CHAPTER 2

RULES OF ORIGIN

SECTION 1

RULES OF ORIGIN

ARTICLE 37

Objective

The objective of this Chapter is to lay down the provisions determining the origin of goods for the purpose of application of preferential tariff treatment under this Agreement, and setting out related origin procedures.

ARTICLE 38

Definitions

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

(a) "classification" means the classification of a product or material under a particular chapter, heading, or sub-heading of the Harmonised 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) "exporter" means a person, located in a Party, who, in accordance with the requirements laid down in the laws and regulations of that Party, exports or produces the originating product and makes out a statement on origin;

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

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

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

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

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

ARTICLE 39

General requirements

1. For the purposes of applying the preferential tariff treatment by a Party to the 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 the other Party:

(a) products wholly obtained in that Party within the meaning of Article 41;

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

(c) products produced in that Party incorporating non-originating materials provided they satisfy the requirements set out in Annex 3.

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 when that product is incorporated as a material in another product.

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

ARTICLE 40

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 the operations referred to in Article 43.

4. In order for an exporter to complete the statement on origin referred to in point (a) of Article 54(2) for a product referred to in paragraph 2 of this Article, the exporter shall obtain from its supplier a supplier's declaration as provided for in Annex 6 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 41

Wholly obtained products

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

(a) mineral products extracted or taken from its soil or from its seabed;

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

(c) live animals born and raised there;

(d) products obtained from live animals raised there;

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

(f) products obtained by hunting or fishing conducted there;

(g) products obtained from aquaculture there 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, larvae, parr, smolts or other immature fish at a post-larval stage by intervention in the rearing or growth processes to enhance production such as regular stocking, feeding or protection from predators;

(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 of a factory ship of a Party exclusively from products referred to in point (h);

(j) products extracted from the seabed or subsoil outside any territorial sea provided that they have rights to exploit or work such seabed or subsoil;

(k) waste and scrap resulting from production operations conducted there;

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

(m) products produced there exclusively from the products specified 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 mean a vessel and factory ship which:

(a) is registered in a Member State or in the United Kingdom;

(b) sails under the flag of a Member State or of the United Kingdom; and

(c) meets one of the following conditions:

(i) it is at least 50 % owned by nationals of a Member State or of the United Kingdom; or

(ii) it is owned by legal persons which each:

(A) have their head office and main place of business in the Union or the United Kingdom; and

(B) are at least 50 % owned by public entities, nationals or legal persons of a Member State or the United Kingdom.

ARTICLE 42

Tolerances

1. If a product does not satisfy the requirements set out in Annex 3 due to the use of a non-originating material in its production, that product shall nevertheless be considered as originating in a Party, provided that:

(a) the total weight of non-originating materials used in the production of products classified under Chapters 2 and 4 to 24 of the Harmonised System, other than processed fishery products classified under Chapter 16, does not exceed 15 % of the weight of the product;

(b) the total value of non-originating materials for all other products, except for products classified under Chapters 50 to 63 of the Harmonised System, does not exceed 10 % of the ex-works price of the product; or

(c) for a product classified under Chapters 50 to 63 of the Harmonised System, the tolerances set out in Notes 7 and 8 of Annex 2 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.

3. Paragraph 1 of this Article does not apply to products wholly obtained in a Party within the meaning of Article 41. If Annex 3 requires that the materials used in the production of a product are wholly obtained, paragraphs 1 and 2 of this Article apply.

ARTICLE 43

Insufficient production

1. Notwithstanding point (c) of Article 39(1), 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 where their sole purpose is to ensure that the products remain in good condition during transport and storage;[1]

(b) breaking-up or 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; bleaching of rice;

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

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

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

(p) slaughter of animals.

2. For the purposes 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 44

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 Harmonised System.

2. For a consignment consisting of a number of identical products classified under the same heading of the Harmonised System, each individual product shall be taken into account when applying the provisions of this Chapter.

ARTICLE 45

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 is originating.

