CHAPTER 3

RULES OF ORIGIN AND ORIGIN PROCEDURES

SECTION A

RULES OF ORIGIN

ARTICLE 3.1

Definitions

For the purposes of this Chapter, the following definitions apply:

(a) "consignment" means a product that is either sent simultaneously from a consignor to a consignee or covered by a single transport document covering a shipment from the consignor to the consignee or, in the absence of such a document, by a single invoice;

(b) "exporter" means a person, located in a Party, who, in accordance with the requirements laid down in the law of that Party, exports or produces the originating product and makes out a statement on origin;

(c) "importer" means a person who imports the originating product and claims preferential tariff treatment for it;

(d) "material" means any substance used in the production of a product, including any ingredient, raw material, component or part;

(e) "non-originating material" means a material that does not qualify as originating under this Chapter, including a material whose originating status cannot be determined;

(f) "product" means the result of production, even if it is intended for use as a material in the production of another product; and

(g) "production" means any kind of working or processing, including assembly.

ARTICLE 3.2

General requirements for originating products

1. For the purpose of applying preferential tariff treatment by a Party to an originating good of the other Party in accordance with this Agreement, provided that a product satisfies all other applicable requirements of this Chapter, a product shall be considered as originating in the other Party if it is:

(a) wholly obtained in that Party within the meaning of Article 3.4 (Wholly obtained products);

(b) produced in that Party exclusively from originating materials; or

(c) produced in that Party incorporating non-originating materials provided that the product satisfies the requirements set out in Annex 3-B (Product-specific rules of origin).

2. If a product has acquired originating status, the non-originating materials used in the production of that product shall not be considered as non-originating materials when that product is incorporated as a material in another product.

3. The acquisition of originating status shall be fulfilled without interruption in New Zealand or the Union.

ARTICLE 3.3

Cumulation of origin

1. A product originating in a Party shall be considered as originating in the other Party if that product is used as a material in the production of another product in that other Party.

2. Production carried out in a Party on a non-originating material may be taken into account for the purpose of determining whether a product is originating in the other Party.

3. Paragraphs 1 and 2 do not apply if the production carried out in the other Party does not go beyond one or more of the operations referred to in Article 3.6 (Insufficient working or processing).

4. In order for an exporter to complete the statement on origin referred to in point (a) of Article 3.16(2) (Claim for preferential tariff treatment) for a non-originating material, the exporter shall obtain from its supplier a supplier's declaration as provided for in Annex 3-D (Supplier's declaration referred to in Article 3.3(4) (Cumulation of origin)) or an equivalent document that contains the same information describing the non-originating materials concerned in sufficient detail to enable them to be identified.

ARTICLE 3.4

Wholly obtained products

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

(a) a mineral or naturally occurring substance extracted or taken from the soil or the seabed of a Party;

(b) a plant or vegetable grown or harvested in a Party;

(c) a live animal born and raised in a Party;

(d) a product obtained from a live animal raised in a Party;

(e) a product obtained from a slaughtered animal born and raised in a Party;

(f) a product obtained by hunting or fishing conducted in a Party, but not beyond the outer limits of the Party's territorial sea;

(g) a product obtained from aquaculture in a Party, if aquatic organisms, including fish, molluscs, crustaceans, other aquatic invertebrates and aquatic plants, are born or raised from seed stock, such as eggs, roes, fry, fingerlings or larvae, by intervention in the rearing or growth processes to enhance production, such as regular stocking, feeding or protection from predators;

(h) a product of sea fishing and other product taken in accordance with international law from the sea outside any territorial sea by a vessel of a Party;

(i) a product made aboard a factory ship of a Party exclusively from a product referred to in point (h);

(j) a product taken or extracted by a Party or a person of a Party from the seabed or subsoil outside any territorial sea, provided that Party or person of that Party has the right to work that seabed or subsoil in accordance with international law;

(k) waste or scrap resulting from manufacturing operations conducted in a Party;

(l) a used product collected in a Party and which is fit only for the recovery of raw materials, including such raw materials; and

(m) a product produced in a Party exclusively from the products referred to in points (a) to (l).

