control, and similar personnel;

(b) tools, dies, molds, and other indirect materials, and depreciation on machinery and equipment that are allocable to the specific good;

(c) research, development, design, engineering, and blueprint costs, to the extent that they are allocable to the specific good;

(d) costs of inspecting and testing the specific good; and

(e) costs of packaging the specific good for export to the territory of the other Party.

2. For greater certainty, costs that are not included as direct costs of processing operations are those that are not directly attributable to the good or are not costs of growth, production, or manufacture of the good. These include:

(a) profit; and

(b) general expenses of doing business that are either not allocable to the good or are not related to the growth, production, or manufacture of the good, such as administrative salaries, casualty and liability insurance, advertising, and salesmen's salaries, commissions, or expenses.

ARTICLE 5.7: PACKAGING AND PACKING MATERIALS AND CONTAINERS FOR RETAIL SALE AND FOR SHIPMENT

Each Party shall provide that 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, except to the extent that the value of such packaging and packing materials and containers may be counted toward satisfying the 35 percent value-content requirement specified in Article 5.1(b), where applicable.

ARTICLE 5.8: INDIRECT MATERIALS

Each Party shall provide that indirect materials shall be disregarded in determining whether the good qualifies as an originating good, except that the cost of such indirect materials may be counted toward satisfying the 35 percent value-content requirement where applicable.

ARTICLE 5.9: TRANSIT AND TRANSSHIPMENT

For purposes of this Chapter, each Party shall provide that a good shall not be considered to be imported directly from the territory of the other Party if the good undergoes subsequent production, manufacturing, 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 the other Party.

ARTICLE 5.10: IMPORTER REQUIREMENTS

Each Party shall provide that whenever an importer makes a claim for preferential tariff treatment for a good, the importer:

(a) shall be deemed to have certified that the good qualifies for preferential tariff treatment; and

(b) shall submit to the customs authority of the importing Party, on request, a

signed declaration setting forth all pertinent information concerning the growth, production, or manufacture of the good. Each Party may require that the declaration contain at least the following details:

(i) a description of the good, quantity, numbers, and invoice numbers and bills of lading;

(ii) a description of the operations performed in the growth, production, or manufacture of the good in the territory of one or both of the Parties and, where applicable, identification of the direct costs of processing operations;

(iii) a description of any materials used in the growth, production, or manufacture 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 materials used in the good that are claimed to have been sufficiently processed in the territory of one or both of the Parties so as to be materials produced in the territory of one or both of the Parties, or are claimed to have undergone an applicable change in tariff classification specified in Annex 4-A or Annex 5-A; and

(v) a description of the origin and value of any foreign materials used in the good that are not claimed to have been substantially transformed in the territory of one or both of the Parties, or are not claimed to have undergone an applicable change in tariff classification specified in Annex 4-A or Annex 5-A.

The importing Party should request a declaration only when that Party has reason to question the accuracy of a deemed certification referred to in subparagraph (a), when that Party's risk assessment procedures indicate that verification of an entry is appropriate, or when the Party conducts a random verification. The importer shall retain the information necessary to prepare the declaration for five years from the date of importation of the good.

ARTICLE 5.11: OBLIGATIONS RELATING TO IMPORTATION

1. Each Party shall grant any claim for preferential tariff treatment, unless the Party possesses information indicating that the importer's claim fails to comply with any requirement under this Chapter or Chapter Four (Textiles and Apparel).

2. To determine whether a good imported into its territory qualifies for preferential tariff treatment, the importing Party may, through its customs authority, verify the origin.

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. Nothing in this Article shall prevent a Party from taking action under Article 4.4 (Customs and Administrative Cooperation).

ARTICLE 5.12: 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 objectives of this Agreement.

2. The Parties may establish *ad hoc* working groups, or a subcommittee of the Joint Committee established pursuant to Article 19.2 (Joint Committee), to consider any matter related to this Chapter (including Annex 5-A). On request of a Party, the Parties may direct a working group or subcommittee to review operation of this Chapter (including Annex 5-A) and develop recommendations for amending them in the light of pertinent developments, including changes in technology and production processes, and other relevant factors.

ARTICLE 5.13: REGIONAL CUMULATION

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 5.14: DEFINITIONS

For purposes of this Chapter:

foreign material means a material other than a material produced in the territory of one or more of the Parties;

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;

(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 (f) 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 or manufacture 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 goods; and

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

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 good;

(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 growth, production, or manufacture 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;

material produced in the territory of one or both of the Parties means a good that is either wholly the growth, product, or manufacture of one or both of the Parties, or a new or different article of commerce that has been grown, produced, or manufactured in the territory of 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;

remanufactured goods means industrial goods assembled in the territory of a Party that: (1) are entirely or partially comprised of recovered goods; (2) have similar life expectancies and meet similar performance standards as new goods; and (3) enjoy similar factory warranties as new goods;

simple combining or packaging operations means operations such as adding batteries to electronic devices, fitting together a small number of components by bolting, gluing, or soldering, or packing or repacking components together; and

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

Morocco

TEXTILES AND APPAREL

ARTICLE 4.1: TARIFF ELIMINATION

1. Except as otherwise provided in this Agreement, each Party shall eliminate its customs duties on originating textile and apparel goods in accordance with its Schedule to Annex IV (Tariff Elimination).

2. Duties on originating textile and apparel goods provided for in the items in staging category A in a Party's Schedule shall be eliminated entirely and such goods shall be duty-free on the date this Agreement enters into force.

3. Duties on originating textile and apparel goods provided for in the items in staging category D in a Party's Schedule shall be reduced to 50 percent of that Party's base rate of duty on January 1 of year one. Beginning January 1 of year two, duties shall be removed in five equal annual stages, and such goods shall be duty-free, effective January 1 of year six.

4. Duties on originating textile and apparel goods provided for in the items in staging category F in a Party's Schedule shall be removed in nine equal annual stages beginning January 1 of year one, and such goods shall be duty-free, effective January 1 of year nine.

5. Duties on originating textile and apparel goods provided for in the items in staging category H in a Party's Schedule shall be removed in ten stages. On January 1 of year one, duties shall be reduced by three percent of that Party's base rate, and by an additional three percent of the base rate on January 1 of each year thereafter through year four. Beginning January 1 of year five, duties shall be removed in six equal annual stages, and such goods shall be duty-free, effective January 1 of year ten.

6. The United States shall eliminate customs duties on any originating textile or apparel goods that, after the date of entry into force of this Agreement, are designated as articles eligible for duty-free treatment under the U.S. *Generalized System of Preferences*, effective from the date of such designation.

7. On the date of entry into force of this Agreement, each Party shall provide that the originating apparel goods specified in Annex 4-B shall be duty-free, up to the annual quantities identified therein. Duties on originating apparel goods specified in Annex 4-B above those quantities shall be reduced as provided for in paragraph 3.

8. An importing Party, through its competent authorities, shall require an importer claiming duty-free treatment for an originating apparel good listed in Annex 4-B to present to the competent authorities at the time of entry a declaration that it is entitled to duty-free treatment in accordance with paragraph 7 and Annex 4-B. The importing Party shall not be required to provide duty-free treatment if an importer does not provide such a declaration. An exporting Party may require the exporter to prepare a declaration of eligibility for duty-free treatment in order to administer the annual quantities listed in Annex 4-B.

9. On the request of either Party, the Parties shall consult to consider accelerating the elimination of customs duties, and to consider increasing the annual quantities listed in Annex 4-B. An agreement by the Parties to accelerate the elimination of a customs duty or to adjust the annual quantities listed in Annex 4-B shall supersede any duty rate, staging category, or annual quantity determined pursuant to this Agreement when approved by each Party in accordance with its applicable legal procedures.

