

## **Chapter III**

### **Rules of Origin**

#### **Article 3-01: Definitions**

For purposes of this Chapter:

**Customs Valuation Code** means the WTO Agreement on Implementation of Article VII of the GATT 1994, including its interpretative notes;

**direct overhead** means overhead incurred during a period, directly related to the good, other than direct material costs and direct labor costs;

**F.O.B.** means free on board, regardless of the mode of transportation, at the point of direct shipment by the seller to the buyer;

**fungible goods** means goods that are interchangeable for commercial purposes, whose properties are essentially identical, not practical to distinguish by the naked eye;

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

**Generally Accepted Accounting Principles** means the recognized consensus or substantial authoritative support in the territory of a Party with respect to the recording of revenues, expenses, costs, assets and liabilities, the disclosure of information and the preparation of financial statements. These standards may encompass broad guidelines of general application as well as detailed standards, practices and procedures;

#### **goods wholly obtained or produced entirely in the territory of one or both Parties:**

- (a) mineral goods extracted in the territory of one or both of the Parties;
- (b) vegetable goods harvested in the territory of one or both Parties;
- (c) live animals born and raised in the territory of one or both Parties;
- (d) goods obtained from hunting or fishing in the territory of one or both Parties;
- (e) fish, shellfish and other marine species taken from the sea by vessels registered or recorded with a Party and flying its flag;
- (f) goods produced on board factory ships from the goods referred to in subparagraph (e) provided such factory ships are registered or recorded with a Party and fly its flag;
- (g) goods taken by a Party or a person of a Party from the seabed or beneath the seabed outside territorial waters, provided that a Party has rights to exploit such seabed;
- (h) waste and scrap derived from:

- (i) production in the territory of one or both Parties; or
  - (ii) used goods collected in the territory of one or both Parties, provided such goods are fit only for the recovery of raw materials; or
- (i) goods produced in the territory of one or both Parties exclusively from goods referred to in subparagraphs (a) through (h), or from their derivatives, at any stage of production;

**identical or similar goods** means "identical goods " and "similar goods", respectively, as defined in the Customs Valuation Code;

**indirect material** means a good used in the production, testing or inspection of a good but not physically incorporated into the good, or a good used in the maintenance of buildings or the operation of equipment associated with the production of a good, including:

- (a) fuel and energy;
- (b) tools, dies and molds;
- (c) spare parts and materials used in the maintenance of equipment and buildings;
- (d) lubricants, greases, compounding materials and other materials used in production or used to operate equipment and buildings;
- (e) gloves, glasses, footwear, clothing, safety equipment and supplies;
- (f) equipment, devices and supplies used for testing or inspecting the goods;
- (g) catalysts and solvents; and
- (h) any other goods that are not incorporated into the good but whose use in the production of the good can reasonably be demonstrated to be a part of that production;

**indirect overhead** means overhead incurred during a period, other than direct overhead, direct labor costs and direct material costs;

**intermediate material** means a material that is self-produced and used in the production of a good, and designated pursuant to Article 3-07;

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

**net cost** means total cost less sales promotion, marketing and after-sales service costs, shipping and repackaging costs; and royalties, pursuant to the provisions of Annex 3-04 (Calculation of Net Cost);

**originating good or material** means a good or material that qualifies as originating under the provisions of this Chapter;

**packing materials and containers for shipment** means goods that are used to protect a good during transportation, other than packaging materials and containers for retail sale;

**place where the producer is located:** in relation to a good, the production plant of that good;

**producer** means a person who grows, mines, harvests, fishes, hunts, manufactures, processes or assembles a good;

**production** means growing, mining, harvesting, fishing, hunting, manufacturing, processing or assembling a good;

**related person** means a person related to another person on the basis that:

- (a) they are officers or directors of one another's businesses;
- (b) they are legally recognized partners in business;
- (c) they are employer and employee;
- (d) any person directly or indirectly owns, controls or holds 25 percent or more of the outstanding voting stock or shares of each of them;
- (e) one of them directly or indirectly controls the other;
- (f) both of them are directly or indirectly controlled by a third person;
- (g) together they directly or indirectly control a third person; or
- (h) they are members of the same family (natural or adoptive children, brothers, sisters, parents, grandparents, or spouses);