2. The terms "vessel of a Party" and "factory ship of a Party" in points (h) and (i) of paragraph 1 respectively refer only to a vessel or a factory ship which:

(a) is registered in a Member State or in New Zealand;

(b) sails under the flag of a Member State or of New Zealand; and

(c) meets one of the following conditions:

(i) it is at least 50 % owned by nationals of a Member State or of New Zealand; or

(ii) it is owned by one or more juridical persons each of which:

(A) has its head office and main place of business in a Member State or in New Zealand; and

(B) is at least 50 % owned by public entities or persons of a Member State or of New Zealand.

ARTICLE 3.5

Tolerances

1. If non-originating materials used in the production of a product do not satisfy the requirements set out in Annex 3-B (Product-specific rules of origin), the product shall be considered as originating in a Party, provided that:

(a) for all products, except for the products classified under HS Chapters 50 to 63, the value of non-originating materials used in the production of the products concerned does not exceed 10 % of the ex-works price of those products;

(b) for the products classified under HS Chapters 50 to 63, the tolerances set out in Notes 7 and 8 of Annex 3-A (Introductory notes to product-specific rules of origin) apply.

2. Paragraph 1 does not apply if the value or weight of non-originating materials used in the production of a product exceeds any of the percentages for the maximum value or weight of non-originating materials as specified in the requirements set out in Annex 3-B (Product-specific rules of origin).

3. Paragraph 1 does not apply to products wholly obtained in a Party within the meaning of Article 3.4 (Wholly obtained products). If Annex 3-B (Product-specific rules of origin) requires that the materials used in the production of a product are wholly obtained in a Party within the meaning of Article 3.4 (Wholly obtained products), paragraphs 1 and 2 apply.

ARTICLE 3.6

Insufficient working or processing

1. Notwithstanding point (c) of Article 3.2(1) (General requirements for originating products), a product shall not be considered as originating in a Party if the production of the product in a Party consists only of one or more of the following operations conducted on non-originating materials:

(a) preserving operations such as drying, freezing, keeping in brine and other similar operations when their sole purpose is to ensure that the product remains in good condition during transport and storage[1];

(b) breaking-up or assembly of packages;

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

(d) ironing or pressing of textiles and textile articles;

(e) simple painting and polishing operations;

(f) husking and partial or total milling of rice; polishing and glazing of cereals and rice;

[1] Within the context of point (a), preserving operations such as chilling, freezing or ventilating are considered insufficient, whereas operations such as pickling, drying or smoking that are intended to give special or different characteristics to the product are not considered insufficient.

(g) operations to colour or flavour sugar or form sugar lumps, partial or total milling of crystal sugar;

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

(i) sharpening, simple grinding or simple cutting;

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

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

(l) affixing or printing marks, labels, logos and other like-distinguishing signs on the product or its packaging;

(m) simple mixing of products, whether or not of different kinds; mixing of sugar with any material;

(n) simple addition of water or dilution with water or another substance that does not materially alter the characteristics of the product, or dehydration or denaturation of the product;

(o) simple assembly of parts of articles to constitute a complete article or disassembly of the product into parts; or

(p) slaughter of animals.

2. For the purposes of paragraph 1, operations shall be considered to be simple if neither special skills nor especially produced or installed machines, apparatus or equipment are needed for carrying out those operations.

ARTICLE 3.7

Unit of qualification

1. For the purposes of this Chapter, the unit of qualification shall be the particular product that is considered as the basic unit when classifying the product under the HS.

2. If a consignment consists of a number of identical products classified under the same heading of the Harmonized System, each individual product shall be taken into account when applying this Chapter.

ARTICLE 3.8

Packing materials and containers for shipment

Packing materials and containers for shipment that are used to protect a product during transportation shall be disregarded in determining whether a product has originating status.

ARTICLE 3.9

Packaging materials and containers for retail sale

1. Packaging materials and containers in which a product is packaged for retail sale, if classified with that product, shall be disregarded in determining whether the non-originating materials used in the production of the product have undergone the applicable change in tariff classification or a specific manufacturing or processing operation as set out in Annex 3-B (Product-specific rules of origin) or whether the product is wholly obtained in a Party within the meaning of Article 3.4 (Wholly obtained products).

2. When a product is subject to a value requirement as set out in Annex 3-B (Product-specific rules of origin), the value of the packaging materials and containers in which the product is packaged for retail sale, if classified with that product, shall be taken into account as originating or non-originating, as the case may be, in the calculation for the purposes of the application of the value requirement to the product.