ARTICLE 4.2: SPECIAL TEXTILE AND APPAREL SAFEGUARD ACTIONS

1. If, as a result of the reduction or elimination of a duty under this Agreement, a textile or apparel good benefiting from preferential tariff treatment under this Agreement is being imported into the territory of a Party in such increased quantities, in absolute terms or relative to the domestic market for that good, and under such conditions as to cause serious damage, or actual threat thereof, to a domestic industry producing a like or directly competitive good, the Party may, to the extent and for such time as may be necessary to prevent or remedy such damage and to facilitate adjustment, increase the rate of duty on the good to a level not to exceed the lesser of:

(a) the most-favored-nation ("MFN") applied rate of duty in effect at the time the action is taken; and

(b) the MFN applied rate of duty in effect on the date of entry into force of this Agreement.

2. In determining serious damage, or actual threat thereof, the importing Party:

(a) shall examine the effect of increased imports of the good from the exporting Party on the particular industry, as reflected in changes in such relevant economic variables as output, productivity, utilization of capacity, inventories, market share, exports, wages, employment, domestic prices, profits, and investment, none of which shall necessarily be decisive; and

(b) shall not consider changes in technology or consumer preference as factors supporting a determination of serious damage or actual threat thereof.

3. The importing Party may take a safeguard action under this Article only following an investigation by its competent authorities.

4. The importing Party shall deliver to the exporting Party, without delay, written notice of its intent to take a safeguard action and, on the request of the exporting Party, shall enter into consultations with that Party regarding the matter.

5. An importing Party:

(a) shall not maintain a safeguard action for a period exceeding three years, except that the Party may extend the period by up to two years if the Party's competent authorities determine, in conformity with the procedures set out in paragraphs 3 and 4, that the action continues to be necessary to prevent or remedy serious damage and to facilitate adjustment by the domestic industry, and that there is evidence that the industry is adjusting;

(b) shall not take or maintain a safeguard action against a good beyond ten years after the Party must eliminate customs duties on that good pursuant to this Agreement;

(c) shall not take a safeguard action more than once against the same good of the other Party; and

(d) shall, on termination of the safeguard action, apply to the good that was subject to the safeguard action the rate of duty that would have been in effect but for the action.

6. The importing Party shall provide to the exporting Party mutually agreed trade liberalizing compensation in the form of concessions having substantially equivalent trade effects or equivalent to the value of the additional duties expected to result from the safeguard action. Such concessions shall be limited to textile and apparel goods, unless the Parties agree otherwise. If the Parties are unable to agree on compensation, the exporting Party may suspend tariff concessions under this Agreement having trade effects substantially equivalent to the trade effects of the safeguard action. Such tariff action may be taken against any goods of the exporting Party. The exporting Party shall apply the tariff action only for the minimum period necessary to achieve the substantially equivalent trade effects. The importing Party's obligation to provide trade compensation and the exporting Party's right to take tariff action shall terminate when the safeguard action terminates.

7. Nothing in this Agreement shall be construed to limit a Party's right to restrain imports of textile and apparel goods in a manner consistent with the Agreement on Textiles and Clothing or the Safeguards Agreement. However, a Party may not take or maintain a safeguard action under this Article against a textile or apparel good that is subject, or becomes subject, to a safeguard measure that a Party takes pursuant to either such agreement.

ARTICLE 4.3: RULES OF ORIGIN AND RELATED MATTERS

Application of Chapter Five

1. Except as provided in this Chapter, including its Annexes, Chapter Five (Rules of Origin) applies to textile and apparel goods.

2. For greater certainty, the rules of origin set forth in this Agreement shall not apply in determining the country of origin of a textile or apparel good for non-preferential purposes.

Consultations

3. On the request of either Party, the Parties shall consult to consider whether the rules of origin applicable to a particular textile or apparel good should be revised to address issues of availability of supply of fibers, yarns, or fabrics in the territories of the Parties.

4. In the consultations referred to in paragraph 3, each Party shall consider all data presented by the other Party that demonstrate substantial production in its territory of a particular fiber, yarn, or fabric. The Parties shall consider that there is substantial production if a Party demonstrates that its domestic producers are capable of supplying commercial quantities of the fiber, yarn, or fabric in a timely manner.

5. On request of an exporting Party, the Parties shall consult to consider revising the rules of origin applicable to originating textile and apparel goods described in HS 6207, 6208, and 6212, with a view to furthering the objectives of the Agreement, if:

(a) at any time beginning one year after the date of entry into force of this Agreement, the requesting Party's annual exports of such goods to the other Party are not significantly higher than its annual exports of such goods before the date of entry into force of this Agreement, or

(b) at any time after this Agreement enters into force, either Party enters into an agreement that establishes a rule of origin for such goods that differs from the rule of origin provided for under this Agreement.

6. The Parties shall endeavor to conclude the consultations referred to in paragraphs 3 and 5 within 60 days after delivery of a request. If the Parties agree in the consultations to revise a rule of origin, the agreement shall supersede that rule of origin when approved by the Parties in accordance with Article 22.2 (Amendments).

De Minimis

7. A textile or apparel good that is not an originating good because certain fibers or yarns used in the production of the component of the good that determines the tariff classification of the good do not undergo an applicable change in tariff classification set out in Annex 4-A, shall nonetheless be considered to be an originating good if the total weight of all such fibers or yarns in that component is not more than seven percent of the

total weight of that component.[1] Notwithstanding the preceding sentence, a good containing elastomeric yarns in the component of the good that determines the tariff classification of the good shall be considered to be an originating good only if such yarns are wholly formed in the territory of a Party.

Treatment of Sets

8. Notwithstanding the specific rules of origin set out in Annex 4-A, textile or apparel goods classified under General Rule of Interpretation 3 of the Harmonized System as goods put up in sets for retail sale shall not be regarded as originating goods unless each of the goods in the set is an originating good or the total value of the non-originating goods in the set does not exceed 10 percent of the value of the set determined for purposes of assessing customs duties.

Preferential Tariff Treatment for Non-Originating Fabric and Apparel Goods (Tariff Preference Levels)

9. Subject to paragraph 11, each Party shall accord preferential tariff treatment to fabric goods provided for in Chapters 51, 52, 54, 55, 58, and 60 of the Harmonized System that are wholly formed in the territory of a Party, regardless of the origin of the fiber or yarn used to produce the goods, and that meet the applicable conditions for preferential tariff treatment under this Agreement other than the condition that they be originating goods.

10. Subject to paragraph 11, each Party shall accord preferential tariff treatment to apparel goods provided for in Chapters 61 and 62 of the Harmonized System that are cut or knit to shape, or both, and sewn or otherwise assembled in the territory of a Party, regardless of the origin of the fabric or yarn used to produce the goods, and that meet the applicable conditions for preferential tariff treatment under this Agreement other than the condition that they be originating goods.

11. A Party shall accord preferential tariff treatment to the goods described in paragraphs 9 and 10 up to the combined annual quantities specified in the following schedule:

[1] For greater certainty, when the good is a yarn, fabric, or group of fibers, the "component of the good that determines the tariff classification of the good" is all of the fibers in the yarn, fabric, or group of fibers.

Year Following Date of Entry into Force of his Agreement	Combined Annual Quantities in Square Meters Equivalent
Year One:	30,000,000
Year Two:	30,000,000
Year Three:	30,000,000
Year Four:	30,000,000
Year Five:	25,714,0000
Year Six:	21,428,000
Year Seven:	17,142,000
Year Eight:	12,856,000
Year Nine:	8,571,000
Year Ten:	4,285,000

12. An importing Party, through its competent authorities, may require that an importer claiming preferential tariff treatment for a fabric or apparel good under paragraph 9 or 10 present to the competent authorities at the time of entry a declaration of eligibility for preferential tariff treatment under that paragraph. The declaration shall be prepared by the importer and shall consist of information demonstrating that the good satisfies the requirements for preferential tariff treatment under paragraph 9 or 10. An exporting Party may require the exporter to prepare a declaration of eligibility for preferential tariff treatment under paragraph 9 or 10 in order to monitor the use of tariff preference levels.