**royalties** means payments made as consideration for technology transference and the right to use or exploitation of any copyright or intellectual property rights;

**sales promotion, marketing and after-sales service costs** means the following costs related to sales promotion, marketing and after-sales service:

- (a) sales and marketing promotion; media advertising; advertising and market research; promotional and demonstration materials; exhibits; sales promotion conferences, trade shows and conventions; banners; marketing displays; free samples; sales, marketing and after-sales service literature such as product brochures, catalogs, technical literature, price lists, service manuals, sales aid information; establishment and protection of logos and trademarks; sponsorships; wholesale and retail restocking charges; entertainment;
- (b) sales and marketing incentives; consumer, retailer or wholesaler rebates; merchandise incentives;
- (c) salaries and wages, sales commissions, bonuses, medical insurance and pension benefits, travelling and living expenses, membership and professional fees, for sales promotion, marketing and after-sales service personnel;

- (d) recruiting and training of sales promotion, marketing and after-sales service personnel, and after-sales training of customers' employees;
- (e) product liability insurance premium;
- (f) office supplies for sales promotion, marketing and after-sales service of goods;
- (g) telephone, mail and other communications for sales promotion, marketing and after-sales service;
- (h) rent and depreciation of sales promotion, marketing and after-sales service offices and distribution centers;
- (i) property insurance premiums, taxes, costs of utilities, and repair and maintenance of offices and distribution centers; and
- (j) payments by the producer to other persons for warranty repairs;

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

**shipping and repacking costs** means the costs incurred in the repacking and transportation of a good outside the territory where the producer or exporter of the good is located;

**total cost** means the sum of the following elements, pursuant to Annex 3-04 (Calculation of Net Cost):

- (a) the cost of direct materials used in the production of the good;
- (b) the costs of direct labor used in the production of the good; and
- (c) an amount of direct and indirect overhead of the good, reasonably allocated to the good, except for the following:
  - (i) costs and expenses of a service given by the producer of the good to another person, where the service is not related to the good;
  - (ii) costs and losses resulting from a sale of a part of the producer's company, which constitutes a discontinued operation;
  - (iii) the costs related to the cumulative effect of changes in the application of generally accepted accounting principles;
  - (iv) the costs and losses resulting from the sale of the producer's capital assets;
  - (v) costs and expenses related to fortuitous cases or *force majeure*;
  - (vi) profits obtained by the producer of the good, regardless of whether they were retained by the producer or paid to other persons as dividends and taxes paid on these profits, including taxes on capital gains; and

- (vii) interest costs agreed among related persons exceeding those interests paid at market interest rate.

**transaction value of a good** means the price actually paid or payable for a good with respect to a transaction of the producer of the good, pursuant to the principles of Article 1 of the Customs Valuation Code, adjusted in accordance with the principles of paragraphs 1, 3 and 4 of Article 8 of the said Code, regardless of whether the good is sold for export. For purposes of this definition, the seller referred to in the Customs Valuation Code shall be the producer of the good;

**transaction value of a material** means the price actually paid or payable for a material with respect to a transaction of the producer of the good, pursuant to the principles of Article 1 of the Customs Valuation Code, adjusted in accordance with the principles of paragraphs 1, 3 and 4 of Article 8 of the said Code, regardless of whether the material is sold for export. For purposes of this definition, the seller referred to in the Customs Valuation Code shall be the supplier of the material, and the buyer referred to in the Customs Valuation Code shall be the producer of the good; and

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

### **Article 3-02: Application and Interpretation**

1. For purposes of this Chapter:
  - (a) the basis for tariff classification is the Harmonized System;
  - (b) the determination of transaction value of a good or of a material shall be made in accordance with the principles of the Customs Valuation Code; and
  - (c) all costs referred to in this Chapter shall be recorded and maintained in accordance with the generally accepted accounting principles applicable in the territory of the Party in which the good is produced.
2. For purposes of this Chapter, in applying the Customs Valuation Code to determine the origin of a good:
  - (a) the principles of the Customs Valuation Code shall apply to domestic transactions, with such modifications as may be required by the circumstances, as would apply to international transactions; and
  - (b) the provisions of this Chapter shall prevail over the Customs Valuation Code to the extent of any difference.

