CHAPTER 3

RULES OF ORIGIN AND ORIGIN PROCEDURES

SECTION A

Rules of origin

Article 3.1

Definitions

For the purposes of this [Chapter]:

(a) “classified” refers to the classification of a product or material under a particular chapter, heading, or sub-heading of the Harmonized System;

(b) “consignment” means products 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;

(c) “customs authority” means:

- in Chile, the National Customs Service; and

- in the European Union, the services of the European Commission responsible for customs matters and the customs administrations and any other authorities responsible in the Member States of the European Union for the application and enforcement of customs legislation;

(d) “exporter” means a person, located in a Party, who, in accordance with the requirements laid down in the laws and regulations of the Party, exports or produces the originating product and makes out a statement on origin;

(e) "identical products" means products which correspond in every respect to those described in the product description. The product description on the commercial document used for making out a statement on origin for multiple shipments must be precise enough to clearly identify that product but also the identical products to be subsequently imported based on that statement;

(f) “importer” means a person who imports the originating product and claims preferential tariff treatment for it;

(g) “material” means any substance used in the production of a product, including any ingredients, raw materials, components or parts;

(h) “product" means the product resulting from the production, even if it is intended for later use as a material in the production of another product;

(i) “production” means any kind of working or processing including assembly.

Article 3.2
General requirements

1. For the purpose of applying the preferential tariff treatment by a Party to an originating good of the other Party in accordance with this Agreement, provided that the products satisfy all other applicable requirements of this [Chapter], the following products shall be considered as originating in a Party:

(a) products wholly obtained in that Party as provided for in Article 3.4 [Wholly obtained products];

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

(c) products produced using non-originating materials provided they satisfy the requirements set out in Annex II (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 non-originating when that product is incorporated as a material in another product.

3. The acquisition of originating status shall be fulfilled without interruption in the territory of a Party.

Article 3.3
Cumulation of origin

1. A product originating in a Party shall be considered as originating in the other Party if used as a material in the production of another product in the other Party, provided that the working and processing carried out goes beyond one or more of the operations referred to in Article 3.6 [Insufficient working or processing] of this [Chapter].

2. Materials classified in Chapter 3 of the Harmonized System originating in the countries referred to in point b) of paragraph 4 and used in the production of canned tuna products classified in subheading 1604.14, may be considered as originating in a Party provided that the conditions in points a) to e) of paragraph 3 are fulfilled, and a notification is sent by that Party for examination by [the Special Committee on Customs, Trade Facilitation and Rules of Origin].

3. The Parties may also decide in the [Trade Committee] following a recommendation by the [Special Committee on Customs, Trade Facilitation and Rules of Origin] that certain materials originating in the third countries specified in paragraph 4 may be considered as originating in a Party if used in the production of a product in that Party, provided that:

(a) each Party has a trade agreement in force that forms a free-trade area with that third country, within the meaning of Article XXIV of GATT 1994;

(b) the origin of the materials referred to in this paragraph is determined in accordance with the rules of origin applicable under,

i) the European Union’s trade agreement with that third country, when that material is used in the production of product in Chile,

ii) Chile's trade agreement with that third country, when that material is used in the production of product in the European Union;

(c) an arrangement is in force between the Party and that third country on adequate administrative cooperation ensuring full implementation of this [Chapter] including provisions on the use of appropriate documentation on the origin of materials, and that Party notifies the other Party of the arrangement;

(d) the production or processing of the materials undertaken in a Party goes beyond one or more of the operations referred to in Article 3.6 (Insufficient working or processing) of this [Chapter]; and

(e) the Parties agree on any other applicable conditions.

4. The specified third countries are those of:

a) the Central American countries of Costa Rica, El Salvador, Guatemala, Honduras, Nicaragua and Panama, and

b) the Andean countries of Colombia, Ecuador and Peru.

