ANNEX I

REFERRED TO IN ARTICLE 8

RULES OF ORIGIN AND ADMINISTRATIVE COOPERATION

ANNEX I

RULES OF ORIGIN AND ADMINISTRATIVE COOPERATION

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SECTION I

GENERAL PROVISIONS

Article 1

Definitions

For the purposes of this Annex:

(a) "chapter", "heading" and "subheading" means a chapter (two-digit code), heading (four-digit code) or subheading (six-digit code) of the Harmonized System;

(b) "customs authority" means the authority that, according to the domestic laws and regulations of a Party, is responsible for the implementation of its customs legislation;

(c) "ex-works price" means the price paid for a product to the manufacturer in the Party where the last working or processing was carried out, in accordance with the international commercial terms "incoterms", excluding internal taxes which may be reimbursed when the product is exported;

(d) "Harmonized System" or "HS" means the Harmonized Commodity Description and Coding System;

(e) "manufacture" means any kind of working or processing, including assembling;

(f) "material" means any ingredient, raw material, component or part used in the manufacture of a product;

(g) "Party" means Chile, Iceland, Norway or the customs territory of Switzerland. Pursuant to the Customs Treaty of 1923 between Switzerland and Liechtenstein, a product originating in Liechtenstein shall be considered as originating in Switzerland;

(h) "product" means the result of manufacture, even if it is intended for later use as material in another manufacturing operation; and

(i) "value" means the customs value determined in accordance with the Agreement on Implementation of Article VII of the General Agreement on Tariffs and Trade 1994 at the time of importation of the non-originating materials used, or, if this is not known and cannot be ascertained, the first ascertainable price paid for the materials in a Party.

SECTION II

CONCEPT OF "ORIGINATING PRODUCTS"

Article 2

General requirements

For the purposes of this Agreement, a product shall be considered as originating in a Party if:

(a) it has been wholly obtained in a Party, in accordance with Article 3 (Wholly obtained products);

(b) the non-originating materials used in the working or processing have undergone sufficient working or processing in a Party, in accordance with Article 4 (Sufficient working or processing);

(c) it has been produced in a Party exclusively from materials originating in one or more Parties, in accordance with Article 6 (Accumulation of origin); or

(d) it has been produced in a Party exclusively from materials as specified in subparagraphs (a) to (c).

Article 3

Wholly obtained products

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

(a) minerals and other naturally occurring substances extracted or taken from its soil, waters, seabed or beneath the seabed there;

(b) vegetable products grown and harvested there;

(c) live animals born and raised there;

(d) products from live animals raised there;

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

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

(g) products obtained there by using cell cultures[1];

[1] For the purpose of this Annex, "cell culture" means a biotechnological process in which human, animal or plant cells are cultivated under controlled conditions (such as defined temperatures, growth medium, gas mixture, pH) outside a living organism.

(h) products falling within Chapters 29 to 39 of the Harmonized System obtained there by fermentation[2];

(i) products of sea fishing and other marine products taken from the sea outside the territorial waters of any country, by a vessel registered in a Party and flying its flag, and products manufactured exclusively from such products, on board a factory ship registered in a Party and flying its flag;

(j) products extracted from marine soil or sub-soil outside the territorial waters of a Party provided that this Party has the sole rights to exploit that soil or sub-soil;

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

(l) used products collected there fit only for the recovery of raw materials and not for their original purpose; or

(m) products manufactured in a Party exclusively from materials listed in subparagraphs (a) to (l).

Article 4

Sufficient working or processing

1. A product obtained from non-originating materials shall be considered to have undergone sufficient working or processing if the applicable product-specific rule of Appendix 1 (Product-specific rules) is fulfilled.

2. Notwithstanding paragraph 1, the operations defined in Article 5 (Insufficient working or processing) are considered as insufficient to obtain originating status.