### **Article 3-03: Originating Goods**

1. A good shall originate in the territory of one or both Parties where:

- (a) the good is wholly obtained or produced entirely in the territory of one or both Parties, as defined in Article 3-01;
- (b) the good is produced entirely in the territory of one or both Parties exclusively from materials that qualify as originating pursuant to this Chapter;
- (c) the good satisfies the requirements specified in Annex 3-03 (Specific Rules of Origin), as well as all other applicable requirements of this Chapter, when the good is produced entirely in the territory of one or both Parties from non-originating materials; or
- (d) except for a good provided for in Chapters 61 through 63 of the Harmonized System, the good is produced entirely in the territory of one or both Parties, but one or more of the non-originating materials that are used in the production of the good does not undergo a change in tariff classification because:
  - (i) the good was imported into the territory of a Party in an unassembled or a disassembled form but was classified as an assembled good pursuant to Rule 2(a) of the General Rules of the Harmonized System; or
  - (ii) the heading for the good provides for both, the good itself and its parts and specifically describes both the good itself and its parts and is not further subdivided into subheadings, or the subheading for the good provides for and specifically describes both, the good itself and its parts;

provided that the regional value content of the good, determined in accordance with Article 3-04, is not less than 45 percent where the transaction value method is used, or is not less than 35 percent where the net cost method is used, and that the good satisfies all other applicable requirements of this Chapter, unless otherwise provided in the Annex 3-03 (Specific Rules of Origin).

2. For purposes of this Chapter, the production of a good from non-originating materials that undergo an applicable change in tariff classification and satisfy other requirements, as specified in Annex 3-03 (Specific Rules of Origin), shall occur entirely in the territory of one or both Parties and every regional value content of a good shall be entirely satisfied in the territory of one or both Parties.

3. For purposes of Article 2-03(8), a good classified in Chapter 50 through 63 may satisfy the requirements specified in the Annex 3-03(3) and shall be considered as an originating good.

4. Notwithstanding paragraphs 1 and 2, the Parties may agreed that for any specifically identified product or sector, the acquisition of originating status under the conditions set out in paragraph 1 shall not be affected if the good undergoes working or processing outside the Parties and are subsequently re-imported, provided that:

- (a) it can be demonstrated to the satisfaction of the customs authorities that:
  - (i) the re-imported goods result from the working or processing of the exported materials; and
  - (ii) the total added value acquired outside the territory of one or both Parties concerned through the application of this Article does not exceed 10 percent of the F.O.B. price of the final product for which originating status is claimed; or
  - (iii) the working and processing carried out outside the territory of the Parties does not go beyond the non-qualifying operations listed in Article 3-16; and
- (b) the good satisfies all requirements set out in paragraph 1.

**Article 3-04: Regional Value Content**

1. Except as provided in paragraph 5, each Party shall provide that the regional value content of a good shall be calculated, at the choice of the exporter or producer of the good, on the basis of either the transaction value method set out in paragraph 2 or the net cost method set out in paragraph 4.

2. For purposes of calculating the regional value content of a good on the basis of the transaction value method, the following formula shall be applied:

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

where

- RVC: the regional value content, expressed as a percentage;
- TV: transaction value of the good adjusted to a F.O.B. basis, except as provided in paragraph 3; and
- VNM: value of non-originating materials used by the producer in the production of the good determined pursuant to Article 3-05.

3. For purposes of paragraph 2, when the producer of the good does not export it directly, the transaction value of the good shall be adjusted to the point where the buyer receives the good in the territory where the producer is located.

4. For purposes of calculating the regional value content of a good on the basis of the net cost method, the following formula shall be applied:

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

where

- RVC: regional value content, expressed as a percentage;
- NC: net cost of the good; and
- VNM: value of non-originating materials used by the producer in the production of the good determined pursuant to Article 3-05.

