CHAPTER 3
RULES OF ORIGIN

ARTICLE 3.1: ORIGINATING GOODS

For the purposes of implementing this Agreement, the following goods shall be considered as originating in a Party:

(a) goods wholly obtained or produced in a Party within the meaning of Article 3.3;

(b) goods obtained in a Party incorporating materials which have not been wholly obtained there, provided that such materials have undergone sufficient working or processing in a Party within the meaning of Article 3.4; or

(c) goods obtained in a Party exclusively from materials that qualify as originating pursuant to this Chapter.

ARTICLE 3.2: CUMULATION OF ORIGIN

1. Originating goods or materials of a Party, incorporated into a good in the other Party, shall be considered to be originating in the other Party.

2. The Parties may agree to review this Article with a view to providing for other forms of cumulation for the purposes of qualifying goods as originating goods under this Agreement.

ARTICLE 3.3: WHOLLY OBTAINED GOODS

1. The following shall be considered as wholly produced or obtained in a Party:

(a) mineral goods and other naturally occurring substances taken or extracted from soil, waters, seabed or subsoil of a Party;

(b) plants and vegetable goods grown, harvested, picked or gathered there;

(c) live animals born and raised there;

(d) goods from live animals as in (c) above;

(e) goods obtained by hunting, trapping, collecting, fishing, aquaculture, and capturing conducted within the land, the internal waters or within the territorial sea of a Party;

(f) used articles collected there fit only for the recovery of raw materials;

(g) waste and scrap resulting from utilization, consumption or manufacturing operations conducted there;

(h) goods of sea fishing and other goods taken from the waters, seabed or subsoil outside the territorial sea of a Party only by their vessels;

(i) goods made aboard their factory ships exclusively from goods referred to in (h);

(j) goods taken or extracted from the waters, seabed, subsoil outside the territorial sea of a Party, provided that the Party has rights to exploit such waters, seabed, or subsoil; and

(k) goods produced in any of the Parties exclusively from the goods specified in subparagraphs (a) to (j) above.

2. The terms "their vessels" and "their factory ships" in paragraphs 1(h) and 1(i) shall apply only to vessels and factory ships which are flagged and registered or recorded in a Party, in conformity with the law of the said Party;

ARTICLE 3.4: SUFFICIENTLY WORKED OR PROCESSED GOODS

1. For the purposes of Article 3.1(b), goods which are not wholly obtained are considered to be sufficiently worked or processed when the conditions set out in the list in Annex 3-A are fulfilled.[1]

2. Those conditions indicate, for all goods covered by this Agreement, the working or processing which must be carried out on non-originating materials used in manufacturing and apply only in relation to such materials. Accordingly, it follows that if non-originating materials undergo sufficient working or processing, which results in an originating good, and when that good is used in the subsequent manufacture of another good, no account shall be taken of the non-originating material contained therein.

ARTICLE 3.5: DE MINIMIS

1. A good that does not undergo a change in tariff classification pursuant to Article 3.4.1 and Annex 3-A shall be considered as originating if:

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

(b) the good meets all other applicable criteria set forth in this Chapter for qualifying as an originating good. Any of the percentages given in Annex 3-A for the maximum value of non-originating materials are not exceeded

[1] If a good is subject to Article 3.4.1, the installation of a substantial software developed in a Party shall be taken into account as a manufacturing process.

through the application of this paragraph.

2. Paragraph 1 shall not apply to:

(a) a non-originating material used in the production of a good provided for in Chapters 1 through 14 of the Harmonized System (HS); and

(b) a non-originating material used in the production of a good provided for in Chapters 15 through 24 of the Harmonized System (HS), unless the non-originating material is provided for in a different subheading from that of the good for which the origin is being determined under this Article.

3. A good provided for in Chapters 50 through 63 of the Harmonized System (HS) 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 as originating if the total weight of all such fibers or yarns in that component is not more than 10 percent of the total weight of that component.