ARTICLE 3.10

Accessories, spare parts and tools

1. For the purposes of this Article, accessories, spare parts, tools and instructional or other information materials of a product are covered if they are:

(a) classified, delivered and invoiced with the product; and

(b) of the type, quantity and value that are customary for the product concerned.

2. In determining whether a product:

(a) is wholly obtained in a Party within the meaning of Article 3.4 (Wholly obtained products) or satisfies a production process or change in tariff classification requirement as set out in Annex 3-B (Product-specific rules of origin), accessories, spare parts, tools and instructional or other information materials of that product shall be disregarded; and

(b) meets a value requirement as set out in Annex 3-B (Product-specific rules of origin), the value of accessories, spare parts, tools and instructional or other information materials of that product shall be taken into account as originating or non-originating materials, as the case may be, in the calculation for the purposes of the application of the value requirement to the product.

ARTICLE 3.11

Sets

Sets, as referred to in General Rule 3, points (a) and (b), of the General rules for the interpretation of the Harmonized System, shall be considered as originating in a Party if all of their components have originating status. When a set is composed of originating and non-originating components, the set as a whole shall be considered as originating in a Party, if the value of the non-originating components does not exceed 15 % of the ex-works price of that set.

ARTICLE 3.12

Neutral elements

In order to determine whether a product is originating in a Party, it shall not be necessary to determine the originating status of the following neutral elements:

(a) energy and fuel;

(b) plant and equipment, including products used for their maintenance;

(c) machines, tools, dies and moulds;

(d) spare parts and materials used in the maintenance of equipment and buildings;

(e) lubricants, greases, compounding materials and other materials used in production or used to operate equipment and buildings;

(f) gloves, glasses, footwear, clothing, safety equipment and supplies;

(g) equipment, devices and supplies used for testing or inspecting the product;

(h) catalysts and solvents; and

(i) other materials that are neither incorporated nor intended to be incorporated into the final composition of the product.

ARTICLE 3.13

Accounting segregation method for fungible materials and fungible products

1. For the purposes of this Article, "fungible materials" or "fungible products" means materials or products that are of the same kind and commercial quality, with the same technical and physical characteristics, and which cannot be distinguished from one another for origin purposes.

2. Originating and non-originating fungible materials or fungible products shall be physically segregated during storage in order to maintain their originating and non-originating status.

3. Notwithstanding paragraph 2, originating and non-originating fungible materials may be used in the production of a product without being physically segregated during storage if an accounting segregation method is used.

4. Notwithstanding paragraph 2, originating and non-originating fungible products classified under Chapters 10, 15, 27, 28, 29, headings 32.01 to 32.07, or headings 39.01 to 39.14 of the Harmonized System may be stored in a Party before exportation to the other Party without being physically segregated, if an accounting segregation method is used.

5. The accounting segregation method referred to in paragraphs 3 and 4 shall be applied in conformity with a stock management method under accounting principles that are generally accepted in the Party where the accounting segregation method is used.

6. The accounting segregation method shall be any method that ensures that at any time no more products receive originating status than that would be the case if the materials or the products had been physically segregated.

ARTICLE 3.14

Returned products

If an originating product of a Party exported from that Party to a third country returns to that Party, it shall be considered as a non-originating product unless the returned product:

(a) is the same as that exported; and

(b) has not undergone any operation other than what was necessary to preserve it in good condition while in the third country to which it has been exported or while being exported.

ARTICLE 3.15

Non-alteration

1. An originating product declared for home use in the importing Party shall not, after exportation and prior to being declared for home use, have been altered, transformed in any way or subjected to operations other than to preserve it in good condition or than adding or affixing marks, labels, seals or any other documentation to ensure compliance with specific requirements of the importing Party.

2. The storage or exhibition of an originating product may take place in a third country if that originating product is not cleared for home use in that third country.

3. Without prejudice to Section B (Origin procedures) of this Chapter, the splitting of consignments may take place in a third country if the consignments are not cleared for home use in that third country.

4. In case of doubt as to whether the requirements provided for in paragraphs 1 to 3 are complied with, the customs authority of the importing Party may request the importer to provide evidence of compliance with those requirements, which may be given by any means, including contractual transport documents, such as bills of lading, factual or concrete evidence based on marking or numbering of packages or any evidence related to the product itself.