5. Each Party shall provide that an exporter or producer shall calculate the regional value content of a good solely on the basis of the net cost method set out in paragraph 4 where:

- (a) there is no transaction value where the good is not the subject of a sale;
- (b) the transaction value of the good cannot be determined where there are restrictions on the disposition or use of the good by the buyer, other than restrictions that:
  - (i) are imposed or required by law or by the public authorities of the Party where the buyer of the good is located;
  - (ii) limit the geographical area in which the good may be resold; or
  - (iii) do not substantially affect the value of the good;
- (c) the sale or price is subject to a condition or consideration for which a value cannot be determined with respect to the good;
- (d) part of the proceeds of any subsequent resale, disposal or use of the good by the buyer will accrue directly or indirectly to the seller, unless the proper adjustment pursuant to Article 8 of the Customs Valuation Code can be made;
- (e) the buyer and seller are related persons and their relationship between them influenced the price, except as provided in Article 1.2 of the Customs Valuation Code;
- (f) the good is sold by the producer to a related person and the volume, by units of quantity, of sales of identical or similar goods to related persons during the six-month period immediately preceding the month in which the producer sold the good exceeds 85 percent of the producer's total sales of such goods during that period;

- (g) the exporter or producer chooses to accumulate the regional value content of the good in accordance with Article 3-08; or
- (h) the good is designated as an intermediate material under Article 3-07 and is subject to a regional value-content requirement.

6. Except for the goods specified in Article 3-15, a producer may average the regional value content for one or all the goods classified in the same subheading that he produces in the same plant or in several plants in the territory of one Party, on the basis of either all the goods produced by the producer or only those goods exported to the territory of the other Party:

- (a) in its fiscal year or period; or
- (b) in any period of one, two, three, four or six months.

### **Article 3-05: Value of materials**

1. The value of a material:

- (a) shall be the transaction value of the material; or
- (b) in the event that there is no transaction value or the transaction value of the material is unacceptable under Article 1 of the Customs Valuation Code, shall be determined in accordance with the principles set out in Articles 2 through 7 of the Customs Valuation Code.

2. Where not included under subparagraph (a) or (b) of paragraph 1, the value of a material shall include:

- (a) freight, insurance, packing and all other costs incurred in transporting the material to the importation port in the territory of the Party where the producer of the good is located, except as provided in paragraph 3; and
- (b) the cost of waste and spoilage resulting from the use of the material in the production of the good, less the value of reusable scrap or by-product.

3. The value of a non-originating material shall not include where the producer acquires the material in the territory of the Party where the producer is located, freight, insurance, packing and all other costs incurred in transporting the material from the warehouse of the supplier to the place where the producer is located; as well as any other known and ascertainable cost incurred in the territory of the producer of the good.

4. For purposes of determining the regional value content under Article 3-04, the value of non-originating materials used by the producer in the production of the good shall not include the value of the non-originating materials used by:

- (a) another producer in the production of an originating material, which is acquired and used by the producer of the good in the production of such good; or
- (b) the producer of the good in the production of a self-produced originating material, which is designated by the producer as an intermediate material under Article 3-07.

**Article 3-06: *De Minimis***

1. A good shall be considered to be an originating good if the value of all non-originating materials used in the production of the good that do not undergo an applicable change in tariff classification set out in Annex 3-03 (Specific Rules of Origin) is not more than 10 percent of the transaction value of the good, adjusted to the basis set out in paragraphs 2 or 3, as the case may be, of Article 3-04 or, in the cases referred to in subparagraphs (a) through (e) of paragraph 5 of Article 3-04, the value of all such non-originating materials is not more than 10 percent of the total cost of the good.

2. Where that same good is also subject to a regional value content, the value of such non-originating materials shall be taken into account in determining the regional value of the good and the good shall be required to satisfy all other applicable requirements under this Chapter.

3. A good that is subject to a regional value-content requirement pursuant to Annex 3-03 (Specific Rules of Origin) shall not be required to satisfy such requirement if the value of all non-originating materials is not more than 10 percent of the transaction value of the good, adjusted to the basis set out in paragraphs 2 or 3, as the case may be, of Article 3-04 or, in the cases referred to in subparagraphs (a) through (e) of paragraph 5 of Article 3-04, the value of all such non-originating materials is not more than 10 percent of the total cost of the good.