ARTICLE 3.6: INSUFFICIENT WORKING OR PROCESSING

1. The following operations shall be considered as insufficient working or processing to confer the status of originating goods, whether or not the requirements of Article 3.4 are satisfied:

(a) preserving operations to ensure that the goods remain in good condition during transport and storage;

(b) simple[2] changing of packaging or breaking-up and assembly of packages;

(c) washing, cleaning, removal of dust, oxide, oil, paint or other coverings;

(d) simple[2] painting and polishing operations, including applying oil;

(e) husking, partial or total bleaching, polishing, and glazing of cereals and rice;

(f) ironing or pressing of textiles;

(g) operations to colour sugar or form sugar lumps;

(h) peeling, stoning and shelling, of fruits, nuts and vegetables;

(i) sharpening, simple[2] grinding, or simple[2] cutting;

(j) sifting, screening, sorting, classifying, grading or matching (including the making-up of sets of articles);

[2] "simple" generally describes activities which need neither special skills nor machines, apparatus or equipment especially produced or installed for carrying out the activity.

(k) affixing or printing marks, labels, logos and other like distinguishing signs on goods or their packaging;

(l) simple[2] dilution in water or other substances, providing that the characteristics of the goods remain unchanged;

(m) simple[2] testing or calibrations;

(n) simple[2] placing in bottles, cans, flasks, bags, cases, boxes, fixing on cards or boards and all other simple[2] packaging operations;

(o) simple[2] assembly of parts of articles to constitute a complete article or disassembly of goods into parts;

(p) simple mixing[3] of goods, whether or not of different kinds;

(q) slaughter of animals; or

(r) a combination of two or more of the above operations.

2. All operations carried out in a Party on a given good shall be considered together when determining whether the working or processing undergone by that good is to be regarded as insufficient within the meaning of paragraph 1.

ARTICLE 3.7: UNIT OF QUALIFICATION

1. The unit of qualification for the application of the provisions of this Chapter shall be the particular good which is considered as the basic unit when determining classification using the nomenclature of the Harmonized System (HS). It follows that:

(a) When a good composed of a group or assembly of articles is classified under the terms of the Harmonized System (HS) in a single heading, the whole constitutes the unit of qualification;

(b) When a consignment consists of a number of identical goods classified under the same heading of the Harmonized System (HS), each good must be taken individually when applying the provisions of this Chapter.

2. Where, under General Rule 5 of the Harmonized System (HS), packaging is included with the good for classification purposes, it shall be included for the purposes of determining origin.

[3] "simple mixing" generally describes activities which need neither special skills nor machines, apparatus or equipment especially produced or installed for carrying out the activity. However, simple mixing does not include chemical reaction. Chemical reaction means a process (including a biochemical process) which results in a molecule with a new structure by breaking an intramolecular bond.

ARTICLE 3.8: ACCOUNTING SEGREGATION

1. Where identical and interchangeable originating and non-originating materials[4] are used in the manufacture of a good, those materials shall be physically segregated, according to their origin, during storage.

2. For the purposes of establishing if a good is originating, when in its manufacture are utilized originating and non-originating identical and interchangeable materials, mixed or physically combined, the origin of such materials can be determined by any of the inventory management methods applicable in the Party.

3. Where considerable cost or material difficulties arise in keeping separate stocks of originating and non-originating materials which are identical and interchangeable, the customs authorities may authorize the so-called "accounting segregation" method to be used for managing such stocks.

4. This method must be able to ensure that, for a specific reference-period, the number of goods obtained which could be considered as "originating" is the same as that which would have been obtained if there had been physical segregation of the stocks.

5. The customs authorities may grant such authorisations, subject to any conditions deemed appropriate.

6. This method is recorded and applied on the basis of the general accounting principles applicable in the Party where the good was manufactured.

7. The beneficiary of this facilitation may issue or apply for Proofs of Origin, as the case may be, for the quantity of goods which may be considered as originating. At the request of the customs authorities, the beneficiary shall provide a statement of how the quantities have been managed.

8. The customs authorities shall monitor the use made of the authorisation and may withdraw it at any time whenever the beneficiary makes improper use of the authorisation in any manner whatsoever or fails to fulfil any of the other conditions laid down in this Chapter.