Article 3.4
Wholly obtained products

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

(a) plants and vegetable products grown or harvested there;

(b) live animals born and raised there;

(c) products obtained from live animals raised there;

(d) products obtained from hunting, trapping, fishing, gathering or capturing there;

(e) products obtained from slaughtered animals born and raised there;

(f) products obtained from aquaculture there, where 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;

(g) minerals or other naturally occurring substances, not included in subparagraphs (a) through (f), extracted or taken there;

(h) products of sea fishing and other products taken from the sea outside any territorial sea by a vessel of a Party;

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

(j) products extracted from marine soil or subsoil outside any territorial sea provided that they have rights to work that soil or subsoil;

(k) waste or scrap derived from production there or from used products collected there, provided that those products are fit only for the recovery of raw materials; and

(l) products produced there exclusively from those products specified in subparagraphs (a) to (k).

2. The terms ‘vessel of a Party’ and 'factory ship of a Party’ in subparagraph 1(h) and (i) mean a vessel and factory ship, which:

(a) is registered in a Member State of the European Union or in Chile;

(b) sails under the flag of a Member State of the European Union or of Chile;

(c) meets one of the following conditions:

(i) it is more than 50% owned by nationals of a Member State of the European Union or of Chile; or

(ii) it is owned by legal persons:

- which have their head office and their main place of business in a Member State of the European Union or Chile, and
- which are more than 50% owned by persons of one of those Parties.

Article 3.5
Tolerances

1. If a non-originating material used in the production of a product does not satisfy the requirements set out in Annex II [Product-Specific Rules of Origin], that product shall be considered as originating in a Party, provided that:

(a) the total value of non-originating materials for all products[1], except for products falling within Chapters 50 to 63 of the Harmonized System, shall not exceed 10% of the ex-works price of the product;

(b) for a product classified under Chapters 50 to 63 of the Harmonized System, tolerances apply as stipulated in Notes 6 to 8 of Annex I [Introductory Notes to the Product-Specific Rules of Origin].

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 II [Product-Specific Rules of Origin].

[1] For Chapters 1-24 of the Harmonized System, see Note 9 of Annex I [Introductory notes to the 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. If Annex II [Product-Specific Rules of Origin] requires that the materials used in the production of a product are wholly obtained, paragraphs 1 and 2 shall apply.

Article 3.6
Insufficient working or processing

1. Notwithstanding subparagraph 1(c) of Article 3.2, a product shall not be considered as originating in a Party if solely one or more of the following operations are conducted on non-originating materials in the production of that product in that Party:

(a) preserving operations such as drying, freezing, keeping in brine and other similar operations with the sole purpose is to ensure that the products remain in good condition during transport and storage;

(b) breaking-up and assembly of packages;

(c) washing, 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;

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

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

(i) sharpening, simple grinding or simple cutting;

(j) sifting, screening, sorting, classifying, grading or matching;

(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 products or their packaging;

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

(n) simple assembly of parts of articles to constitute a complete article or disassembly of products into parts;

(o) simple addition of water or dilution or dehydration or denaturation of products;

(p) slaughter of animals.

2. For the purpose of paragraph 1, operations shall be considered simple if neither special skills nor machines, apparatus or equipment especially produced or installed 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 which is considered as the basic unit when classifying the product under the Harmonized System.

2. When 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 the provisions of this [Chapter].

Article 3.8
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.

They shall be disregarded in determining the origin of the product except for the purposes of calculating the maximum value of non-originating materials if a product is subject to a maximum value of non-originating materials set out in Annex II [Product Specific Rules of Origin].

Article 3.9
Sets

Sets, as defined in General Rule 3 for the Interpretation of the Harmonized System, shall be regarded as originating in a Party if all their components of the set are originating products. When a set is composed of originating and non-originating products, the set as a whole shall be regarded as originating in a Party, provided that the value of the non-originating products does not exceed 15 per cent of the ex-works price of the set.

Article 3.10
Neutral elements

In order to determine whether a product is originating in a Party, it shall not be necessary to determine the origin of the following which might be used in its manufacture:

(a) fuel, energy, catalysts and solvents;

(b) equipment, devices, and supplies used for testing or inspecting the products;

(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; and

(g) any other material that is not incorporated into the product but the use of which in the production of the product can be demonstrated to be part of that production.

Article 3.11
Packaging and packing materials

1. Where, under General Rule 5 for the Interpretation of the Harmonized System, packaging materials and containers in which a product is packed for retail sale, is included with the product for classification purposes, it shall be disregarded in determining the origin of the product, except for the purposes of calculating the maximum value of non-originating materials if a product is subject to a maximum value of non-originating materials in accordance with Annex II [Product Specific Rules of Origin].