4. Paragraph 1 does not apply to:

- (a) a good provided for in Chapters 50 through 63 of the Harmonized System; or
- (b) a non-originating material used in the production of goods provided for in Chapters 01 through 19 and 22 through 27 of the Harmonized System, except where the non-originating material is provided for in a different subheading to the good for which the origin is being determined under this Article

5. A good provided for in Chapters 50 through 63 of the Harmonized System that does not originate because certain fibers or yarns used in the production of the material that determines the tariff classification of the good do not undergo an applicable change in tariff classification set out in Annex 3-03 (Specific Rules of Origin), shall nonetheless be considered to originate if the total weight of all such fibers or yarns in that material is not more than 7 per cent of the total weight of such material.

### **Article 3-07: Intermediate Materials**

1. For purposes of determining the regional value content under Article 3-04, the producer of the good may designate as an intermediate material, any self-produced material used in the production of the good that satisfies the requirements of Article 3-03.
2. Where an intermediate material is subject to a regional value content under subparagraph (d) of paragraph 1 of Article 3-03 or to Annex 3-03 (Specific Rules of Origin), the regional value content shall be determined on the basis of the net cost method provided for in paragraph 4 of Article 3-04.
3. For purposes of determining the regional value content of a good, the value of the intermediate material shall be the total cost that can be reasonably allocated to that intermediate material pursuant to Annex 3-04 (Calculation of Net Cost).
4. Where a material that has been designated as intermediate material is subject to a regional value content, no other self-produced material subject to a regional value content used in the production of such intermediate material may, at the same time, be designated by the producer as intermediate material.

### **Article 3-08: Accumulation**

For purposes of determining whether a good is an originating good, a producer may accumulate his production with one or more producers in the territory of one or both Parties, of materials incorporated in the good, in a manner that the production of materials be considered to have been performed by that producer, provided that the provisions of Article 3-03 are satisfied.

### **Article 3-09: Fungible Goods and Materials**

1. For purposes of determining whether a good is an originating good, where originating and non-originating fungible materials that are commingled in an inventory, are used in the production of a good, the origin of the materials may be determined pursuant to an inventory management method set out in paragraph 3.
2. Where originating and non-originating fungible goods are commingled and, prior to exportation do not undergo any production process or any operation in the territory of the Party where they were commingled other than unloading, loading or any other operation necessary to preserve it in good condition or to transport the good to the territory of the other Party, the origin of the good may be determined on the basis of any of the inventory management methods set out in paragraph 3.
3. The inventory management methods for fungible goods or materials shall be the following:
  - (a) “FIFO method” (first in-first out) is the inventory management method by which the origin of the number of fungible goods or materials first received in

the inventory is considered to be the origin of the same number of fungible goods or materials first withdrawn from the inventory;

- (b) “LIFO method” (last in-first out) is the inventory management method by which the origin of the number of fungible goods or materials last received in the inventory is considered to be the origin of the same number of fungible goods or materials first withdrawn from the inventory; or
- (c) “average method” is the inventory management method by which, except as provided in paragraph 4, the origin of fungible goods or materials is determined through the following formula:

$$AOM = \frac{TOM}{TONM} \times 100$$

AOM: average of originating fungible materials or goods;

TOM: total units of fungible originating goods or materials in the inventory prior to the shipment; and

TONM: total sum of units of fungible originating and non-originating goods or materials in the inventory prior to the shipment.

4. Where a good is subject to a regional value content, the determination of non-originating fungible materials shall be made through the following formula:

$$ANM = \frac{TNM}{TONM} \times 100$$

where

ANM: average of non-originating materials;

TNM: total value of fungible non-originating materials in the inventory prior to the shipment; and

TONM: total value of fungible originating and non-originating materials in the inventory prior to the shipment.

5. Once an inventory management method set out in paragraph 3 has been chosen, it shall be used through all the fiscal year or period.

### **Article 3-10: Sets, kits or composite goods**

1. Sets, kits and composite goods classified pursuant to Rule 3 of the General Rules of Interpretation of the Harmonized System, and the goods specifically described as a set, kit or composite goods in the nomenclature of the Harmonized System, shall qualify as originating,

where every good contained in the set, kit or composite goods satisfies the applicable rule of origin for each of them under this Chapter.