13. To determine the quantity in square meters equivalent that is charged against the annual quantity set out in paragraph 11, the importing Party shall apply the conversion factors listed in, or utilize a methodology based on, the *Correlation: U.S. Textile and Apparel Category System with the Harmonized Tariff Schedule of the United States of America, 2003* ("The Textile Correlation"), U.S. Department of Commerce, Office of Textiles and Apparel, or successor publication.

14. Paragraphs 9 through 13 shall cease to apply beginning on the first day of the eleventh twelve-month period following the date of entry into force of this Agreement.

Treatment of Certain Cotton Goods

15. Each Party shall accord preferential tariff treatment to a textile or apparel good listed in Annex 4-A that is not an originating good solely because cotton fibers used in the production of the good do not undergo an applicable change in tariff classification as set

out in Annex 4-A if the cotton fibers, classified in HS heading 5201.00, used in the good originate in one or more of the least-developed beneficiary sub-Saharan African countries designated in Article 6 of the *Bulletin Officiel*, No. 4861 *bis* – 6 *chaoual* 1421 (1.1.2001), *Exoneration du droit d'importation en faveur des produits originaires et en provenance de certains pays d'Afrique*, as of the date of entry into force of this Agreement, and provided the cotton fibers are carded or combed in the territory of a Party or of a designated least-developed country. The total quantity of goods that may be accorded preferential tariff treatment based on this paragraph shall be limited to 1,067,257 kilograms annually. On request of either Party, the Parties shall consult on whether to adjust this quantity, or on any other matter related to this paragraph.

ARTICLE 4.4: CUSTOMS AND ADMINISTRATIVE COOPERATION

1. The Parties shall cooperate for purposes of:

   (a) enforcing or assisting in the enforcement of their measures affecting trade in textile and apparel goods;

   (b) verifying the accuracy of claims of origin;

   (c) enforcing or assisting in the enforcement of measures implementing international agreements affecting trade in textile and apparel goods; and

   (d) preventing circumvention of international agreements affecting trade in textile and apparel goods.

2. On the request of the importing Party, the exporting Party shall conduct a verification for purposes of enabling the importing Party to determine that a claim of origin for a textile or apparel good is accurate. The exporting Party shall conduct such a verification, regardless of whether an importer claims preferential tariff treatment for the good. The exporting Party also may conduct such a verification on its own initiative.

3. Where the importing Party has a reasonable suspicion that an exporter or producer of the exporting Party is engaging in unlawful activity relating to trade in textile or apparel goods, the exporting Party shall conduct, on the request of the importing Party, a verification for purposes of enabling the importing Party to determine that the exporter or producer is complying with applicable customs measures regarding trade in textile and apparel goods, including measures that the exporting Party adopts and maintains pursuant

to this Agreement and measures of either Party implementing other international agreements affecting trade in textile or apparel goods, or to determine that a claim of origin regarding textile or apparel goods exported or produced by that enterprise is accurate. For purposes of this paragraph, a **reasonable suspicion of unlawful activity** means a suspicion based on relevant factual information of the type set forth in Article 6.5.5 (Cooperation) or information that indicates:

(a) circumvention by the exporter or producer of applicable customs measures regarding trade in textile and apparel goods, including measures adopted to implement this Agreement; or

(b) conduct that facilitates the violation of measures relating to any other international agreement regarding trade in textile or apparel goods.

4. The exporting Party, through its competent authorities, shall permit the importing Party, through its competent authorities, to assist in a verification conducted pursuant to paragraph 2 or 3, including by conducting, along with the competent authorities of the exporting Party, visits in the territory of the exporting Party to the premises of an exporter, producer, or any other enterprise involved in the movement of a textile or apparel good from the territory of the exporting Party to the territory of the importing Party. The importing Party shall notify the exporting Party in advance of any such visits.

5. Each Party shall provide to the other Party, consistent with the Party's law, production, trade, and transit documents and other information necessary for the exporting Party to conduct a verification under paragraph 2 or 3. Each Party shall treat any documents or information exchanged in the course of such a verification in accordance with Article 6.6 (Confidentiality).

6. While a verification is being conducted, the importing Party may, consistent with its law, take appropriate action, which may include suspending the application of preferential tariff treatment to:

(a) the textile or apparel good for which a claim of origin has been made, in the case of a verification under paragraph 2; or

(b) any textile or apparel good exported or produced by the person subject to a verification under paragraph 3, where the reasonable suspicion of unlawful activity relates to that good.

7. The Party conducting a verification under paragraph 2 or 3 shall provide the other Party with a written report on the results of the verification, which shall include all documents and facts supporting any conclusion that the Party reaches.

8. (a) If the importing Party is unable to make the determination described in paragraph 2 within 12 months after its request for a verification, or makes a negative determination, it may, consistent with its law, take appropriate action, including denying preferential tariff treatment to the textile or apparel good subject to the verification, and to similar goods exported or produced by the person that exported or produced the good.

(b) If the importing Party is unable to make a determination described in paragraph 3 within 12 months after its request for a verification, or makes a negative determination, it may, consistent with its law, take appropriate action, including denying preferential tariff treatment to any textile or apparel good exported or produced by the person subject to the verification.

9. (a) The importing Party may deny preferential tariff treatment or entry under paragraph 8 only after notifying the other Party of its intention to do so.

(b) If the importing Party takes action under paragraph 8 because it is unable to make a determination described in paragraph 2 or 3, it may continue to take appropriate action under paragraph 8 until it receives information sufficient to enable it to make the determination.

10. On the request of either Party, the Parties shall consult to resolve any technical or interpretive difficulties that may arise under this Article or to discuss ways to improve the effectiveness of their cooperative efforts. In addition, either Party may request technical or other assistance from the other Party in implementing this Article. The Party receiving such a request shall make every effort to respond favorably and promptly.

ARTICLE 4.5: DEFINITIONS

For purposes of this Chapter:

base rate of duty means: a) with respect to the United States, the HTSUS Column 1 General rates of duty in effect January 10, 2003; and b) with respect to Morocco, the HTSMOROCCO MFN rates of duty in effect January 1, 2003;

claim of origin means a claim that a textile or apparel good is an originating good;

exporting Party means the Party from whose territory a textile or apparel good is exported;

importing Party means the Party into whose territory a textile or apparel good is imported; and

textile or apparel good means a good listed in the Annex to the Agreement on Textiles and Clothing.

NAFTA: Article 401: Originating Goods

Except as otherwise provided in this Chapter, a good shall originate in the territory of a Party where:

a) the good is wholly obtained or produced entirely in the territory of one or more of the Parties, as defined in Article 415;

b) each of the non-originating materials used in the production of the good undergoes an applicable change in tariff classification set out in Annex 401 as a result of production occurring entirely in the territory of one or more of the Parties, or the good otherwise satisfies the applicable requirements of that Annex where no change in tariff classification is required, and the good satisfies all other applicable requirements of this Chapter;

c) the good is produced entirely in the territory of one or more of the Parties exclusively from originating materials; or

d) except for a good provided for in Chapters 61 through 63 of the Harmonized System, the good is produced entirely in the territory of one or more of the Parties but one or more of the non-originating materials provided for as parts under the Harmonized System that are used in the production of the good does not undergo a change in tariff classification because

(i) the good was imported into the territory of a Party in an unassembled or a disassembled form but was classified as an assembled good pursuant to General Rule of Interpretation 2(a) of the Harmonized System, or

(ii) the heading for the good provides for and specifically describes both the good itself and its parts and is not further subdivided into subheadings, or the subheading for the good provides for and specifically describes both the good itself and its parts,

provided that the regional value content of the good, determined in accordance with Article 402, is not less than 60 percent where the transaction value method is used, or is not less than 50 percent where the net cost method is used, and that the good satisfies all other applicable requirements of this Chapter.

Article 402: Regional Value Content

1. Except as provided in paragraph 5, each Party shall provide that the regional value content of a good shall be calculated, at the choice of the exporter or producer of the good, on the basis of either the transaction value method set out in paragraph 2 or the net cost method set out in paragraph 3.