SECTION B

ORIGIN PROCEDURES

ARTICLE 3.16

Claim for preferential tariff treatment

1. The importing Party shall grant preferential tariff treatment to a product originating in the other Party on the basis of a claim by the importer for preferential tariff treatment. The importer shall be responsible for the correctness of the claim for preferential tariff treatment and for compliance with the requirements set out in this Chapter.

2. A claim for preferential tariff treatment shall be based on either:

(a) a statement on origin that the product is originating made out by the exporter; or

(b) the importer's knowledge that the product is originating.

3. A claim for preferential tariff treatment and its basis as referred to in points (a) and (b) of paragraph 2 shall be included in the customs import declaration in accordance with the law of the importing Party.

4. The importer making a claim for preferential tariff treatment based on a statement on origin referred to in point (a) of paragraph 2 shall keep the statement on origin and, when required by the customs authority of the importing Party, shall provide a copy thereof to that customs authority.

ARTICLE 3.17

Claim for preferential tariff treatment after importation

1. If the importer did not make a claim for preferential tariff treatment at the time of importation, and the product would have qualified for preferential tariff treatment at the time of importation, the importing Party shall grant preferential tariff treatment and repay or remit any excess customs duty paid.

2. The importing Party may require as a condition for granting preferential tariff treatment under paragraph 1 that the importer makes a claim for preferential tariff treatment and provides the basis for the claim as referred to in Article 3.16(2) (Claim for preferential tariff treatment). Such a claim shall be made no later than three years after the date of importation or within a longer period if specified in the law of the importing Party.

ARTICLE 3.18

Statement on origin

1. A statement on origin shall be made out by an exporter of a product on the basis of information demonstrating that the product is originating, including, when applicable, information on the originating status of materials used in the production of that product. The exporter shall be responsible for the correctness of the statement on origin and the information provided.

2. A statement on origin shall be made out in one of the language versions included in Annex 3-C (Text of the statement on origin) on an invoice or on any other document that describes the originating product in sufficient detail to enable its identification[2]. The importing Party shall not require the importer to submit a translation of the statement on origin.

3. A statement on origin shall be valid for one year from the date it was made out.

4. A statement on origin may apply to:

(a) a single shipment of one or more products imported into a Party; or

[2] For greater certainty, while the statement on origin must be made out by the exporter and the exporter shall be responsible for providing sufficient detail to identify the originating product, there shall be no requirement regarding either the identity or the place of establishment of the person issuing the invoice or any other document, if that document allows for clear identification of the exporter.

(b) multiple shipments of identical products imported into a Party within the period specified in the statement on origin not exceeding 12 months.

5. The importing Party shall, upon the request of the importer and subject to requirements that the importing Party may provide, allow a single statement on origin for unassembled or disassembled products within the meaning of General Rule 2, point (a), of the General rules for the interpretation of the Harmonized System falling within Sections XV to XXI of the Harmonized System when imported by instalments.

ARTICLE 3.19

Minor errors or minor discrepancies

The customs authority of the importing Party shall not reject a claim for preferential tariff treatment due to minor errors or minor discrepancies in the statement on origin.

ARTICLE 3.20

Importer's knowledge

The importer's knowledge that a product is originating in the exporting Party shall be based on information demonstrating that the product is originating and satisfies the requirements of this Chapter.

ARTICLE 3.21

Record-keeping requirements

1. For a minimum of three years after the date on which the claim for preferential tariff treatment referred to in Article 3.16 (Claim for preferential tariff treatment) or the claim for preferential tariff treatment after importation referred to in Article 3.17 (Claim for preferential tariff treatment after importation) was made or for a longer period that may be specified in the law of the importing Party, an importer making that claim for preferential tariff treatment or that claim for preferential tariff treatment after importation for a product imported into the importing Party shall keep:

(a) the statement on origin made out by the exporter, if the claim was based on a statement on origin; or

(b) all records demonstrating that the product satisfies the requirements to obtain originating status, if the claim was based on the importer's knowledge.

2. An exporter who has made out a statement on origin shall, for a minimum of four years after that statement was made out or within a longer period provided for in the law of the exporting Party, keep a copy of that statement and other records demonstrating that the product satisfies the requirements to obtain originating status.