2. Regardless of the provisions of paragraph 1, a set, kit or composite goods shall be considered as originating, if the value of all non-originating goods used in the collection of the set, kit or composite goods does not exceed 15 percent of the transaction value of the set, kit or composite goods, adjusted to the basis set out in paragraphs 2 or 3, as the case may be, of Article 3-04 or, in the cases referred to in subparagraphs (a) through (e) of paragraph 5 of Article 3-04, if the value of all non-originating goods used in the collection of the set, kit or composite goods is not more than 15 percent of the total cost of the set.

3. The provisions of this Article shall prevail over the specific rules set out in Annex 3-03 (Specific Rules of Origin).

### **Article 3-11: Indirect materials**

Indirect materials shall be considered to be originating without regard to where the good is produced and the value of such materials shall be their cost as reported in the accounting records of the producer of the good.

### **Article 3-12: Accessories, Spare Parts and Tools**

1. Accessories, spare parts or tools delivered with the good that form part of the good's standard accessories, spare parts or tools, shall be disregarded in determining whether all the non-originating materials used in the production of the good undergo the applicable change in tariff classification set out in Annex 3-03 (Specific Rules of Origin), provided that:

- (a) the accessories, spare parts or tools are not invoiced separately from the good, without regard of whether they are separately detached in the commercial invoice; and
- (b) the quantities and value of the accessories, spare parts or tools are customary for the good.

2. If the good is subject to a regional value-content, the value of the accessories, spare parts or tools shall be taken into account as originating or non-originating materials, as the case may be, in calculating the regional value content of the good.

### **Article 3-13: Packaging Materials and Containers for Retail Sale**

1. Packaging materials and containers in which a good is packaged for retail sale shall, if classified with the good, be disregarded in determining whether all the non-originating materials used in the production of the good undergo the applicable change in tariff classification set out in Annex 3-03(Specific Rules of Origin).

2. If the good is subject to a regional value-content requirement, the value of such packaging materials and containers for retail sale shall be taken into account as originating or

non-originating materials, as the case may be, in calculating the regional value content of the good.

### **Article 3-14: Packing Materials and Containers for Shipment**

1. Packing materials and containers in which a good is packed for shipment shall be disregarded in determining whether all non-originating materials used in the production of the good undergo an applicable change in tariff classification set out in Annex 3-03 (Specific Rules of Origin).

2. Where the good is subject to a regional value content, the packing materials and containers for the shipment of the good shall be considered as originating and non-originating, as the case may be in calculating the regional value content of the good, and the value of such materials shall be their cost as reported in the accounting records of the producer of the good.

### **Article 3-15: Automotive Goods**

1. For purposes of this Article:

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

- (a) motor vehicles provided for in subheading 8702.10 or 8702.90, where they are motor vehicles for the transport of 16 or more persons, or in subheading 8701.20, 8704.10, 8704.22, 8704.23, 8704.32 or 8704.90, or heading 87.05 or 87.06;
- (b) motor vehicles provided for in subheading 8701.10 or 8701.30 through 8701.90;
- (c) motor vehicles provided for in subheading 8702.10 or 8702.90 where they are motor vehicles for the transport of 15 or fewer persons, or subheading 8704.21 or 8704.31; or
- (d) motor vehicles provided for in subheading 8703.21 through 8703.90;

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

**model name** means the word, group of words, letter or letters, number or numbers or similar designation assigned to a motor vehicle by a marketing division of a motor vehicle assembler to:

- (a) differentiate the motor vehicle from other motor vehicles that use the same platform design;
- (b) associate the motor vehicle with other motor vehicles that use different platform designs; or

- (c) to denote a platform design;

**motor vehicle** means a good provided for in headings 87.01, 87.02, 87.03, 87.04, 87.05 or 87.06;

**plant** means a building, or buildings in close proximity but not necessarily contiguous, machinery, apparatus and fixtures that are under the control of a producer and are used in the production of motor vehicles;

**platform** means the primary load bearing structural assembly of a motor vehicle that determines the basic size of the motor vehicle, and is the structural base that supports the driveline and links the suspension components of the motor vehicle for various types of frames, such as the body-on frame or space-frame, and monoblocks; and

**underbody** means the floor pan of a motor vehicle;

2. For purposes of calculating the regional value content set out in Article 3-04 for a motor vehicle, the producer may average that calculation in his fiscal year or period using any one of the following categories, on the basis of either all motor vehicles in the category or only those motor vehicles in the category that are exported to the territory of the other Party:

- (a) the same model line of motor vehicles in the same class of motor vehicles produced in the same plant in the territory of a Party;
- (b) the same class of motor vehicles produced in the same plant in the territory of a Party;
- (c) the same model line of motor vehicles produced in the territory of a Party; or
- (d) the same class of motor vehicles produced in the territory of a Party.