2. Each Party shall provide that an exporter or producer may calculate the regional value content of a good on the basis of the following transaction value method:

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

where

RVC is the regional value content, expressed as a percentage;
TV is the transaction value of the good adjusted to a F.O.B. basis; and
VNM is the value of non-originating materials used by the producer in the production of the good.

3. Each Party shall provide that an exporter or producer may calculate the regional value content of a good on the basis of the following net cost method:

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

where

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

NC is the net cost of the good; and

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

4. Except as provided in Article 403(1) and for a motor vehicle identified in Article 403(2) or a component identified in Annex 403.2, the value of non-originating materials used by the producer in the production of a good shall not, for purposes of calculating the regional value content of the good under paragraph 2 or 3, include the value of nonoriginating materials used to produce originating materials that are subsequently used in the production of the good.

5. Each Party shall provide that an exporter or producer shall calculate the regional value content of a good solely on the basis of the net cost method set out in paragraph 3 where:

a) there is no transaction value for the good;

b) the transaction value of the good is unacceptable under Article 1 of the Customs Valuation Code;

c) the good is sold by the producer to a related person and the volume, by units of quantity, of sales of identical or similar goods to related persons during the six-month period immediately preceding the month in which the good is sold exceeds 85 percent of the producer's total sales of such goods during that period;

d) the good is

(i) a motor vehicle provided for in heading 87.01 or 87.02, subheading 8703.21 through 8703.90, or heading 87.04, 87.05 or 87.06,

(ii) identified in Annex 403.1 or 403.2 and is for use in a motor vehicle provided for in heading 87.01 or 87.02, subheading 8703.21 through 8703.90, or heading 87.04, 87.05 or 87.06,

(iii) provided for in subheading 6401.10 through 6406.10, or

(iv) provided for in tariff item 8469.10.aa (word processing machines);

e) the exporter or producer chooses to accumulate the regional value content of the good in accordance with Article 404; or

f) the good is designated as an intermediate material under paragraph 10 and is subject to a regional value-content requirement.

6. If an exporter or producer of a good calculates the regional value-content of the good on the basis of the transaction value method set out in paragraph 2 and a Party subsequently notifies the exporter or producer, during the course of a verification pursuant to Chapter Five (Customs Procedures), that the transaction value of the good, or the value of any material used in the production of the good, is required to be adjusted or is unacceptable under Article 1 of the Customs Valuation Code, the exporter or producer may then also calculate the regional value content of the good on the basis of the net cost method set out in paragraph 3.

7. Nothing in paragraph 6 shall be construed to prevent any review or appeal available under Article 510 (Review and Appeal) of an adjustment to or a rejection of:

a) the transaction value of a good; or

b) the value of any material used in the production of a good.

8. For purposes of calculating the net cost of a good under paragraph 3, the producer of the good may:

a) calculate the total cost incurred with respect to all goods produced by that producer, subtract any sales promotion, marketing and aftersales service costs, royalties, shipping and packing costs, and non-allowable interest costs that are included in the total cost of all such goods, and then reasonably allocate the resulting net cost of those goods to the good,

b) calculate the total cost incurred with respect to all goods produced by that producer, reasonably allocate the total cost to the good, and then subtract any sales promotion, marketing and aftersales service costs, royalties, shipping and packing costs and non allowable interest costs that are included in the portion of the total cost allocated to the good, or

c) reasonably allocate each cost that forms part of the total cost incurred with respect to the good so that the aggregate of these costs does not include any sales promotion, marketing and aftersales service costs, royalties, shipping and packing costs, and non-allowable interest costs,

provided that the allocation of all such costs is consistent with the provisions regarding the reasonable allocation of costs set out in the Uniform Regulations, established under Article 511 (Customs Procedures Uniform Regulations).

9. Except as provided in paragraph 11, the value of a material used in the production of a good shall:

a) be the transaction value of the material determined in accordance with Article 1 of the Customs Valuation Code; or

b) in the event that there is no transaction value or the transaction value of the material is unacceptable under Article 1 of the Customs Valuation Code, be determined in accordance with Articles 2 through 7 of the Customs Valuation Code; and

c) where not included under subparagraph (a) or (b), include

(i) 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 more of the Parties, 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.

10. Except as provided in Article 403(1), any self-produced material, other than a componenet identified in Annex 403.2, that is used in the production of a good may be designated by the producer of the good as an intermediate material for the purpose of calculating the regional value content of the good under paragraph 2 or 3, provided that where the intermediate material is subject to a regional value-content requirement used in the production of that intermediate material may itself be designated by the producer as an intermediate material.

11. The value of an intermediate material shall be:

a) the total cost incurred with respect to all goods produced by the producer of the good that can be reasonably allocated to that intermediate material; or

b) the aggregate of each cost that forms part of the total cost incurred with respect to that intermediate material that can be reasonably allocated to that intermediate material.

12. The value of an indirect material shall be based on the Generally Accepted Accounting Principles applicable in the territory of the Party in which the good is produced.

Article 403: Automotive Goods

1. For purposes of calculating the regional value content under the net cost method set out in Article 402(3) for:

a) a good that is a motor vehicle provided for in tariff item 8702.10.bb or 8702.90.bb (vehicles for the transport of 15 or fewer persons), or subheading 8703.21 through 8703.90, 8704.21 or 8704.31, or

b) a good provided for in the tariff provisions listed in Annex 403.1 where the good is subject to a regional value-content requirement and is for use as original equipment in the production of a good provided for in tariff item 8702.10.bb or 8702.90.bb (vehicles for the transport of 15 or fewer persons), or subheading 8702.xx, 8703.21 through 8703.90, 8704.21 or 8704.31,

the value of non-originating materials used by the producer in the production of the good shall be the sum of the values of non-originating materials, determined in accordance with Article 402(9) at the time the non-originating materials are received by the first person in the territory of a Party who takes title to them, that are imported from outside the territories of the Parties under the tariff provisions listed in Annex 403.1 and that are used in the production of the good or that are used in the production of any material used in the production of the good.

2. For purposes of calculating the regional value content under the net cost method set out in Article 402(3) for a good that is a motor vehicle provided for in heading 87.01, tariff item 8702.10.aa or 8702.90.aa (vehicles for the transport of 16 or more persons), subheading 8704.10, 8704.22, 8704.23, 8704.32 or 8704.90, or heading 87.05 or 87.06, or for a component identified in Annex 403.2 for use as original equipment in the production of the motor vehicle, the value of non-originating materials used by the producer in the production of the good shall be the sum of:

a) for each material used by the producer listed in Annex 403.2, whether or not produced by the producer, at the choice of the producer and determined in accordance with Article 402, either

(i) the value of such material that is non originating, or

(ii) the value of non-originating materials used in the production of such material; and

b) the value of any other non-originating material used by the producer that is not listed in Annex 403.2, determined in accordance with Article 402.

3. For purposes of calculating the regional value content of a motor vehicle identified in paragraph 1 or 2, the producer may average its calculation over its fiscal year, using any one of the following categories, on the basis of either all motor vehicles in the category or only those motor vehicles in the category that are exported to the territory of one or more of the other Parties:

a) the same model line of motor vehicles in the same class of vehicles produced in the same plant in the territory of a Party;

b) the same class of motor vehicles produced in the same plant in the territory of a Party;

c) the same model line of motor vehicles produced in the territory of a Party; or

d) if applicable, the basis set out in Annex 403.3.

4. For purposes of calculating the regional value content for any or all goods provided for in a tariff provision listed in Annex 403.1, or a component or material identified in Annex 403.2, produced in the same plant, the producer of the good may:

a) average its calculation

(i) over the fiscal year of the motor vehicle producer to whom the good is sold,

(ii) over any quarter or month, or

(iii) over its fiscal year, if the good is sold as an aftermarket part;

b) calculate the average referred to in subparagraph (a) separately for any or all goods sold to one or more motor vehicle producers; or

c) with respect to any calculation under this paragraph, calculate separately those goods that are exported to the territory of one or more of the Parties.