3. The product-specific rules referred to in paragraph 1 indicate the working or processing which must be carried out on non-originating materials used in manufacturing and concern only such materials. It follows that if a product, which has acquired originating status in accordance with paragraph 1 in a Party, is further processed in that Party and used as material in the manufacture of another product, no account shall be taken of the non-originating components of that material.

4. Where a rule set out in Appendix 1 (Product-specific rules) is based on compliance with a sufficient processing threshold or a maximum content of non-originating materials, the value of non-originating materials used in the production of the product may be calculated on an average basis over a period of the preceding fiscal year in order to take into account the fluctuations in costs or currency rates, subject to the domestic requirements of the exporting Party.

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[2] For the purpose of this Annex, "fermentation" means a biotechnological process in which human, animal or plant cells, bacteria, yeasts, fungi or enzymes are used in the production process.

Article 5

Insufficient working or processing

1. Notwithstanding Article 4 (Sufficient working or processing), a product shall not be considered as originating, if it has only undergone one or more of the following operations or processes:

(a) preserving operations to ensure that a product retains its condition during transport and storage and operations whose sole purpose is to ease loading;

(b) freezing or thawing;

(c) breaking-up, packaging, re-packaging or assembly of packages;

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

(e) ironing or pressing of textiles or textile products;

(f) simple painting and polishing;

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

(h) colouring of sugar or forming sugar lumps;

(i) peeling and removal of stones, cores, pips and shells from fruits, nuts and vegetables;

(j) sharpening, simple grinding or simple cutting;

(k) sifting, screening, sorting, classifying, grading, matching;

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

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

(n) simple mixing of products, whether or not of different kinds;

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

(p) slaughter of animals.

2. For the purposes of paragraph 1, “simple” describes operations or processes which need neither special skills nor machines, apparatus or equipment especially produced or installed to carry out the operation or process.

3. All operations or processes carried out in a Party on a product shall be taken into account when determining whether these operations or processes are considered as insufficient working or processing in accordance with paragraph 1.

Article 6

Accumulation of origin

1. A product originating in a Party, which is used as material in the manufacture of a product in another Party, shall be considered as originating in the Party where the last operations beyond those referred to Article 5 (Insufficient working or processing) have been carried out.

2. A product originating in a Party, which is exported from one Party to another and does not undergo working or processing beyond those referred to in paragraph 1 of Article 5 (Insufficient working or processing), shall retain its origin.

3. Where materials originating in two or more Parties are used in the manufacture of a product and these materials have not undergone any working or processing beyond the operations referred to in Article 5 (Insufficient working or processing), the origin of the product is determined by the material with the highest value, or if this cannot be ascertained, with the highest first ascertainable price paid for that material in that Party.

4. Notwithstanding paragraph 1, products imported from a non-Party, which are used as materials in the manufacture of a product in an EFTA State or Chile, shall be considered as originating in the Party where the last operation has been carried out, provided that:

(a) preferential trade agreements in accordance with Article XXIV of the GATT 1994 between the EFTA State concerned, Chile and that non-Party, which foresee certification of origin and administrative cooperation procedures, including procedures for verification of originating status, are in force;

(b) these materials qualify as originating materials under the preferential trade agreement between that non-Party and the Party where the last operation has been carried out; and

(c) the working or processing carried out in the EFTA State concerned or Chile goes beyond those referred to in paragraph 1 of Article 5 (Insufficient working or processing). Such materials do not have to undergo sufficient working or processing.

Article 7

Tolerances

1. If non-originating materials used in the production of a product do not satisfy the requirements set out in Appendix 1 (Product-specific rules), the product shall be considered as originating in a Party, provided that the value of all those non-originating materials does not exceed 20 % of the ex-works price of the product.

2. Paragraph 1 shall not apply if the value of non-originating materials used in the production of a product exceeds any of the percentages for the maximum value of non-originating materials as specified in the requirements set out in Appendix 1 (Product-specific rules).

3. Paragraph 1 shall not apply to products wholly obtained in a Party in accordance with Article 3. If Appendix 1 (Product-specific rules) requires that the materials used in the production of a product are wholly obtained, paragraphs 1 and 2 shall apply.