### **Article 3-16: Non-Qualifying Operations**

1. A good shall not be considered to be an originating good merely by reason of:
  - (a) dilution with water or another substance that does not materially alter the characteristics of the good;
  - (b) simple operations for the maintenance of the good during transportation or storing, such as ventilation, refrigeration, removal of damaged parts, drying or addition of substances;
  - (c) removal of dust, sieving, classification, selection, washing;
  - (d) packing, repacking or packaging for retail sale;
  - (e) collection of goods to form sets, kits or composite goods;
  - (f) application of stamps, labels or similar distinctive signs;

- (g) washing, including removal of oxide, oil, paint or other coverings;
- (h) mere collection of parts and components classified as a good, according to Rule 2(a) of the General Rules of Interpretation of the Harmonized System. The above shall not apply to originating goods previously assembled and then disassembled for considerations of packaging, handling or transportation; or
- (i) mere disassembly of the good into parts or components. This shall not apply to originating goods previously assembled and then disassembled for considerations of packaging, handling or transportation.

2. A good shall not be considered originating merely by a production or pricing practice in respect of which it may be demonstrated, on the basis of a preponderance of evidence, that the object was to circumvent this Chapter.

3. The provisions of this Article shall prevail over the specific rules of origin set out in Annex 3-03 (Specific Rules of Origin).

#### **Article 3-17: Transshipment and Direct Expedition**

1. A good shall not be considered to be an originating good, even if it has undergone production that satisfies the requirements of Article 3-03 if, subsequent to that production, the good undergoes further production or any other operation outside the territories of the Parties, other than unloading, reloading or any other operation necessary to preserve it in good condition or to transport the good to the territory of the other Party.

2. A good shall not lose its originating condition where, in transit through the territory of one or more countries that are non Parties, with or without transshipment or temporary storage, under surveillance of the customs authorities of such countries:

- (a) transit is justified by geographical or transportation requirement considerations;
- (b) the good is not destined to trade or use in the transit country or countries; and
- (c) during transportation and storage the good is not submitted to operations other than packing, packaging, loading, reloading or operations to preserve it in good conditions.

3. Notwithstanding paragraph 1 and 2, within a year from the entry into force of the Agreement, the Parties shall agree on the condition and procedures required in order to allow that an originating good, which is transshipped without customs supervision through the territory of a non Party with each Party has entered separately into a free trade agreement under Article XXIV of GATT 1994 before the year 1999, will not lose its originating status.

#### **Article 3-18: Consultation and Modifications**

1. The Parties hereby establish a Committee on Rules of Origin and Customs Procedures, comprising representatives of each Party, which shall meet on the request of either Party.

2. The Committee shall:

- (a) ensure the effective implementation and administration of this Chapter and Chapter IV (Customs Procedures);
- (b) agree on the interpretation, application and administration of this Chapter and Chapter IV (Customs Procedures);
- (c) endeavor to agree on:
  - (i) tariff classification and customs valuation matters relating to determinations of origin;
  - (ii) equivalent procedures and criteria for the request, approval, issuing, modification, revocation and implementation of advance rulings; or
  - (iii) review the Certificate of Origin or the Declaration of Origin set out in Article 4-02
- (d) consider the proposed customs-related administrative and operational modifications that may affect the flow of trade between the Parties;
- (e) revise Article 4-05;
- (f) propose to the Commission any modification or addition to Annex 3-03 (Specific Rules of Origin);
- (g) propose to the Commission the implementation of the Uniform Procedures established in accordance with Article 4-12, as well as any modification or addition to them; and
- (h) consider any other matter as the Parties may agree related to this Chapter and Chapter IV (Customs Procedures).

3. The Parties will consult regularly and shall cooperate to ensure that this Chapter and Chapter IV (Customs Procedures) are applied in an effective and uniform manner, in accordance with the spirit and the objectives of this Agreement.