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

Article 3.12
Accounting segregation for fungible materials

1. Fungible originating and non-originating materials shall be physically segregated during storage in order to maintain their originating and non-originating status, as the case may be. These materials may be used in the production of a product without being physically segregated provided an accounting segregation method is used.

2. The accounting segregation method referred to in paragraph 1 shall be applied in conformity with a stock management method under accounting principles which are generally accepted in the Party. The accounting segregation method shall ensure that at any time the number of products which could be considered as originating in a Party is no more than the number that would have been obtained by physical segregation of the stocks.

3. For the purpose of paragraph 1, “fungible materials” means materials that are of the same kind and commercial quality, with the same technical and physical characteristics, and which cannot be distinguished from one another once they are incorporated into the finished product.

Article 3.13
Returned products

If a product originating in a Party exported from that Party to a third country returns to that Party, it shall be considered as non-originating, unless it can be demonstrated to the satisfaction of the customs authority of that Party that the returning product:

a) is the same as that exported; and

b) has not undergone any operation other than that necessary to preserve it in good condition while in that third country or while being exported.

Article 3.14
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 them in good condition or than adding or affixing marks, labels, seals or any other documentation to ensure compliance with specific domestic requirements of the importing Party.

2. Storage or exhibition of a product may take place in a non-Party provided it remains under customs supervision in that non-Party.

3. Without prejudice to the provisions of Section B, the splitting of consignments may take place in the territory of a non-Party if it is carried out by the exporter or under his responsibility and provided they remain under customs supervision in the non-Party.

4. In case of doubt as to whether the conditions 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, which may be given by any means, including contractual transport documents such as bills of lading or factual or concrete evidence based on marking or numbering of packages or any evidence related to the product itself.

Article 3.15
Exhibitions

1. Originating products, sent for exhibition in a non-Party and sold after the exhibition for importation in a Party 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 products from a Party to the non-Party in which the exhibition is held and has exhibited them there;

   (b) the products have been sold or otherwise disposed of by that exporter to a person in a Party;

   (c) the products have been consigned during the exhibition or immediately thereafter in the state in which they were sent for exhibition; and

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

2. A statement on origin must be made out in accordance with the provisions of Section B 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 organised for private purposes in shops or

business premises with a view to the sale of foreign products, and during which the products remain under customs control.

4. The customs authorities of the importing Party may require evidence that the products have remained under customs control in the country of exhibition, as well as additional documentary evidence of the conditions under which they have been exhibited.

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 within the meaning of this [Chapter] on the basis of a claim by the importer for preferential tariff treatment. The importer shall bear the responsibility for the correctness of the claim for preferential tariff treatment and for the compliance with the requirements provided for in this [Chapter].

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

(a) a statement on origin made out by the exporter in accordance with Article 3.17 Statement on origin: or

(b) the importer's knowledge subject to the conditions set out in Article 3.19 [Importer's knowledge]

3. The claim for preferential tariff treatment shall be made in the customs declaration indicating one of the bases referred to in paragraph 2, in accordance with the laws and regulations of the importing Party.

4. The importer making a claim based on a statement on origin referred to in paragraph 2 (a) shall have the statement in its possession and shall, when required, provide such statement to the customs authority of the importing Party.

Article 3.17
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 the product.

2. The exporter shall bear the responsibility for the correctness of the statement on origin made out and the information provided and if he has reason to believe that it contains or is based on incorrect information, the exporter shall immediately notify, in writing, the importer

of any change affecting the originating status of the product. In this case, the importer shall correct the import declaration and pay any applicable customs duty owing.

3. A statement on origin shall be made out in one of the linguistic versions included in Annex III [Statement on Origin] on an invoice or on any other commercial document that describes the originating product in sufficient detail to enable its identification in the Harmonized System nomenclature. The importing Party shall not require the importer to submit a translation of the statement on origin.

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

5. A statement on origin may apply to:

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

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

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

Article 3.18
Discrepancies and minor errors

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

Article 3.19
Importer's knowledge

1. The Importing Party may, through its laws and regulations, set conditions to determine those importers which may base a claim for preferential tariff treatment on the importer’s knowledge.