ARTICLE 3.9: ACCESSORIES, SPARE PARTS AND TOOLS

Accessories, spare parts and tools dispatched with a piece of equipment, machine, apparatus or vehicle, which are part of the normal equipment and included in the price thereof or which are not separately invoiced, shall be regarded as one with the piece of equipment, machine, apparatus or vehicle in question.

ARTICLE 3.10: SETS

[4] "identical and interchangeable materials" means materials being of the same kind and commercial quality, possessing the same technical and physical characteristics, and which cannot be distinguished from one another for origin purposes, once they are incorporated into the finished good.

Sets, as defined in General Rule 3 of the Harmonized System (HS), shall be regarded as originating when all component goods are originating. Nevertheless, when a set is composed of originating and non-originating goods, the set as a whole shall be regarded as originating, provided that the value of the non-originating goods does not exceed 15 percent of the ex-works price of the set.

ARTICLE 3.11: NEUTRAL ELEMENTS

In order to determine whether a good originates, it shall not be necessary to determine the origin of the goods which might be used in its manufacture but which do not enter and which are not intended to enter into the final composition of the good. Neutral elements, for example, will include:

(a) energy and fuel;

(b) plant and equipment;

(c) machines and tools; and

(d) goods which do not enter into and which are not intended to enter into the final composition of the good.

ARTICLE 3.12: PRINCIPLE OF TERRITORIALITY

1. Except as provided for in Article 3.2 and paragraph 3, the conditions for acquiring originating status set out in Article 3.4 must be fulfilled without interruption in Israel or in Korea.

2. Where originating goods exported from Israel or from Korea to a non-Party, return to the exporting Party, they must be considered as non-originating, unless it can be demonstrated to the satisfaction of the customs authorities that:

(a) the returning goods are the same as those exported; and

(b) they have not undergone any operation beyond that necessary to preserve them in good condition while in that non-Party or while being exported.

3. Notwithstanding paragraphs 1 and 2, the acquisition of originating status in accordance with the conditions set out in this Chapter shall not be affected by working or processing done outside Israel or Korea on materials exported from Israel or from Korea and subsequently re-imported there, provided that:

(a) the said materials shall be wholly obtained in Israel or in Korea or have undergone working or processing beyond the operations referred to in Article 3.6 prior to being exported;

(b) it shall be demonstrated to the satisfaction of the customs authorities that:

(i) the re-imported goods have been obtained by working or processing the exported materials;

(ii) such working or processing have not resulted in a change of the classification at a six digit level of the Harmonized System (HS) of the said re-imported goods; and

(iii) the total added value[5] acquired outside Israel or Korea by applying the provisions of this Article does not exceed 10 percent of the ex-works price of the end good for which originating status is claimed.

(c) The provisions of paragraph 3 shall not apply to goods which do not fulfil the conditions set out in Article 3.4; and

(d) factual information relevant to subparagraphs (a) through (c) will be indicated in the Certificate of Origin, in accordance with Annex 3-C.

4. Notwithstanding Article 3.1, certain goods shall be considered to be originating even if they have undergone working or processing outside Korea, on materials exported from Korea and subsequently re-imported there, provided that the working or processing is done in the areas designated by the Parties pursuant to Annex 3-B.

ARTICLE 3.13: DIRECT TRANSPORT

1. The preferential treatment provided under this Agreement shall apply only to goods, satisfying the requirements of this Chapter, which are transported directly between Israel and Korea. However, goods constituting one single consignment may be transported through other territories with, should the occasion arise, trans-shipment or temporary warehousing in such territories, under the surveillance of the customs authorities therein, provided that:

(a) they are not intended for trade, consumption or use in the non-Party where the goods were in transit; and

(b) they do not undergo operations other than unloading, reloading or any operation designed to preserve them in good condition.

2. Evidence that the conditions set out in paragraph 1 have been fulfilled shall be supplied to the customs authorities of the importing Party by the production of:

(a) the transportation documents, such as the airway bill, the bill of lading or the multimodal or combined transportation document, that certify the transport from the country of origin to the importing country;

[5] (a) For the purposes of applying the provisions of paragraph 3, "total added value" shall be taken to mean all costs arising outside Israel or Korea, including the value of the materials incorporated there.
(b) The total added value as detailed in footnote 5(a) shall be considered as non-originating materials for the purposes of Article 3.4.1.