ARTICLE 46

Packaging materials and containers for retail sale

Packaging materials and containers in which the product is packaged for retail sale, if classified with the product, shall be disregarded in determining the origin of the product, except for the purposes of calculating the value of non-originating materials if the product is subject to a maximum value of non-originating materials in accordance with Annex 3.

ARTICLE 47

Accessories, spare parts and tools

1. Accessories, spare parts, tools and instructional or other information materials shall be regarded as one product with the piece of equipment, machine, apparatus or vehicle in question if they:

(a) are classified and delivered with, but not invoiced separately from, the product; and

(b) are of the types, quantities and value which are customary for that product.

2. Accessories, spare parts, tools and instructional or other information materials referred to paragraph 1 shall be disregarded in determining the origin of the product except for the purposes of calculating the value of non-originating materials if a product is subject to a maximum value of non-originating materials as set out in Annex 3.

ARTICLE 48

Sets

Sets, as defined in General Rule 3 for the Interpretation of the Harmonised System, shall be considered as originating in a Party if all of their components are originating. If 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 the set.

ARTICLE 49

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 elements, which might be used in its production:

(a) fuel, energy, catalysts and solvents;

(b) plant, equipment, spare parts and materials used in the maintenance of equipment and buildings;

(c) machines, tools, dies and moulds;

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

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

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

(g) other materials used in the production which are not incorporated into the product nor intended to be incorporated into the final composition of the product.

ARTICLE 50

Accounting segregation

1. 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.

2. For the purpose of paragraph 1, "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 that cannot be distinguished from one another for origin purposes.

3. Notwithstanding paragraph 1, 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 1, 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 Harmonised System may be stored in a Party before exportation to the other Party without being physically segregated, provided that 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 which are generally accepted in the Party.

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

7. A Party may require, under conditions set out in its laws or regulations, that the use of an accounting segregation method is subject to prior authorisation by the customs authorities of that Party. The customs authorities of the Party shall monitor the use of such authorisations and may withdraw an authorisation if the holder makes improper use of the accounting segregation method or fails to fulfil any of the other conditions laid down in this Chapter.

ARTICLE 51

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 a non-originating product 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 what was necessary to preserve it in good condition while in that third country or while being exported.

ARTICLE 52

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 domestic requirements of the importing Party.

2. The storage or exhibition of a product may take place in a third country, provided that the product remains under customs supervision in that third country.

3. The splitting of consignments may take place in a third country if it is carried out by the exporter or under the responsibility of the exporter, provided that the consignments remain under customs supervision in that third country.

4. In the 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 or factual or concrete evidence based on the marking or numbering of packages or any evidence related to the product itself.

ARTICLE 53

Review of drawback of, or exemption from, customs duties

Not earlier than two years from the entry into force of this Agreement, at the request of either Party, the Trade Specialised Committee on Customs Cooperation and Rules of Origin shall review the Parties' respective duty drawback and inward-processing schemes. For that purpose, at the request of a Party, no later than 60 days from that request, the other Party shall provide the requesting Party with available information and detailed statistics covering the period from the entry into force of this Agreement, or the previous five years if that period is shorter, on the operation of its duty-drawback and inward-processing scheme. In the light of this review, the Trade Specialised Committee on Customs Cooperation and Rules of Origin may make recommendations to the Partnership Council for the amendment of the provisions of this Chapter and its Annexes, with a view to introducing limitations or restrictions with respect to drawback of or exemption from customs duties.

SECTION 2

ORIGIN PROCEDURES

ARTICLE 54

Claim for preferential tariff treatment

1. The importing Party, on importation, 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 be responsible for the correctness of the claim for preferential tariff treatment and for compliance with the requirements provided for in this Chapter.

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

(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. The importer making the claim for preferential tariff treatment based on a statement on origin as 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 55

Time of the claim for preferential tariff treatment

1. A claim for preferential tariff treatment and the basis for that claim as referred to in Article 54(2) shall be included in the customs import declaration in accordance with the laws and regulations of the importing Party.