3. If an exporter is not the producer of the products, and has relied on information from a supplier as to the originating status of the products, the exporter shall be required to keep the information provided by that supplier.

4. The records to be kept in accordance with this Article may be held in electronic format.

ARTICLE 3.22

Waiver of procedural requirements

1. Notwithstanding Articles 3.16 to 3.21, the importing Party shall grant preferential tariff treatment to:

(a) a product sent in a small package from private persons to private persons; or

(b) a product forming part of a traveller's personal luggage.

2. Paragraph 1 applies only to products that have been subject to a customs declaration declaring conformity with the requirements of this Chapter, and for which the customs authority of the importing Party has no doubts as to the veracity of such declaration.

3. The following products are excluded from the application of paragraph 1:

(a) products imported by way of trade, except for imports that are occasional and consist solely of products for the personal use of the recipients or travellers or their families, if it is evident from the nature and quantity of the products that the imports have no commercial purpose;

(b) products whose importation forms part of a series of importations that may reasonably be considered to have been made separately for the purpose of avoiding the requirements of Article 3.16 (Claim for preferential tariff treatment);

(c) products for which the total value exceeds:

(i) for the Union, EUR 500 in the case of products sent in small packages, or EUR 1 200 in the case of products forming part of a traveller's personal luggage. The amounts to be used in a given national currency shall be the equivalent in that currency of the amounts expressed in euro as at the first working day of October. The exchange rates shall be those published for that day by the European Central Bank, unless a different exchange rate is communicated to the European Commission by 15 October, and shall apply from 1 January the following year. The European Commission shall notify New Zealand of the relevant exchange rates;

(ii) for New Zealand, NZD 1 000 both in the case of products sent in small packages and in the case of products forming part of a traveller's personal luggage.

4. The importer shall be responsible for the correctness of the customs declaration referred to in paragraph 2. The record-keeping requirements set out in Article 3.21 (Record-keeping requirements) do not apply to the importer when this Article is being applied.

ARTICLE 3.23

Verification

1. The customs authority of the importing Party may conduct a verification as to whether a product is originating or the other requirements of this Chapter are met, on the basis of risk assessment methods, which may include random selection. Such verification may be conducted by means of a request for information to the importer who made the claim for preferential tariff treatment referred to in Article 3.16 (Claim for preferential tariff treatment), at the time the import declaration is submitted, either before or after the release of the products.

2. The information requested pursuant to paragraph 1 shall cover no more than the following elements:

(a) if the claim was based on a statement on origin referred to in point (a) of Article 3.16(2) (Claim for preferential tariff treatment), that statement on origin;

(b) if the origin criterion is based on:

(i) the fact that the product is wholly obtained, the applicable category (such as harvesting, mining, fishing) and the place of production;

(ii) change in tariff classification, a list of all the non-originating materials, including their tariff classification (in two-, four- or six-digit format, depending on the origin criterion);

(iii) a value method, the value of the final product as well as the value of all the non-originating materials used in the production of that final product;

(iv) weight, the weight of the final product as well as the weight of the relevant non-originating materials used in the production of that final product;

(v) a specific production process, a specific description of that production process.

3. When providing the requested information, the importer may add any other information considered relevant for the purposes of verification.

4. If the claim for preferential tariff treatment is based on a statement on origin, the importer shall inform the customs authority of the importing Party that the importer does not have the statement on origin referred to in point (a) of Article 3.16(2) (Claim for preferential tariff treatment). In that case, the importer may inform the customs authority that the requested information will be provided by the exporter directly.

5. If the claim for preferential tariff treatment is based on the importer's knowledge as referred to in point (b) of Article 3.16(2) (Claim for preferential tariff treatment), after having first requested information in accordance with paragraph 1 of this Article the customs authority of the importing Party conducting the verification may send a request for additional information to the importer if it considers that additional information is required in order to verify whether a product has originating status or whether the other requirements of this Chapter are met. The customs authority of the importing Party may request the importer for specific documentation and information, if appropriate.

6. During verification, the importing Party shall allow the release of the products concerned. The importing Party may condition such release on the importer providing a guarantee or implementing other appropriate precautionary measures required by the customs authorities. Any suspension of preferential tariff treatment shall be terminated as soon as possible after the customs authority of the importing Party has ascertained that the products concerned have originating status, and that the other requirements of this Chapter are fulfilled.