(b) a certificate issued by the customs authorities of the non-Party where the goods were in transit, which contains an exact description of the goods, the date and place of the loading and re-loading of the goods in that non-Party, and the conditions under which the good were placed; or

(c) in the absence of any of the above documents, any other documents that will prove the direct shipment.

3. The Parties agree to discuss, within two years of the date of entry into force of this Agreement, the possibility of a mechanism allowing that originating goods, which are released into a non-Party before being exported to the other Party and did not go through working or processing beyond those defined in Article 3.6, will not lose their originating status, under conditions to be determined by the Parties.

ARTICLE 3.14: EXHIBITIONS

1. Originating goods, sent for exhibition in a non-Party other than Israel or Korea and sold after the exhibition for importation in Israel or in Korea, shall benefit on importation from the provisions of this Agreement, provided it is shown to the satisfaction of the customs authorities that:

(a) an exporter has consigned these goods from Israel or Korea to the non-Party in which the exhibition is held and has exhibited them there;

(b) the goods have been sold or otherwise disposed of by that exporter to a person in Israel or in Korea;

(c) the goods have been consigned during the exhibition or immediately thereafter in the non-Party to which they were sent for exhibition; and

(d) the goods have not, since they were consigned for exhibition, been used for any purpose other than demonstration at the exhibition.

2. A Proof of Origin must be issued or made out in accordance with the provisions of this Chapter and submitted to the customs authorities of the importing Party in the normal manner. The name and address of the exhibition must be indicated thereon.

3. Paragraph 1 shall apply to any trade, industrial, agricultural or crafts exhibition, fair or similar public show or display which is not organized for private purposes in shops or business premises, with a view to the sale of foreign goods, and during which the goods remain under customs control.

ARTICLE 3.15: GENERAL REQUIREMENTS

1. Goods originating in a Party shall, on importation into the other Party, benefit from preferential tariff treatment of this Agreement upon submission in accordance with the law of the importing Party of one of the following Proofs of Origin, which shall be completed in the

English language:

(a) a Certificate of Origin, a specimen of which appears in Annex 3-C; or

(b) an Origin Declaration given by:

(i) an approved exporter in accordance with Article 3.19

(ii) any exporter, where the value of the originating goods does not exceed 1,000 US dollars, in accordance with Article 3.20.

2. Notwithstanding paragraph 1, originating goods within the meaning of this Chapter shall, in the cases specified in Article 3.24, benefit from this Agreement without it being necessary to submit any of the documents referred to above.

ARTICLE 3.16: PROCEDURES FOR THE ISSUANCE OF CERTIFICATES OF ORIGIN

1. For the purposes of this Chapter, Certificate of Origin refers to either an Electronic Certificate of Origin or a Paper Certificate of Origin.

2. Certificates of Origin shall be issued by the Issuing Authorities of the exporting Party, either upon an electronic application or an application in paper form, having been made by the exporter, producer or under the exporter's responsibility by his authorised representative, in accordance with the regulations of the exporting Party.

3. The application form of Certificate of Origin shall be made out in accordance with the law of the exporting Party.

4. The exporter, producer, or his authorised representative under the exporter's responsibility applying for the issuance of a Certificate of Origin shall be prepared to submit at any time, at the request of the customs authorities of the exporting Party, all appropriate documents proving the originating status of the goods concerned, as well as the fulfillment of the other requirements of this Chapter.

5. Certificates of Origin shall be issued if the goods to be exported can be considered as goods originating in the exporting Party in accordance with this Chapter.

6. The Issuing Authorities shall take any steps necessary to verify the originating status of the goods and the fulfillment of the other requirements of this Chapter. For this purpose, they shall have the right to call for any evidence and to carry out any inspection of the exporter's books or any other check considered appropriate.

7. Each Certificate of Origin will be assigned a specific number by the Issuing Authorities.

8. A Certificate of Origin shall be issued before or at the time of shipment, or within seven working days after shipment.