2. By way of derogation from paragraph 1 of this Article, if the importer did not make a claim 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 provided that:

(a) the claim for preferential tariff treatment is made no later than three years after the date of importation, or such longer time period as specified in the laws and regulations of the importing Party;

(b) the importer provides the basis for the claim as referred to in Article 54(2); and

(c) the product would have been considered originating and would have satisfied all other applicable requirements within the meaning of Section 1 of this Chapter if it had been claimed by the importer at the time of importation.

The other obligations applicable to the importer under Article 54 remain unchanged.

ARTICLE 56

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, information on the originating status of materials used in the production of the 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 using one of the language versions set out in Annex 7 in an invoice or on any other document that describes the originating product in sufficient detail to enable the identification of that product. The exporter shall be responsible for providing sufficient detail to allow the identification of the originating product. 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 12 months from the date it was made out or for such longer period as provided by the Party of import up to a maximum of 24 months.

4. A statement on origin may apply to:

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

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

5. If, at the request of the importer, unassembled or disassembled products within the meaning of General Rule 2(a) for the Interpretation of the Harmonised System that fall within Sections XV to XXI of the Harmonised System are imported by instalments, a single statement on origin for such products may be used in accordance with the requirements laid down by the customs authority of the importing Party.

ARTICLE 57

Discrepancies

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, or for the sole reason that an invoice was issued in a third country.

ARTICLE 58

Importer's knowledge

1. For the purposes of a claim for preferential tariff treatment that is made under point (b) of Article 54(2), 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 provided for in this Chapter.

2. Before claiming the preferential treatment, in the event that an importer is unable to obtain the information referred to in paragraph 1 of this Article as a result of the exporter deeming that information to be confidential information or for any other reason, the exporter may provide a statement on origin so that the importer may claim the preferential tariff treatment on the basis of point (a) of Article 54(2).

ARTICLE 59

Record-keeping requirements

1. For a minimum of three years after the date of importation of the product, an importer making a claim for preferential tariff treatment for a product imported into the importing Party shall keep:

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

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

2. An exporter who has made out a statement on origin shall, for a minimum of four years after that statement on origin was made out, keep a copy of the statement on origin 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 format.

ARTICLE 60

Small consignments

1. By way of derogation from Articles 54 to 58, provided that the product has been declared as meeting the requirements of this Chapter and the customs authority of the importing Party has no doubts as to the veracity of that declaration, the importing Party shall grant preferential tariff treatment to:

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

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

(c) for the United Kingdom, in addition to points (a) and (b) of this Article, other low value consignments.

2. The following products are excluded from the application of paragraph 1 of this Article:

(a) products, the importation of which 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 54;

(b) for the Union:

(i) a product imported by way of trade; the imports which are occasional and consist solely of products for the personal use of the recipients or travellers or their families are not be considered as imports by way of trade if it is evident from the nature and quantity of the products that no commercial purpose is intended; and

(ii) products, the total value of which exceeds 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 rate amounts shall be those published for that day by the European Central Bank, unless a different amount is communicated to the European Commission by 15 October, and shall apply from 1 January the following year. The European Commission shall notify the United Kingdom of the relevant amounts. The Union may establish other limits which it will communicate to the United Kingdom; and

(c) for the United Kingdom, products whose total value exceeds the limits set under the domestic law of the United Kingdom. The United Kingdom will communicate these limits to the Union.

3. The importer shall be responsible for the correctness of the declaration and for the compliance with the requirements provided for in this Chapter. The record-keeping requirements set out in Article 59 shall not apply to the importer under this Article.

ARTICLE 61

Verification

1. The customs authority of the importing Party may conduct a verification as to whether a product is originating or whether the other requirements of this Chapter are satisfied, on the basis of risk assessment methods, which may include random selection. Such verifications may be conducted by means of a request for information from the importer who made the claim referred to in Article 54, at the time the import declaration is submitted, before the release of the products, 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, that statement on origin; and

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

(i) where the origin criterion is "wholly obtained", the applicable category (such as harvesting, mining, fishing) and the place of production;

(ii) where the origin criterion is 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 criterion);

(iii) where the origin criterion is 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 of that product;

(iv) where the origin criterion is 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;

(v) where the origin criterion is 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 it considers relevant for the purpose of verification.