2. Notwithstanding paragraph 1, the importer’s knowledge that a product is originating shall be based on information demonstrating that the product is originating and satisfies the requirements provided for in this [Chapter].

Article 3.20
Record keeping requirements

1. An importer claiming preferential tariff treatment for a product imported into a Party shall:

    (a) in case of a statement on origin, have in his possession the statement on origin made out by the exporter for a minimum of three years from the date of the claim of preference of the product; and

(b) in case of importer’s knowledge, have in his possession the information demonstrating that the product satisfies the requirements to obtain originating status for a minimum of three years from the date of the claim of preference of the product.

2. An exporter who made out a statement on origin shall, for a minimum of four years following the making out of that statement on origin, have in his possession copies of statement on origins and all other records demonstrating that the product satisfies the requirements to obtain originating status.

3. The records to be kept in accordance with this Article may be held in electronic form according to the domestic legislation of the importing or exporting Party, as appropriate.

Article 3.21
Exemptions from the statement on origin

1. Products sent as packages from private persons to private persons or forming part of travellers' personal luggage shall be admitted as originating products without requiring a statement on origin provided that such products 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 statement.

2. The imports which are occasional and consist solely of products 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 intended, provided that the importation does not form part of a series of importations that may reasonably be considered to have been made separately for the purpose of avoiding the requirement for an statement on origin.

3. The total value of these products referred to in paragraph 1 shall not exceed EUR 500 or its equivalent amount in the Party's currency in the case of packages or, EUR 1 200 or its equivalent amount in the Party's currency in the case of products forming part of travellers' personal luggage.

Article 3.22
Verification

1. The customs authority of the importing Party may conduct a verification whether a product is originating or the other requirements of this [Chapter] are met based on 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 referred to in Article 3.16 [Claim for preferential tariff treatment].

2. Pursuant to paragraph 1 the customs authority of the importing Party shall not request more than the following information in relation to the origin of the product:

(a) if the claim was based on a statement on origin, that statement on origin; and

(b) information pertaining to the fulfilment of origin criteria, which is:

(i) “wholly obtained”: the applicable category (such as harvesting, mining, fishing) and place of production;

(ii) based on change in tariff classification: a list of all the non-originating materials including their tariff classification (in 2, 4 or 6 digit format, depending on the origin criteria);

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

(iv) based on weight: the weight of the final product as well as the weight of the relevant non-originating materials used in the final product; and

(v) based on a specific production process: a description of that specific process.

3. When providing the requested information, the importer may add any other information that he considers relevant for the purpose of verification.

4. Where the claim for preferential tariff treatment is based on a statement on origin referred to in paragraph 2(a) of Article 3.16 [Claim for preferential tariff treatment] issued by the exporter, the importer shall provide that statement on origin but may reply to the customs authority of the importing Party that the information referred to in point (b) of paragraph 2 can not be provided.

5. Where the claim for preferential tariff treatment is based on the importer's knowledge referred to in paragraph 2(b) of Article 3.16 [Claim for preferential tariff treatment], after having first requested information pursuant to paragraph 1 of this Article, the customs authority of the importing Party conducting the verification may send a request for information to the importer when it considers that additional information is required for verifying the originating status of the product 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, where appropriate.

6. If the customs authority of the importing Party decides to suspend the granting of preferential tariff treatment to the products concerned while awaiting the results of the verification, release of the products shall be offered to the importer. As a condition for such release, the Party may require a guarantee or other appropriate precautionary measure. Any suspension of preferential tariff treatment shall be terminated as soon as possible after the customs authority of the importing Party has ascertained the originating status of the products concerned, or the fulfilment of the other requirements of this [Chapter].

Article 3.23
Administrative Cooperation

1. In order to ensure the proper application of this [Chapter], the Parties shall cooperate with each other, through their respective customs authorities, in order to verify whether products are originating and whether the other requirements provided for in this [Chapter] are met.