ARTICLE 3.17: CERTIFICATES OF ORIGIN ISSUED RETROSPECTIVELY

1. Notwithstanding Article 3.16.8, a Certificate of Origin may be issued retrospectively due to involuntary errors, omissions, or other valid causes, within one year from the date of shipment, in cases where a Certificate of Origin has not been issued before or at the time of shipment or within seven working days after shipment.

2. For the implementation of paragraph 1, the exporter, producer, or his authorised representative under the exporter's responsibility must indicate in his application the place and date of exportation of the goods to which the Certificate of Origin relates, and state the reasons for his request.

3. The issuing authorities may issue a Certificate of Origin retrospectively only after verifying that the information supplied in the application of exporter, producer, or his authorised representative under the exporter's responsibility agrees with that in the corresponding file.

4. It shall be indicated on the Certificates of Origin issued in accordance with this Article that they were issued retrospectively in the appropriate field as detailed in Annex 3-C.

ARTICLE 3.18: DUPLICATE CERTIFICATES OF ORIGIN

1. In the event of theft, loss or destruction of a Certificate of Origin in paper form, the exporter, producer, or his authorised representative under the exporter's responsibility may apply to the Issuing Authorities that issued it for a duplicate made out on the basis of the export documents in their possession.

2. It shall be indicated on the Certificates of Origin issued in accordance with this Article that they are duplicates in the appropriate field as detailed in Annex 3-C.

3. The duplicate, which shall bear the date of issue of the original Certificate of Origin, shall take effect as from that date.

ARTICLE 3.19: APPROVED EXPORTER

1. The customs authorities of the exporting Party may authorise any exporter, (hereinafter referred to as "approved exporter"), who exports goods under this Agreement, to make out Origin Declarations, a specimen of which appears in Annex 3-D-1, irrespective of the value of the goods concerned, in accordance with appropriate conditions in the respective law of the exporting Party. An exporter seeking such authorisation must offer to the satisfaction of the customs authorities all guarantees necessary to verify the originating status of the goods as well as the fulfilment of the other requirements of this Chapter.

2. The customs authorities may grant the status of approved exporter, subject to any conditions which they consider appropriate.

3. The customs authorities shall grant to the approved exporter a customs authorisation number which shall appear on the Origin Declaration.

4. The customs authorities shall monitor the use of the authorisation by the approved exporter.

5. The customs authorities may withdraw the authorisation at any time. They shall do so where the approved exporter no longer offers the guarantees referred to in paragraph 1, no longer fulfils the conditions referred to in paragraph 2 or otherwise makes an incorrect use of the authorisation.

ARTICLE 3.20: CONDITIONS FOR MAKING OUT AN ORIGIN DECLARATION

1. An Origin Declaration as referred to in Article 3.15.1(b) may be made out by an approved exporter within the meaning of Article 3.19 or by any exporter where the value of the originating good does not exceed 1,000 US dollars.

2. The exporter making out an Origin Declaration shall be prepared to submit at any time, at the request of the customs authorities of the exporting Party, all appropriate documents proving the originating status of the goods concerned, as well as the fulfilment of the other requirements of this Chapter.

3. An Origin Declaration shall be made out by the exporter by typing, stamping or printing on the invoice, the delivery note or another commercial document, the declaration, the text of which appears in Annex 3-D-2. If the declaration is hand-written, it shall be written in ink in printed characters.

ARTICLE 3.21: VALIDITY OF PROOFS OF ORIGIN

1. Proofs of Origin shall be valid for 12 months from the date of issue in the exporting Party, and must be submitted within that period to the customs authorities of the importing Party.

2. Proofs of Origin which are submitted to the customs authorities of the importing Party after the final date for presentation specified in paragraph 1 may be accepted for the purposes of applying preferential treatment, where the failure to submit these documents by the final date set is due to exceptional circumstances.

3. In other cases of belated presentation, other than those of paragraph 2, the customs authorities of the importing Party may accept the Proofs of Origin, in accordance with the procedures of the Party where the goods have been submitted, before the said final date.

ARTICLE 3.22: SUBMISSION OF PROOFS OF ORIGIN[6]

1. Proofs of Origin shall be submitted to the customs authorities of the importing Party in accordance with the procedures applicable in that Party.