5. Notwithstanding Annex 401, and except as provided in paragraph 6, the regional value-content requirement shall be:

a) for a producer's fiscal year beginning on the day closest to January 1, 1998 and thereafter, 56 percent under the net cost method, and for a producer's fiscal year beginning on the day closest to January 1, 2002 and thereafter, 62.5 percent under the net cost method, for

(i) a good that is a motor vehicle provided for in tariff item 8702.10.bb or 8702.90.bb (vehicles for the transport of 15 or fewer persons), or subheading 8703.21 through 8703.90, 8704.21 or 8704.31, and

(ii) a good provided for in heading 84.07 or 84.08, or subheading 8708.40, that is for use in a motor vehicle identified in subparagraph (a)(i); and

b) for a producer's fiscal year beginning on the day closest to January 1, 1998 and thereafter, 55 percent under the net cost method, and for a producer's fiscal year beginning on the day closest to January 1, 2002 and thereafter, 60 percent under the net cost method, for

(i) a good that is a motor vehicle provided for in heading 87.01, tariff item 8702.10.aa or 8702.90.aa (vehicles for the transport of 16 or more persons), 8704.10, 8704.22, 8704.23, 8704.32 or 8704.90, or heading 87.05 or 87.06,

(ii) a good provided for in heading 84.07 or 84.08 or subheading 8708.40 that is for use in a motor vehicle identified in subparagraph (b)(i), and

(iii) except for a good identified in subparagraph (a)(ii) or provided for in subheading 8482.10 through 8482.80, 8483.20 or 8483.30, a good identified in Annex 403.1 that is subject to a regional value content requirement and that is for use in a motor vehicle identified in subparagraphs (a)(i) or (b)(i).

6. The regional value-content requirement for a motor vehicle identified in Article 403(1) or 403(2) shall be:

a) 50 percent for five years after the date on which the first motor vehicle prototype is produced in a plant by a motor vehicle assembler, if

(i) it is a motor vehicle of a class, or marque, or, except for a motor vehicle identified in Article 403(2), size category and underbody, not previously produced by the motor vehicle assembler in the territory of any of the Parties,

(ii) the plant consists of a new building in which the motor vehicle is assembled, and

(iii) the plant contains substantially all new machinery that is used in the assembly of the motor vehicle; or

b) 50 percent for two years after the date on which the first motor vehicle prototype is produced at a plant following a refit, if it is a different motor vehicle of a class, or marque, or, except for a motor vehicle identified in Article 403(2), size category and underbody, than was assembled by the motor vehicle assembler in the plant before the refit.

Article 404: Accumulation

1. For purposes of determining whether a good is an originating good, the production of the good in the territory of one or more of the Parties by one or more producers shall, at the choice of the exporter or producer of the good for which preferential tariff treatment is claimed, be considered to have been performed in the territory of any of the Parties by that exporter or producer, provided that:

a) all non-originating materials used in the production of the good undergo an applicable tariff classification change set out in Annex 401, and the good satisfies any applicable regional value-content requirement, entirely in the territory of one or more of the Parties; and

b) the good satisfies all other applicable requirements of this Chapter.

2. For purposes of Article 402(10), the production of a producer that chooses to accumulate its production with that of other producers under paragraph 1 shall be considered to be the production of a single producer.

Article 405: De Minimis

1. Except as provided in paragraphs 3 through 6, a good shall be considered to be an originating good if the value of all non-originating materials used in the production of the good that do not undergo an applicable change in tariff classification set out in Annex 401 is not more than seven percent of the transaction value of the good, adjusted to a F.O.B. basis, or, if the transaction value of the good is unacceptable under Article 1 of the Customs Valuation Code, the value of all such non-originating materials is not more than seven percent of the total cost of the good, provided that:

a) if the good is subject to a regional value-content requirement, the value of such non-originating materials shall be taken into account in calculating the regional value content of the good; and

b) the good satisfies all other applicable requirements of this Chapter.

2. A good that is otherwise subject to a regional value-content requirement shall not be required to satisfy such requirement if the value of all non-originating materials used in the production of the good is not more than seven percent of the transaction value of the good, adjusted to a F.O.B. basis, or, if the transaction value of the good is unacceptable under Article 1 of the Customs Valuation Code, the value of all non-originating materials is not more than seven percent of the total cost of the good, provided that the good satisfies all other applicable requirements of this Chapter.

3. Paragraph 1 does not apply to:

a) a non-originating material provided for in Chapter 4 of the Harmonized System or tariff item 1901.90.aa (dairy preparations containing over 10 percent by weight of milk solids) 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 tariff item 1901.90.aa (dairy preparations containing over 10 percent by weight of milk solids) that is used in the production of a good provided for in tariff item 1901.10.aa (infant preparations containing over 10 percent by weight of milk solids), 1901.20.aa (mixes and doughs, containing over 25 percent by weight of butterfat, not put up for retail sale), 1901.90.aa (dairy preparations containing over 10 percent by weight of milk solids), heading 21.05, or tariff item 2106.90.dd (preparations containing over 10 percent by weight of milk solids), 2202.90.cc (beverages containing milk) or 2309.90.aa (animal feeds containing over 10 percent by weight of milk solids);

c) a non-originating material provided for in heading 08.05 or subheading 2009.11 through 2009.30 that is used in the production of a good provided for in subheading 2009.11 through 2009.30 or tariff item 2106.90.bb (concentrated fruit or vegetable juice of any single fruit or vegetable, fortified with minerals or vitamins) or 2202.90.aa (fruit or vegetable juice of any single fruit or vegetable, fortified with minerals or vitamins);

d) a non-originating material provided for in Chapter 9 of the Harmonized System that is used in the production of a good provided for in tariff item 2101.10.aa (instant coffee, not flavored);

e) 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 heading 15.01 through 15.08, 15.12, 15.14 or 15.15;

f) a non-originating material provided for in heading 17.01 that is used in the production of a good provided for in heading 17.01 through 17.03;

g) a non-originating material provided for in Chapter 17 of the Harmonized System or heading 18.05 that is used in the production of a good provided for in subheading 1806.10;

h) a non-originating material provided for in heading 22.03 through 22.08 that is used in the production of a good provided for in heading 22.07 through 22.08;

(i) a non-originating material used in the production of a good provided for in tariff item 7321.11.aa (gas stove or range), subheading 8415.10, 8415.81 through 8415.83, 8418.10 through 8418.21, 8418.29 through 8418.40, 8421.12, 8422.11, 8450.11 through 8450.20 or 8451.21 through 8451.29, Mexican tariff item 8479.82.aa (trash compactors) or Canadian or U.S. tariff item 8479.89.aa (trash compactors), or tariff item 8516.60.aa (electric stove or range); and

(j) a printed circuit assembly that is a non-originating material used in the production of a good where the applicable change in tariff classification for the good, as set out in Annex 401, places restrictions on the use of such non-originating material.

4. Paragraph 1 does not apply to a non-originating single juice ingredient provided for in heading 20.09 that is used in the production of a good provided for in subheading 2009.90, or tariff item 2106.90.cc (concentrated mixtures of fruit or vegetable juice, fortified with minerals or vitamins) or 2202.90.bb (mixtures of fruit or vegetable juices, fortified with minerals or vitamins).

5. Paragraph 1 does not apply to a non-originating material used in the production of a good provided for in Chapter 1 through 27 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.

6. A good provided for in Chapter 50 through 63 of the Harmonized System that does not originate because certain fibers or yarns used in the production of the component of the good that determines the tariff classification of the good do not undergo an applicable change in tariff classification set out in Annex 401, shall nonetheless be considered to originate if the total weight of all such fibers or yarns in that component is not more than seven percent of the total weight of that component.

Article 406: Fungible Goods and Materials

For purposes of determining whether a good is an originating good:

a) where originating and non-originating fungible materials are used in the production of a good, the determination of whether the materials are originating need not be made through the identification of any specific fungible material, but may be determined on the basis of any of the inventory management methods set out in the Uniform Regulations; and

b) where originating and non-originating fungible goods are commingled and exported in the same form, the determination may be made on the basis of any of the inventory management methods set out in the Uniform Regulations.