2. Where the claim for preferential tariff treatment is based on a statement on origin referred to in paragraph 2 (a) of Article 3.16 [Claim for preferential tariff treatment], after having first requested information in accordance with paragraph 1 of Article 3.22

[Verification], the customs authority of the importing Party conducting the verification may also send a request for information to the customs authority of the exporting Party within a period of two years from the claim of preference, when the customs authority of the importing Party conducting the verification considers that it requires additional information for verifying the originating status of the product or whether the other requirements provided for in this [Chapter] are met. The customs authority of the importing Party may request the customs authority of the exporting Party for specific documentation and information, where appropriate.

3. The customs authority of the importing Party shall include the following information in the request referred to in paragraph 2 of this Article:

(i) the statement on origin or a copy thereof;

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

(iii) the name of the exporter;

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

(v) where applicable any relevant documentation.

4. The customs authority of the exporting Party may, in accordance with its laws and regulations, 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. The customs authority of the exporting Party following the request referred to in paragraph 2 shall provide to the customs authority of the Importing Party the following information:

(i) the requested documentation, where available;

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

(iii) the description of the product subject to examination and the tariff classification relevant to the application of the rules of origin;

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

(v) information on the manner in which the examination of the originating status of the product was conducted; and

(vi) supporting documentation, where appropriate.

6. The customs authority of the exporting Party shall not transmit information to the customs authority of the importing Party referred to in paragraph 5 (i) or (vi) without the consent of the exporter.

7. All the information requested, supporting documents, and all other related information regarding verification should preferably be exchanged electronically between the customs authorities of the Parties.

8. The Parties shall provide each other, through the designated contact points of the Agreement, the contact details of their respective customs authorities and any modification thereof within thirty days after such modification.

Article 3.24
Mutual Assistance in the fight against fraud

In case of a suspected breach of the provisions of this [Chapter], the Parties shall provide each other with mutual assistance, in accordance with the Protocol on Mutual Administrative Assistance in Customs matters.

Article 3.25
Denial of Preferential Tariff Treatment

1. Subject to the requirements in paragraph 3 to 5, the customs authority of the importing Party may deny a claim for preferential tariff treatment if:

(a) within a period of three months following the request for information pursuant to paragraph 1 of Article 3.22 [Verification]:

(i) no reply is provided by the importer;

(ii) where the claim for preferential tariff treatment is based on a statement on origin referred to in subparagraph 2(a) of Article 3.16 [Claim for preferential tariff treatment], the statement on origin was not provided;

(iii) where the claim for preferential tariff treatment is based on the importer's knowledge referred to in subparagraph 2(b) of Article 3.16 [Claim for preferential tariff treatment], the information provided by the importer is inadequate to confirm that the product is originating;

(b) within a period of three months following the request for additional information pursuant to paragraph 5 of Article 3.22 [Verification]:

(i) no reply is provided by the importer, or

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

(c)within a period of ten months following the request for information pursuant to paragraph 2 of Article 3.23 [Administrative Cooperation]:

(i) no reply is 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 is originating;

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

3. Where the customs authority of the importing Party has sufficient justification to deny preferential tariff treatment in accordance with paragraph 1 of this Article in cases where the customs authority of the exporting Party provided an opinion pursuant to paragraph 5(ii) of Article 3.23 [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, within two months of receiving the opinion, of its intention to deny the preference.

4. The period for consultation may be extended on a case by case basis by mutual agreement between the customs authorities of the Parties. The consultation may take place in line with the procedure set by [relevant body of the Agreement] established pursuant to this Agreement.

5. At the expiry of the period for consultation, the customs authority of the importing Party shall deny the preferential tariff treatment only if, it cannot confirm that the product is originating, and after having granted the importer the right to be heard.

Article 3.26
Confidentiality

1. Each Party shall maintain, in accordance with its laws and regulations, the confidentiality of information provided to it by the other 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 by such authority for the purposes of this [Chapter].

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 person or Party who provided the confidential information.

4. Notwithstanding paragraph 3, a Party may allow information collected pursuant to this Chapter to be used in any administrative, judicial, or quasi-judicial proceedings instituted for failure to comply with customs-related laws implementing this Chapter. A Party shall notify the person or Party who provided the information in advance of such use.