2. The customs authorities may require an importer that claims preferential tariff treatment for a good imported into its territory from the territory of the other Party to make a declaration on the import document provided for in its law, on the basis of a valid Proofs of Origin, that the good qualifies as an originating good.

3. The importing Party shall grant preferential tariff treatment to goods, in cases where the importer does not have the Proofs of Origin at the time of importation, provided that:

(a) if required by the law of the importing Party, the importer had, at the time of importation, indicated to the customs authority of the importing Party his intention to claim preferential tariff treatment; and

(b) the Proofs of Origin are submitted to the customs authority of the importing Party with the time-limit in accordance with the law of the importing Party.

ARTICLE 3.23: IMPORTATION BY INSTALLMENTS

Where, at the request of the importer and on the conditions laid down by the customs authorities of the importing Party, dismantled or non-assembled goods within the meaning of General Rule 2(a) of the Harmonized System (HS) falling within Sections XVI through XIX or headings 7308 and 9406 of the Harmonized System (HS) are imported by installments, a single Proof of Origin for such goods shall be submitted to the customs authorities upon importation of the first installment.

ARTICLE 3.24: EXEMPTIONS FROM PROOFS OF ORIGIN

1. Goods sent as small packages from private persons to private persons or forming part of travellers' personal luggage shall be admitted as originating goods without requiring the submission of a Proof of Origin, provided that such goods are not imported by way of trade and have been declared as meeting the requirements of this Chapter and where there is no doubt as to the veracity of such a declaration. In the case of goods sent by post, this declaration may be made on the customs declaration or on a sheet of paper annexed to that document.

2. Imports which are occasional and consist solely of goods for the personal use of the recipients or travellers or their families shall not be considered as imports by way of trade if it is evident from the nature and quantity of the goods that no commercial purpose is in view.

[6] For greater certainty, in Israel, Proofs of Origin shall be submitted to the customs authority no later than the time of customs clearance of the goods, or in the case stipulated in Article 3.22.3, no later than six months from the time of customs clearance, provided that at the time of customs clearance, it was declared that the goods qualify as originating goods.

3. Furthermore, the total value of these goods shall not exceed 1,000 US dollars in the case of small packages or 1,000 US dollars in the case of goods forming part of travellers' personal luggage.

ARTICLE 3.25: SUPPORTING DOCUMENTS

1. The documents referred to in Articles 3.16.4 and 3.20.2 used for the purposes of proving that goods covered by a Certificate of Origin or an Origin Declaration can be considered as goods originating in a Party and fulfill the other requirements of this Chapter, may consist *inter alia* of the following:

(a) direct evidence of the processes carried out by the exporter or producer to obtain the goods concerned, contained for example in his accounts or internal bookkeeping;

(b) documents proving the originating status of materials used, issued or made in a Party, where these documents are used in accordance with its law;

(c) documents proving the working or processing of materials in a Party, issued or made out in a Party, where these documents are used in accordance with its law;

(d) Certificates of Origin or Origin Declaration proving the originating status of materials used, issued or made out in a Party in accordance with this Chapter;

(e) appropriate evidence concerning working or processing undergone outside a Party by application of Article 3.12, proving that the requirements of that Article have been satisfied.

2. In the case where an operator, situated in a non-Party which is not the exporting Party, issues an invoice covering the consignment, that fact shall be indicated in the Certificate of Origin in accordance with Annex 3-C.

ARTICLE 3.26: PRESERVATION OF PROOFS OF ORIGIN AND SUPPORTING DOCUMENTS

1. The exporter or producer applying for the issue of the Certificate of Origin shall keep for at least five years the documents referred to in Article 3.16.4.

2. The exporter making out an Origin Declaration shall keep for at least five years a copy of this Origin Declaration, as well as the documents referred to in Article 3.20.2.

3. The Issuing Authority in the exporting Party that issued a Certificate of Origin shall keep for at least five years any document relating to the application procedure referred to in Article 3.16.3.

4. The customs authorities of the importing Party shall keep for at least five years the Certificates of Origin and the Origin Declaration or the reference numbers of electronic

Certificates of Origin submitted to them.