Article 407: Accessories, Spare Parts and Tools

Accessories, spare parts or tools delivered with the good that form part of the good's standard accessories, spare parts, or tools, shall be considered as originating if the good originates and shall be disregarded in determining whether all the nonoriginating materials used in the production of the good undergo the applicable change in tariff classification set out in Annex 401, provided that:

a) the accessories, spare parts or tools are not invoiced separately from the good;

b) the quantities and value of the accessories, spare parts or tools are customary for the good; and

c) if the good is subject to a regional value-content requirement, the value of the accessories, spare parts or tools 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 408: Indirect Materials

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

Article 409: Packaging Materials and Containers for Retail Sale

Packaging materials and containers in which a good is packaged for retail sale shall, if classified with the good, be disregarded in determining whether all the nonoriginating materials used in the production of the good undergo the applicable change in tariff classification set out in Annex 401, and, if the good is subject to a regional valuecontent 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 410: Packing Materials and Containers for Shipment

Packing materials and containers in which the good is packed for shipment shall be disregarded in determining whether:

a) the nonoriginating materials used in the production of the good undergo an applicable change in tariff classification set out in Annex 401; and

b) the good satisfies a regional valuecontent requirement.

Article 411: Trans-shipment

A good shall not be considered to be an originating good by reason of having undergone production that satisfies the requirements of Article 401 if, subsequent to that production, the good undergoes further 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 412: NonQualifying Operations

A good shall not be considered to be an originating good merely by reason of:

a) mere dilution with water or another substance that does not materially alter the characteristics of the good; or

(b) any 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 this Chapter.

Article 413: Interpretation and Application

For purposes of this Chapter:

a) the basis for tariff classification in this Chapter is the Harmonized System;

b) where a good referred to by a tariff item number is described in parentheses following the tariff item number, the description is provided for purposes of reference only;

c) where applying Article 401(d), the determination of whether a heading or subheading under the Harmonized System provides for and specifically describes both a good and its parts shall be made on the basis of the nomenclature of the heading or subheading, or the General Rules of Interpretation, the Chapter Notes or the Section Notes of the Harmonized System;

d) in applying the Customs Valuation Code under this Chapter,

(i) the principles of the Customs Valuation Code shall apply to domestic transactions, with such modifications as may be required by the circumstances, as would apply to international transactions,

(ii) the provisions of this Chapter shall take precedence over the Customs Valuation Code to the extent of any difference, and (iii) the definitions in Article 415 shall take precedence over the definitions in the Customs Valuation Code to the extent of any difference; and

e) all costs referred to in this Chapter shall be recorded and maintained in accordance with the Generally Accepted Accounting Principles applicable in the territory of the Party in which the good is produced.

Article 414: Consultation and Modifications

1. The Parties shall consult regularly to ensure that this Chapter is administered effectively, uniformly and consistently with the spirit and objectives of this Agreement, and shall cooperate in the administration of this Chapter in accordance with Chapter Five.

2. Any Party that considers that this Chapter requires modification to take into account developments in production processes or other matters may submit a proposed modification along with supporting rationale and any studies to the other Parties for consideration and any appropriate action under Chapter Five.

Article 415: Definitions

For purposes of this Chapter:

class of motor vehicles means any one of the following categories of motor vehicles:

a) motor vehicles provided for in subheading 8701.20, tariff item 8702.10.aa or 8702.90.aa (vehicles for the transport of 16 or more persons), subheading 8704.10, 8704.22, 8704.23, 8704.32 or 8704.90, or heading 87.05 and 87.06;

b) motor vehicles provided for in subheading 8701.10 or 8701.30 through 8701.90;

c) motor vehicles provided for in tariff item 8702.10.bb or 8702.90.bb (vehicles for the transport of 15 or fewer persons), or subheading 8704.21 and 8704.31; or

d) motor vehicles provided for in subheading 8703.21 through 8703.90;

F.O.B. means free on board, regardless of the mode of transportation, at the point of direct shipment by the seller to the buyer;

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

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

a) mineral goods extracted in the territory of one or more of the Parties;

b) vegetable goods, as such goods are defined in the Harmonized System, harvested in the territory of one or more of the Parties;

c) live animals born and raised in the territory of one or more of the Parties;

d) goods obtained from hunting, trapping or fishing in the territory of one or more 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 a nonParty;

(i) waste and scrap derived from

(i) production in the territory of one or more of the Parties, or

(ii) used goods collected in the territory of one or more of the Parties, provided such goods are fit only for the recovery of raw materials; and

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

identical or similar goods means "identical goods" and "similar goods", respectively, as defined in the Customs Valuation Code;

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;

intermediate material means a material that is self-produced and used in the production of a good, and designated pursuant to Article 402(10);

marque means the trade name used by a separate marketing division of a motor vehicle assembler;

material means a good that is used in the production of another good, and includes a part or an ingredient;

model line means a group of motor vehicles having the same platform or model name;

motor vehicle assembler means a producer of motor vehicles and any related persons or joint ventures in which the producer participates;

new building means a new construction, including at least the pouring or construction of new foundation and floor, the erection of a new structure and roof, and installation of new plumbing, electrical and other utilities to house a complete vehicle assembly process;

net cost means total cost minus sales promotion, marketing and aftersales service costs, royalties, shipping and packing costs, and nonallowable interest costs that are included in the total cost;

net cost of a good means the net cost that can be reasonably allocated to a good using one of the methods set out in Article 402(8);

non-allowable interest costs means interest costs incurred by a producer that exceed 700 basis points above the applicable federal government interest rate identified in the Uniform Regulations for comparable maturities;

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

producer means a person who grows, mines, harvests, fishes, traps, hunts, manufactures, processes or assembles a good;

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

reasonably allocate means to apportion in a manner appropriate to the circumstances;

refit means a plant closure, for purposes of plant conversion or retooling, that lasts at least three months;

related person means a person related to another person on the basis that:

a) they are officers or directors of one another's businesses;

b) they are legally recognized partners in business;

c) they are employer and employee;

d) any person directly or indirectly owns, controls or holds 25 percent or more of the outstanding voting stock or shares of each of them;

e) one of them directly or indirectly controls the other;

f) both of them are directly or indirectly controlled by a third person; or

g) they are members of the same family (members of the same family are natural or adoptive children, brothers, sisters, parents, grandparents, or spouses);

royalties means payments of any kind, including payments under technical assistance or similar agreements, made as consideration for the use or right to use any copyright, literary, artistic, or scientific work, patent, trademark, design, model, plan, secret formula or process, excluding those payments under technical assistance or similar agreements that can be related to specific services such as:

a) personnel training, without regard to where performed; and

b) if performed in the territory of one or more of the Parties, engineering, tooling, diesetting, software design and similar computer services, or other services;

sales promotion, marketing and after-sales service costs means the following costs related to sales promotion, marketing and aftersales service:

a) sales and marketing promotion; media advertising; advertising and market research; promotional and demonstration materials, exhibits; sales conferences, trade shows and conventions; banners; marketing displays; free samples; sales, marketing and after sales service literature (product brochures, catalogs, technical literature, price lists, service manuals, sales aid information); establishment and protection of logos and trademarks; sponsorships; wholesale and retail restocking charges; entertainment;

b) sales and marketing incentives; consumer, retailer or wholesaler rebates; merchandise incentives;

c) salaries and wages, sales commissions, bonuses, benefits (for example, medical, insurance, pension), travelling and living expenses, membership and professional fees, for sales promotion, marketing and aftersales service personnel;

d) recruiting and training of sales promotion, marketing and aftersales service personnel, and aftersales training of customers' employees, where such costs are identified separately for sales promotion, marketing and aftersales service of goods on the financial statements or cost accounts of the producer;

e) product liability insurance;

f) office supplies for sales promotion, marketing and aftersales service of goods, where such costs are identified separately for sales promotion, marketing and aftersales service of goods on the financial statements or cost accounts of the producer;

g) telephone, mail and other communications, where such costs are identified separately for sales promotion, marketing and aftersales service of goods on the financial statements or cost accounts of the producer;

h) rent and depreciation of sales promotion, marketing and aftersales service offices and distribution centers;