ARTICLE 3.24

Administrative cooperation

1. In order to ensure the proper application of this Chapter, the Parties shall cooperate, through the customs authority of each Party, in verifying whether a product is originating and is in compliance with the other requirements provided for in this Chapter.

2. If the claim for preferential tariff treatment is based on a statement on origin and after having first requested information in accordance with Article 3.23(1) (Verification), the customs authority of the importing Party conducting the verification may also request information from the customs authority of the exporting Party within a period of two years after the date on which the claim for preferential tariff treatment on the basis of a statement on origin referred to in point (a) of Article 3.16(2) (Claim for preferential tariff treatment) or the claim for preferential tariff treatment after importation referred to in Article 3.17(2) (Claim for preferential tariff treatment after importation) was made, if the customs authority of the importing Party considers that it requires additional information in order to verify the originating status of the product or whether the other requirements provided for in this Chapter are complied with. The customs authority of the importing Party may request specific documentation and information from the customs authority of the exporting Party, if appropriate.

3. The request for information as referred to in paragraph 2 shall include the following elements:

(a) the statement on origin;

(b) the identity of the customs authority issuing the request;

(c) the name of the exporter;

(d) the subject and scope of the verification; and

(e) where applicable, any relevant documentation.

4. The customs authority of the exporting Party may, in accordance with its law, request documentation or examination by calling for any evidence, or by visiting the premises of the exporter, to review records and observe the facilities used in the production of the product.

5. Without prejudice to paragraph 6, the customs authority of the exporting Party receiving the request for information as referred to in paragraph 2 shall provide the customs authority of the importing Party with the following information:

(a) the requested documentation, where available;

(b) an opinion on the originating status of the product;

(c) the description of the product subject to examination and the tariff classification relevant to the application of this Chapter;

(d) a description and explanation of the production process to support the originating status of the product;

(e) information on the manner in which the examination was conducted; and

(f) supporting documentation, where appropriate.

6. The customs authority of the exporting Party shall not provide to the customs authority of the importing Party information listed in paragraph 5 without the consent of the exporter.

7. Each Party shall notify the other Party of the contact details of its customs authorities and shall notify the other Party of any modification thereof within 30 days after the date of such modification. For the Union, the European Commission shall be responsible for the notifications as referred to in this paragraph.

ARTICLE 3.25

Denial of preferential tariff treatment

1. Without prejudice to the requirements in paragraph 3 of this Article, the customs authority of the importing Party may deny preferential tariff treatment, if:

(a) within three months after the date of a request for information referred to in Article 3.23(1) (Verification):

(i) no reply has been provided by the importer;

(ii) in cases where the claim for preferential tariff treatment is based on a statement on origin, no statement on origin has been provided; or

(iii) in cases where the claim for preferential tariff treatment is based on the importer's knowledge, the information provided by the importer is inadequate to confirm that the product has originating status;

(b) within three months after the date of a request for additional information referred to in Article 3.23(5) (Verification):

(i) no reply has been provided by the importer; or

(ii) the information provided by the importer is inadequate to confirm that the product has originating status;

(c) within ten months after the date of delivery of a request for information pursuant to Article 3.24(2) (Administrative cooperation):

(i) no reply has been provided by the customs authority of the exporting Party; or

(ii) the information provided by the customs authority of the exporting Party is inadequate to confirm that the product has originating status.

2. The customs authority of the importing Party may deny preferential tariff treatment to a product for which an importer claims preferential tariff treatment if the importer fails to comply with requirements of this Chapter other than those relating to the originating status of the products.

3. If the customs authority of the importing Party has sufficient justification to deny preferential tariff treatment under paragraph 1 of this Article, in cases where the customs authority of the exporting Party has provided an opinion on the originating status of the product referred to in point (b) of Article 3.24(5) (Administrative cooperation) confirming the originating status of the products, the customs authority of the importing Party shall notify the customs authority of the exporting Party of its reasons and intention to deny the preferential tariff treatment within two months after the date of receipt of that opinion.

4. If the notification as referred to in paragraph 3 has been made, consultations shall be held at the request of either Party, within three months after the date of such notification. The period for consultations may be extended on a case-by-case basis by mutual agreement between the customs authorities of the Parties. The consultations shall take place in accordance with the procedure set by the Joint Customs Cooperation Committee, unless otherwise agreed between the customs authorities of the Parties.