ARTICLE 3.27: DISCREPANCIES AND FORMAL ERRORS

1. The discovery of slight discrepancies between the statements made in the Proofs of Origin and those made in the documents submitted to the customs authorities for the purposes of carrying out the formalities for importing the goods, shall not *ipso facto* render the Proofs of Origin null and void if it is duly established that this document does correspond to the goods submitted.

2. Obvious formal errors on a Proof of Origin should not cause this document to be rejected if these errors are not such as to create doubts concerning the correctness of the statements made in this document.

ARTICLE 3.28: MUTUAL ASSISTANCE

1. The customs authorities of each Party shall provide each other with the addresses of the customs authorities responsible for verifying Certificates and Origin Declarations.

2. In order to ensure the proper application of this Chapter, each Party shall assist each other, through their respective customs authorities, in checking the authenticity of the Certificates of Origin and the Origin Declarations, and the correctness of the information given in these documents.

ARTICLE 3.29: VERIFICATION OF PROOFS OF ORIGIN

1. Subsequent verifications of Proofs of Origin shall be carried out at random or whenever the customs authority of the importing Party has reasonable doubts as to the authenticity of such documents, the originating status of the goods concerned or the fulfilment of the other requirements of this Chapter.

2. For the purposes of implementing paragraph 1, the customs authority of the importing Party shall return the Proofs of Origin, or a copy of these documents, to the customs authority of the exporting Party giving, where appropriate, the reasons for the request for verification. Any documents and information obtained suggesting that the information given on the Proofs of Origin is incorrect shall be forwarded in support of the request for verification.

3. The verification shall be carried out by the customs authority of the exporting Party. For this purpose, they shall have the right to call for any evidence and to carry out any inspection of the exporter's books or any other check considered appropriate.

4. If the customs authority of the importing Party decides to suspend the granting of preferential treatment to the goods concerned while awaiting the results of the verification, release of the goods shall be offered to the importer subject to any precautionary measures judged necessary.

5. The customs authority requesting the verification shall be informed of the results thereof as soon as possible. These results shall indicate clearly whether the documents are authentic and whether the goods concerned may be considered as goods originating in a party and fulfil the other requirements of this Chapter.

6. If, in cases of reasonable doubt, there is no reply within 10 months of the date of the verification request or if the reply does not contain sufficient information to determine the authenticity of the document in question or the real origin of the goods, the requesting customs authority shall, except in exceptional circumstances, refuse entitlement to the preferences.

7. If the customs authority of the importing Party is not satisfied with the results provided by the customs authority of the exporting Party, under exceptional circumstances, the customs authority of the importing Party may conduct a verification in the exporting Party by means of:

(a) written requests for additional information, documents or explanations, to the customs authority of the exporting Party, concerning the results of the above verification. Such information shall be provided no later than 90 days from the receipt of such request from the customs authority of the importing Party; or

(b) a verification visit to the premises of the exporter or producer in the exporting Party. To that purpose:

(i) the customs authority of the importing Party shall deliver a written notification in advance to the customs authority of the exporting Party regarding the intention of the importing Party to conduct a visit at the exporter or the producer's premises;

(ii) the exporting Party shall set a date of visit upon agreement from the exporter or the producer, the importing Party and the exporting Party. The visit shall be conducted no later than 90 days from the receipt of the written notification by the customs authority of the exporting Party;

(iii) officials from the exporting Party shall assist the officials from the importing Party in their visit and accompany them at the exporter's premises, unless otherwise is agreed; and

(iv) the customs authority of the importing Party conducting the verification shall provide the customs authority of the exporting Party with a written determination of whether the goods qualify as originating goods, including findings of fact and the legal basis for the determination.

8. Each Party shall maintain, in accordance with its law, the confidentiality of any information collected pursuant to this Article, and shall protect that information from

disclosure that could prejudice the competitive position of the persons providing the information.

9. Information collected by a Party pursuant to this Article may only be disclosed in accordance with the law of the Parties.