(i) property insurance premiums, taxes, cost of utilities, and repair and maintenance of sales promotion, marketing and after-sales service offices and distribution centers, where such costs are identified separately for sales promotion, marketing and aftersales service of goods on the financial statements or cost accounts of the producer; and

(j) payments by the producer to other persons for warranty repairs;

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

shipping and packing costs means the costs incurred in packing a good for shipment and shipping the good from the point of direct shipment to the buyer, excluding costs of preparing and packaging the good for retail sale;

size category means for a motor vehicle identified in Article 403(1)(a):

a) 85 or less cubic feet of passenger and luggage interior volume,

b) between 85 and 100 cubic feet of passenger and luggage interior volume,

c) 100 to 110 cubic feet of passenger and luggage interior volume,

d) between 110 and 120 cubic feet of passenger and luggage interior volume, and

e) 120 and more cubic feet of passenger and luggage interior volume;

total cost means all product costs, period costs and other costs incurred in the territory of one or more of the Parties;

transaction value means the price actually paid or payable for a good or material with respect to a transaction of, except for the application of Article 403(1) or 403(2)(a), the producer of the good, adjusted in accordance with the principles of paragraphs 1, 3 and 4 of Article 8 of the Customs Valuation Code, regardless of whether the good or material is sold for export;

used means used or consumed in the production of goods; and

underbody means the floor pan of a motor vehicle.

CHAPTER 3 : RULES OF ORIGIN

SECTION A : ORIGIN DETERMINATION

ARTICLE 3.1 : ORIGINATING GOODS

For purposes of this Agreement, an **originating good** means a good:

(a) wholly obtained or produced entirely in the territory of one or both of the Parties; or

(b) that has satisfied the requirements specified in Annex 3A; or

(c) otherwise provided as an originating good under this Chapter.

ARTICLE 3.2 : TREATMENT OF CERTAIN PRODUCTS

1. Each Party shall provide that a good listed in Annex 3B is an originating good when imported into its territory from the territory of the other Party.

2. Within six months after entry into force of this Agreement, the Parties shall meet to explore the expansion of the product coverage of Annex 3B. The Parties shall consult regularly to review the operation of this Article and consider the addition of goods to Annex 3B.[3-1]

ARTICLE 3.3 : DE MINIMIS

1. Each Party shall provide that a good that does not undergo a change in tariff classification pursuant to Annex 3A is nonetheless an originating good if:

(a) the value of all non-originating materials used in the production of the good that do not undergo the required change in tariff classification does not exceed 10 percent of the adjusted value of the good; and

(b) the good meets all other applicable criteria set forth in this Chapter for qualifying as an originating good.

The value of such non-originating materials shall, however, be included in the value of non-originating materials for any applicable regional value content requirement for the good.

[3-1] Such consultations may include meetings of the Joint Committee pursuant to Article 20.1 (Joint Committee).

2. Paragraph 1 does not apply to:

(a) a non-originating material provided for in chapter 4 of the Harmonized System or in subheading 1901.90 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 in subheading 1901.90 that is used in the production of a good provided for in the following provisions: subheadings 1901.10, 1901.20 or 1901.90; heading 2105; or subheadings 2106.90, 2202.90, or 2309.90;

(c) a non-originating material provided for in heading 0805 or subheadings 2009.11 through 2009.30 that is used in the production of a good provided for in subheadings 2009.11 through 2009.30, or subheadings 2106.90 or 2202.90;

(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;

(e) a non-originating material provided for in heading 1701 that is used in the production of a good provided for in headings 1701 through 1703;

(f) a non-originating material provided for in chapter 17 of the Harmonized System or heading 1805 that is used in the production of a good provided for in subheading 1806.10;

(g) a non-originating material provided for in headings 2203 through 2208 that is used in the production of a good provided for in headings 2207 or 2208; 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.

For purposes of this paragraph, **heading** and **subheading** mean, respectively, a heading and subheading of the Harmonized System.

3. A textile or apparel good provided for in Chapters 50 through 63 of the Harmonized System that is not an originating good, because certain fibers or yarns used in the production of the component of the good that determines the tariff classification of the good do not undergo an applicable change in tariff classification set out in Annex 3A, shall nonetheless be considered to be an originating good if the total weight of all such fibers or yarns in that component is not more than seven percent of the total weight of that component. Notwithstanding the preceding sentence, a textile or apparel good containing elastomeric yarns in the component of the good

that determines the tariff classification of the good shall be an originating good only if such yarns are wholly formed in the territory of a Party.

ARTICLE 3.4 : ACCUMULATION

1. Originating materials from the territory of a Party, used in the production of a good in the territory of the other Party, shall be considered to originate in the territory of the other Party.

2. A good is an originating good when it is produced in the territory of one or both Parties by one or more producers, provided that the good satisfies the requirements in Article 3.1 and all other applicable requirements of this Chapter.

ARTICLE 3.5 : REGIONAL VALUE CONTENT

Where Annex 3A refers to a regional value content, each Party shall provide that the regional value content of a good shall be calculated on the basis of one of the following methods:

(a) Build-down Method

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

where

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

AV is the adjusted value, and

VNM is the value of non-originating materials that are acquired and used by the producer in the production of the good.

(b) Build-up Method

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

where

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

AV is the adjusted value; and

VOM is the value of originating materials that are acquired or self-produced, and used by the producer in the production of the good.

ARTICLE 3.6 : 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 is:

(a) for a material imported by the producer of the good, the adjusted value of the material;

(b) for a material acquired in the territory where the good is produced, except for materials within the meaning of subparagraph (c), the adjusted value of the material; or

(c) for a material that is self-produced, or 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, including a material obtained without charge, 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 value of materials may be adjusted as follows:

(a) for originating materials, the following expenses may be added to the value of the material if 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 more 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 by-product; and

(b) for non-originating materials, where included under paragraph 1, the following expenses may be deducted from the value of the material:

(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 more 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 by-products;

(iv) the cost of processing incurred in the territory of a Party in the production of the non-originating material; and

(v) the cost of originating materials used in the production of the non-originating material in the territory of a Party.

ARTICLE 3.7 : 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 treated as originating goods if the good is an originating good, and shall be disregarded in determining whether all the non-originating materials used in the production of the good undergo the applicable change in tariff classification, provided that:

(a) the accessories, spare parts, or tools are not invoiced separately from the good;

(b) the quantities and value of the accessories, spare parts, or tools are customary for the good; and

(c) if the good is subject to a regional value content requirement, the value of the accessories, spare parts, or tools 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 3.8 : FUNGIBLE GOODS AND MATERIALS

1. Each Party shall provide that the determination of whether fungible goods or materials are originating goods shall be made either by physical segregation of each 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 that an inventory management method selected under paragraph 1 for particular fungible goods or materials shall continue to be used for those fungible goods or materials throughout the fiscal year of the person that selected the inventory management method.

ARTICLE 3.9 : 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 the non-originating materials used in the production of the good undergo the applicable change in tariff classification set out in Annex 3A 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 3.10 : PACKING MATERIALS AND CONTAINERS FOR SHIPMENT

Each Party shall provide that packing materials and containers in which a good is packed 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 3A; and

(b) the good satisfies a regional value content requirement.

ARTICLE 3.11 : INDIRECT MATERIALS

Each Party shall provide that an indirect material shall be treated as an originating material without regard to where it is produced and its value shall be the cost registered in the accounting records of the producer of the good.

ARTICLE 3.12 : THIRD COUNTRY TRANSPORTATION

A good shall not be considered to be 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 operation necessary to preserve it in good condition or to transport the good to the territory of a Party.