5. Upon expiry of the period for consultations, where the customs authority of the importing Party cannot confirm that the product is originating, it may deny the preferential tariff treatment if it has sufficient justification for doing so and after having granted the importer the right to be heard. However, when the customs authority of the exporting Party confirms the originating status of the products and provides justification for such confirmation, the customs authority of the importing Party shall not deny preferential tariff treatment to a product on the sole ground that Article 3.24(6) (Administrative cooperation) has been applied.

6. Within two months after the date of its final decision on the originating status of the product, the customs authority of the importing Party shall notify the customs authority of the exporting Party that provided an opinion on the originating status of the product referred to in point (b) of Article 3.24(5) (Administrative cooperation) of that final decision.

ARTICLE 3.26

Confidentiality

1. Each Party shall maintain, in accordance with its law, the confidentiality of information provided by the other Party or a person of that Party, pursuant to this Chapter, and shall protect that information from disclosure.

2. Information obtained by the authorities of the importing Party may only be used for the purposes of this Chapter. A Party may use information collected pursuant to this Chapter in any administrative, judicial, or quasi-judicial proceedings instituted for failure to comply with the requirements set out in this Chapter. A Party shall notify the other Party or a person of that Party who provided the information in advance of such use.

3. Each Party shall ensure that confidential information collected pursuant to this Chapter shall not be used for purposes other than the administration and enforcement of decisions and determinations relating to origin and to customs matters, except with the permission of the other Party or a person of that Party who provided such confidential information. If confidential information is requested for judicial proceedings not relating to origin and customs matters in order to comply with the law of a Party, and provided that Party notifies the other Party or a person of that Party who provided the information in advance and states the legal requirement for such use, permission of the other Party or a person of that Party who provided the confidential information shall not be required.

ARTICLE 3.27

Administrative measures and sanctions

Each Party shall ensure the effective enforcement of this Chapter. Each Party shall ensure that its competent authorities are able, in accordance with its law, to impose administrative measures and, where appropriate, sanctions for violations of the obligations under this Chapter.

SECTION C

FINAL PROVISIONS

ARTICLE 3.28

Ceuta and Melilla

1. For the purposes of this Chapter, the term "Party" does not include Ceuta and Melilla.

2. Products originating in New Zealand, when imported into Ceuta and Melilla, shall in all respects be subject to the same customs regime, including preferential tariff treatment, as that which is applied to products originating in the customs territory of the Union under Protocol 2 concerning the Canary Islands and Ceuta and Melilla of the 1985 Act of Accession[3]. New Zealand shall apply to imports of products covered by this Agreement and originating in Ceuta and Melilla the same customs regime, including preferential tariff treatment, as that which is applied to products imported from and originating in the Union.

3. The rules of origin and origin procedures applicable to New Zealand under this Chapter shall apply in determining the origin of products exported from New Zealand to Ceuta and Melilla. The rules of origin and origin procedures applicable to the Union under this Chapter shall apply in determining the origin of products exported from Ceuta and Melilla to New Zealand.

4. Ceuta and Melilla shall be considered as a single territory.

5. The Spanish customs authorities shall be responsible for the application of this Chapter in Ceuta and Melilla.

[3] OJ EU L 302, 15.11.1985, p. 9.

ARTICLE 3.29

Transitional provisions for products in transit or storage

This Agreement may be applied to products that comply with this Chapter and, on the date of entry into force of this Agreement, are either in transit from the exporting Party to the importing Party or under customs control in the importing Party without payment of import duties and taxes, subject to the making of a claim for preferential tariff treatment referred to in Article 3.16 (Claim for preferential tariff treatment) to the customs authority of the importing Party within 12 months after the date of entry into force of this Agreement.

ARTICLE 3.30

Joint Customs Cooperation Committee

1. This Article complements and further specifies Article 24.4 (Specialised committees).

2. The Joint Customs Cooperation Committee established under the CCMAA shall, with respect to this Chapter, have the following functions:

(a) considering possible amendments to this Chapter, including those arising from the review of the Harmonized System;

(b) adopting, by decisions, explanatory notes to facilitate the implementation of this Chapter; and

(c) adopt a decision to establish the procedure for consultations referred to in Article 3.25(4) (Denial of preferential tariff treatment).