ARTICLE 3.30: DISPUTE SETTLEMENT

Where disputes arise in relation to the verification procedures of Article 3.29 which cannot be settled between the customs authorities requesting a verification and the customs authorities responsible for carrying out the verification or where a question is raised by one of those customs authorities as to the interpretation of this Chapter, the matter shall be submitted to the Customs Committee established by the Joint Committee in accordance with Chapter 19 (Administration of the Agreement) of this Agreement. If no solution is reached, Chapter 20 (Dispute Settlement) of this Agreement shall apply. In all cases the settlement of disputes between the importer and the customs authorities of the importing Party shall be under the law of the said Party.

ARTICLE 3.31: TRANSITIONAL PROVISIONS FOR GOODS IN TRANSIT OR STORAGE

The provisions of this Agreement may be applied to goods which comply with the provisions of this Agreement and which on the date of entry into force of this Agreement are either in transit, in the Parties, in temporary storage in customs control or in free zones, subject to the submission to the customs authorities of the importing Party, within 12 months of that date, of a Proof of Origin made out retrospectively together with the documents showing that the goods have been transported directly in accordance with Article 3.13.

ARTICLE 3.32: DEFINITIONS

For the purposes of this Chapter:

(a) **aquaculture** means the farming of aquatic organisms, including fish, molluscs, crustaceans, other aquatic invertebrates, and aquatic plants, from seed stock such as eggs, fry, fingerlings, and larvae, by intervention in the rearing or growth processes to enhance production, such as regular stocking, feeding, protection from predators, etc;

(b) **chapters**, **headings**, and **subheadings** mean the chapters, the headings, and the subheadings (2-, 4- and 6-digit codes respectively) used in the nomenclature which makes up the Harmonized System (HS);

(c) **CIF Value** means the value of the goods at the time of importation, including freight and insurance, packing, and all other costs incurred in transporting to the port of importation;

(d) **classified** refers to the classification of a good or material under a particular

heading or sub-heading;

(e) **consignment** means goods which are either sent simultaneously from one exporter to one consignee or covered by a single transport document covering their shipment from the exporter to the consignee or, in the absence of such a document, by a single invoice;

(f) **customs value** means the value as determined in accordance with Article VII of GATT 1994 and the Agreement on Implementation of Article VII of GATT 1994 (*Customs Valuation Agreement*);

(g) **ex-works price** means the price paid for the good ex-works to the manufacturer in a Party in whose undertaking the last working or processing is carried out, provided the price includes the value of all the materials used, minus any internal taxes which are, or may be, repaid when the good obtained is exported;

(h) **goods** means both materials and products;

(i) **Issuing Authorities** refers to:

(i) for Korea, the Korea Customs Service and the Korea Chamber of Commerce and Industry; and

(ii) for Israel, the Customs Directorate of the Israel Tax Authority of the Ministry of Finance.

(j) **manufacture** means any kind of working or processing, including assembly or specific operations;

(k) **material** means any ingredient, raw material, component or part, etc., used in the manufacture of the good;

(l) **value of non-originating materials** means the customs value at the time of importation of the non-originating materials used, or, if it is not known, its equivalent in accordance with Article VII of GATT 1994 and the Agreement on Implementation of Article VII of GATT 1994 (*Customs Valuation Agreement*);

EXPLANATORY NOTES

Only for the following specific reasons, the preferential treatment may be refused without verification of the Proofs of Origin as they can be considered as inapplicable when:

(a) the requirements on direct transport of Article 3.13 have not been fulfilled;

(b) the Origin Declaration has been issued by an exporter from countries other than Korea or Israel;

(c) the Origin Declaration pursuant to Article 3.15.1(b)(i) has been issued by a person who is not an Approved Exporter;

(d) the importer fails to submit the Proofs of Origin to the customs authorities of the importing Party within the period specified in the importing Party's law;

(e) the preferential tariff treatment was applied to a particular good even though the importer was not in possession of the appropriate Proofs of Origin at the time of import declaration and the Proofs of Origin were subsequently produced[7];

(f) the customs authority of the exporting Party fails to reply to the written request pursuant to Article 3.29.7(a);

(g) the exporter or producer declines a verification visit pursuant to Article 3.29.7(b) through the customs authority of the exporting Party; or

(h) the issuing authority of the exporting Party or the exporter did not sign the Certificate of Origin.

[7] This provision is only applicable to Korea.