SECTION B : SUPPORTING INFORMATION AND VERIFICATION

ARTICLE 3.13 : CLAIMS FOR PREFERENTIAL TREATMENT

1. Each Party shall provide that an importer may make a claim for preferential treatment under this Agreement based on the importer's knowledge or on information in the importer's possession that the good qualifies as an originating good.

2. Each Party may require that an importer be prepared to submit, upon request, a statement setting forth the reasons that the good qualifies as an originating good, including pertinent cost and manufacturing information. The statement need not be in a prescribed format, and may be submitted electronically, where feasible.

ARTICLE 3.14 : OBLIGATIONS RELATING TO IMPORTATIONS

1. Each Party shall grant any claim for preferential treatment under this Agreement made in accordance with this Section, unless the Party possesses information that the claim is invalid.

2. A Party may deny preferential treatment under this Agreement to an imported good if the importer fails to comply with any requirement of this Chapter.

3. If a Party denies a claim for preferential treatment under this Agreement, it shall issue a written determination containing findings of fact and the legal basis for the determination.

4. The importing Party shall not subject an importer to any penalty for making an invalid claim for preferential treatment if the importer:

(a) upon becoming aware that such claim is not valid, promptly and voluntarily corrects the claim and pays any duty owing; and

(b) in any event, corrects the claim and pays any duty owing within a period determined by the Party, which shall be at least one year from submission of the invalid claim.

ARTICLE 3.15 : RECORD KEEPING REQUIREMENT

Each Party may require that importers maintain for up to five years after the date of importation records relating to the importation of the good, and may require that an importer provide, upon request, records which are necessary to demonstrate that a good qualifies as an originating good, as stipulated in Article 3.13.2, including records concerning:

(a) the purchase of, cost of, value of, and payment for, the good;

(b) the purchase of, cost of, value of, and payment for, all materials, including indirect materials, used in the production of the good; and

(c) the production of the good in the form in which the good is exported.

ARTICLE 3.16 : VERIFICATION

For purposes of determining whether a good imported into its territory from the territory of the other Party qualifies as an originating good, a Party may conduct a verification by means of:

(a) requests for information from the importer;

(b) written requests for information to an exporter or a producer in the territory of the other Party;

(c) requests for the importer to arrange for the producer or exporter to provide information directly to the Party conducting the verification;

(d) information received directly by the importing Party from an exporter or a producer as a result of a process described in Article 3.13.2;

(e) visits to the premises of an exporter or a producer in the territory of the other Party, in accordance with any procedures that the Parties jointly adopt pertaining to the verification; or

(f) such other procedures as the Parties may agree.

ARTICLE 3.17: CERTAIN APPAREL GOODS

Notwithstanding any other provision of this Agreement, the United States shall consider an apparel good listed in Chapter 61 or 62 of Annex 3A to be an originating good if it is both cut (or knit to shape) and sewn or otherwise assembled in one or both Parties from fabric or yarn, regardless of origin, designated by the appropriate U.S. government authority as fabric or yarn not available in commercial quantities in a timely manner in the United States. Such designation must have been made in a notice published in the Federal Register of the United States identifying apparel goods made from such fabric or yarn as eligible for entry into the United States under subheading 9819.11.24 or 9820.11.27 of the Harmonized Tariff Schedule of the United States as of November 15, 2002. For purposes of this Article, reference in such a notice to yarn or fabric formed in the United States shall be deemed to include yarn or fabric formed in either Party.

SECTION C : CONSULTATION AND MODIFICATIONS

ARTICLE 3.18 : CONSULTATION AND MODIFICATIONS

1. The Parties shall consult and cooperate to ensure that this Chapter is applied in an effective and uniform manner.

2. The Parties shall consult regularly to discuss necessary amendments to this Chapter and its Annexes, taking into account developments in technology, production processes, and other related matters, pursuant to Article 20.3 (Consultations).

3. Within six months after entry into force of this Agreement, the Parties shall meet:

(a) to consider possible modifications to Annex 3A, including an assessment of the operation and use of the RVC;

(b) the addition of products to Annex 3B; and

(c) to review and consider possible modifications to Annex 3C.

4. (a) On the request of either Party, the Parties shall consult:

(i) to consider whether the rules of origin applicable to particular textile or apparel goods under this Chapter should be revised to address availability of supply of fibers, yarns or fabrics in the territories of the Parties; or

(ii) to review the rules of origin applicable to particular textile or apparel goods in light of

(A) the effects of increasing global competition,

(B) the termination of the WTO Agreement on Textiles and Clothing and the full integration of the textile and apparel sector into GATT 1994, and

(C) eventual harmonization of rules of origin pursuant to Part IV of the WTO Agreement on Rules of Origin.

(b) In the consultations referred to in subparagraph (a)(i), each Party shall consider all data presented by the other Party showing substantial production in its territory of a particular fiber, yarn or fabric. The Parties shall consider that substantial production has been shown if a Party demonstrates that its domestic producers are capable of supplying commercial quantities of the fiber, yarn or fabric in a timely manner.

(c) The Parties shall endeavor to conclude consultations under subparagraph (a)(i) within 60 days of receipt of a request by one Party from the other Party. An amended rule of origin agreed to by the Parties shall supersede any prior rule of origin under this Agreement for the textile or apparel goods at issue, on approval by the Parties in accordance with Article 21.8 (Amendments).

(d) In consultations under subparagraph (a)(ii), the Parties shall give particular consideration to operative rules in other economic association or integration agreements and developments relating to textile and apparel production and trade.

SECTION D : DEFINITIONS

ARTICLE 3.19 : DEFINITIONS

For purposes of this Chapter:

1. **adjusted value** means the value determined under Articles 1 through 8, Article 15, and the corresponding interpretative notes of the Customs Valuation Agreement, as adjusted 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;

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

3. **generally accepted accounting principles** means the recognized consensus or 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 standards may encompass broad guidelines of general application as well as detailed standards, practices, and procedures;

4. **goods wholly obtained or produced entirely in the territory of one or both of the Parties** means goods that are:

(a) mineral goods extracted there;

(b) vegetable goods, as such goods are defined in the Harmonized System, harvested there;

(c) live animals born and raised there;

(d) goods obtained from hunting, trapping, fishing, or aquaculture conducted there;

(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 exclusively from products referred to in paragraph (e) on board factory ships registered or recorded with a Party and flying 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 the 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 there; or

(ii) used goods collected there, provided such goods are fit only for the recovery of raw materials;

(j) recovered goods derived there from used goods; or

(k) goods produced there exclusively from goods referred to in (a) through (i) above, or from their derivatives, at any stage of production.

5. **Harmonized System** means the Harmonized Commodity Description and Coding System;

6. **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;

7. **material** means a good that is used in the production of another good;

8. **material that is self-produced** means a good, such as a part or ingredient, produced by the producer and used by the producer in the production of another good

9. **non-originating material** means a material that has not satisfied the requirements of this Chapter;

10. **preferential treatment** means the customs duty rate and treatment under Article 2.8 (Merchandise Processing Fee) that is applicable to an originating good pursuant to this Agreement;

11. **producer** means a person who grows, raises, mines, harvests, fishes, traps, hunts, manufactures, processes, assembles or disassembles a good;

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

13. **recovered goods** means materials in the form of individual parts that result from:

(a) the complete disassembly of used goods into individual parts; and

(b) the cleaning, inspecting, or testing, and 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 3C;

14. **remanufactured good** means an industrial good assembled in the territory of a Party, designated under Annex 3C, that:

(a) is entirely or partially comprised of recovered goods;

(b) has the same life expectancy and meets the same performance standards as a new good; and

(c) enjoys the same factory warranty as such a new good; and

15. **used** means used or consumed in the production of goods.

SECTION E : APPLICATION AND INTERPRETATION

ARTICLE 3.20 : APPLICATION AND INTERPRETATION

For purposes of this Chapter:

(a) the basis for tariff classification is the Harmonized System;

(b) any cost and value referred to in this Chapter shall be recorded and maintained in accordance with the generally accepted accounting principles applicable in the territory of the Party in which the good is produced.