4. If the claim for preferential tariff treatment is based on a statement on origin, the importer shall provide that statement on origin but may reply to the customs authority of the importing Party that the importer is not in a position to provide the information referred to in point (b) of paragraph 2.

5. If the claim for preferential tariff treatment is based on the importer's knowledge, after having first requested information in accordance with paragraph 1, the customs authority of the importing Party conducting the verification may request the importer to provide additional information if that customs authority considers that additional information is necessary in order to verify 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, if appropriate.

6. If the customs authority of the importing Party decides to suspend the granting of preferential tariff treatment to the product concerned while awaiting the results of the verification, the release of the products shall be offered to the importer subject to appropriate precautionary measures including guarantees. 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 62

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 was based on a statement on origin, as appropriate after having first requested information in accordance with Article 61(1) and based on the reply from the importer, 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 importation of the products, or from the moment the claim is made pursuant to point (a) of Article 55(2) if the customs authority of the importing Party conducting the verification considers that additional information is necessary in order to verify the originating status of the product or to verify that the other requirements provided for in this Chapter have been met. The request for information 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) any relevant documentation.

In addition, the customs authority of the importing Party may request the customs authority of the exporting Party to provide specific documentation and information, where appropriate.

3. 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.

4. Without prejudice to paragraph 5, the customs authority of the exporting Party receiving the request 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 that is subject to examination and the tariff classification relevant to the application of this Chapter;

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

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

(f) supporting documentation, where appropriate.

5. The customs authority of the exporting Party shall not provide the information referred to in points (a), (d) and (f) of paragraph 4 to the customs authority of the importing Party if that information is deemed confidential by the exporter.

6. Each Party shall notify the other Party of the contact details of the customs authorities and shall notify the other Party of any change to those contact details within 30 days after the date of the change.

ARTICLE 63

Denial of preferential tariff treatment

1. Without prejudice to paragraph 3, 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 pursuant to Article 61(1):

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

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

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

(b) within three months after the date of a request for additional information pursuant to Article 61(5):

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

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

(c) within 10 months[1] after the date of a request for information pursuant to Article 62(2):

(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 is originating.

[1] The period will be of 12 months for requests of information pursuant to Article 62(2) addressed to the customs authority of the exporting Party during the first three months of the application of this Agreement.

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 under 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 pursuant to point (b) of Article 62(4) 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 intention to deny the preferential tariff treatment within two months after the date of receipt of that opinion.

If such notification is made, consultations shall be held at the request of either Party, within three months after the date of the notification. 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 accordance with the procedure set by the Trade Specialised Committee on Customs Cooperation and Rules of Origin.

Upon the expiry of the period for consultation, if the customs authority of the importing Party cannot confirm that the product is originating, it may deny the preferential tariff treatment if it has a 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 conclusion, the customs authority of the importing Party shall not deny preferential tariff treatment to a product on the sole ground that Article 62(5) has been applied.

4. In all cases, the settlement of differences between the importer and the customs authority of the Party of import shall be under the law of the Party of import.

ARTICLE 64

Confidentiality

1. Each Party shall maintain, in accordance with its laws and regulations, the confidentiality of any information provided to it by the other Party, pursuant to this Chapter, and shall protect that information from disclosure.

2. Where, notwithstanding Article 62(5), confidential business information has been obtained from the exporter by the customs authority of the exporting Party or importing Party through the application of Articles 61 and 62, that information shall not be disclosed.

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 65

Administrative measures and sanctions

Each Party shall ensure the effective enforcement of this Chapter. Each Party shall ensure that the competent authorities are able to impose administrative measures, and, where appropriate, sanctions, in accordance with its laws and regulations, on any person who draws up a document, or causes a document to be drawn up, which contains incorrect information that was provided for the purpose of obtaining a preferential tariff treatment for a product, who does not comply with the requirements set out in Article 59, or who does not provide the evidence, or refuses to submit to a visit, as referred to in Article 62(3).