Article 3.27
Refunds and Claims for Preferential Tariff Treatment after Importation

1. Each Party shall provide that an importer may apply for preferential tariff treatment and a refund of any excess duties paid for a product if the importer did not make a claim for preferential tariff treatment at the time of importation, no later than two years after the date of importation, provided that the product was eligible for preferential tariff treatment when it was imported into the territory of the Party.

2. As a condition for preferential tariff treatment under paragraph 1, the importing Party may require that the importer:

(a) makes a claim for preferential tariff treatment in accordance with the laws and regulations of the importing Party;

(b) provides the statement on origin, as appropriate; and

(c) satisfies all other applicable requirements within the meaning of this [Chapter] as if preferential tariff treatment had been claimed at the time of importation.

Article 3.28
Administrative measures and sanctions

1. A Party shall impose administrative measures, and sanctions where appropriate, in accordance with its respective laws and regulations, on a person who draws up a document, or causes a document to be drawn up, which contains incorrect information provided for the purpose of obtaining a preferential tariff treatment to a product, or who does not comply with the requirements set out in:

i. Article 3.20 [Record keeping requirements];
ii. Article 3.23(4) [Administrative Cooperation] by not providing evidence or refusing a visit; or
iii. Article 3.17(2) [Statement on origin] by not correcting a claim for preferential tariff treatment made in the customs declaration and paying the custom duty as appropriate, when the initial claim for preference was based on incorrect information.

2. The Party shall take into account paragraph 3.6 of Article 6 of the World Trade Organisation Agreement on Trade Facilitation when an importer voluntarily discloses a correction to a claim for preference prior to receiving a verification request, in accordance with the laws and regulations of that Party.

SECTION C

Final Provisions

Article 3.29
Ceuta and Melilla

1. For the purpose of this [Chapter], in the case of the European Union, the term "Party" does not include Ceuta and Melilla.

2. Products originating in Chile, when imported into Ceuta and Melilla shall in all respects be subject to the same customs treatment under this Agreement as that which is applied to products originating in the customs territory of the European Union under Protocol 2 of the Act of Accession of the Kingdom of Spain and the Portuguese Republic to the European Union. Chile shall grant to imports of products covered by the Agreement and originating in Ceuta and Melilla the same customs treatment as that which is granted to products imported from and originating in the European Union.

3. The rules of origin and origin procedures under this [Chapter] shall apply mutatis mutandis to products exported from Chile to Ceuta and Melilla and to products exported from Ceuta and Melilla to Chile.

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

5. Article 3.3 [Cumulation of Origin] applies to import and exports of products between the European Union, Chile and Ceuta and Melilla.

6. The exporter shall enter “Chile” and “Ceuta and Melilla” in [field 3] of the text of the statement on origin, depending on the origin of the product.

7. The customs authority of the Kingdom of Spain shall be responsible for the application of this Article in Ceuta and Melilla.

Article 3.30
Amendments to the Chapter

The [Trade Committee] may decide to amend the provisions of this [Chapter].

Article 3.31
Special Committee on Customs, Trade Facilitation and Rules of Origin

1. The Special Committee on Customs, Trade Facilitation and Rules of Origin established pursuant to [Article XX] (hereinafter referred to in this [Chapter] as the "Committee") shall be responsible for the effective implementation and operation of this [Chapter], in addition to the other responsibilities specified in [Article XX].

2. For the purposes of this [Chapter], the Committee shall have the following functions:

(a) reviewing and making appropriate recommendations, as necessary, to the [Trade Committee] on:

  (i) the implementation and operation of this [Chapter]; and

  (ii) any amendments of the provisions of this [Chapter] proposed by a Party.

(b) make suggestions to the [Trade Committee] for adoption of explanatory notes to facilitate the implementation of the provisions of this [Chapter];

(c) considering any other matter related to this [Chapter] as the Parties may agree.

Article 3.32
Goods in transit or storage

The provisions of this Agreement may be applied to goods which comply with the provisions of this [Chapter] and which on the date of entry into force of this Agreement are either in transit or are in the European Union or in Chile, in temporary storage in bonded warehouse or in free zones, subject to the submission to the customs authorities of the importing country of a statement on origin.

Article 3.33
Explanatory Notes

Explanatory notes regarding the interpretation, application and administration of this [Chapter] are set out in [Annex XX (Explanatory Notes)].