Article 8

Unit of qualification

1. For the purpose of determining the originating status, the unit of qualification of a product or material shall be determined in accordance with the Harmonized System.

2. Pursuant to paragraph 1:

(a) packaging shall be included with a product if it is included with that product in accordance with General Interpretative Rule 5 of the General Rules for the Interpretation of the Harmonized System (General Interpretative Rules). 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; and

(b) where a consignment consists of a number of identical products classified under a single heading or sub-heading of the Harmonized System, each product shall be considered separately.

Article 9

Accessories, spare parts and tools

Accessories, spare parts, tools and instruction and information material dispatched with a piece of equipment, machine, apparatus or vehicle which are part of the normal equipment and included in its ex-works price, or which are not separately invoiced, shall be considered as part of the product in question.

Article 10

Neutral elements

Neutral elements, which have not entered into the final composition of the product, such as energy and fuel, plant and equipment, or machines and tools, shall not be taken into account when the origin of that product is determined.

Article 11

Sets

Sets, in accordance with General Interpretative Rule 3 of the Harmonized System, shall be regarded as originating when all components of the set are originating products. When a set is composed of originating and non-originating products, the set as a whole shall however be regarded as originating, provided that the value of the non-originating products does not exceed 15 % of the ex-works price of the set.

Article 12

Accounting segregation

1. If originating and non-originating fungible materials are used in the working or processing of a product, the determination of whether the materials used are originating may be determined on the basis of an accounting segregation system, and may be subject to prior authorisation by the customs authority of the Party concerned.

2. For the purposes of paragraph 1, “fungible materials” mean 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.

3. The accounting segregation system must ensure that no more final products receive originating status than would have been the case if the materials had been physically segregated.

4. A producer using an accounting segregation system must keep records of the operation of the system that are necessary for the customs authority of the Party concerned to verify compliance with the provisions of this Annex.

5. The authorisation to use accounting segregation may be withdrawn by the customs authority at any time if the producer makes improper use of it.

SECTION III

TERRITORIAL REQUIREMENTS

Article 13

Principle of territoriality

1. The conditions for acquiring originating status set out in the provisions of Section II (Concept of "Originating Products") must be fulfilled without any interruption in the territory of a Party.

2. Notwithstanding paragraph 1, if an originating product is returned to the exporting Party after having been exported to a non-Party without having undergone any operation there, beyond those necessary to preserve its condition, that product shall retain its originating status. The customs authority of the importing Party may require evidence that the returned product did not undergo any operation outside the exporting Party, beyond those necessary to preserve its condition.

3. Notwithstanding paragraph 1, the acquisition of the originating status of a product in accordance with the provisions of Section II (Concept of "Originating Products") shall not be affected by operations carried out in a non-Party under an outward processing procedure or a similar arrangement, if:

(a) the re-imported materials have been obtained from the exported materials; and

(b) the total added value acquired in the non-Party does not exceed 20 % of the ex-works price of the product; and

(c) the total value of the non-originating materials incorporated in a Party, taken together with the total added value acquired outside that Party, does not exceed the value allowed in accordance with Appendix 1 (Product-specific rules).

4. For the purposes of subparagraph 3(b), "total added value" means all costs arising outside a Party, including transport costs and the value of non-originating materials incorporated there.

Article 14

Non-alteration

1. Originating products, for which preferential tariff treatment is requested in a Party, shall be the same products as exported from another Party. They must not be altered or transformed in any way nor undergo operations other than those to preserve their condition, adding or affixing marks, labels, seals or any documentation to ensure compliance with domestic requirements of the importing Party, prior to being declared for preferential tariff treatment.

2. Transit, storage and splitting of consignments may take place in a non-Party, provided they remain under customs supervision in that non-Party.

3. Paragraphs 1 and 2 shall be considered fulfilled, unless the customs authority of the importing Party has reason to believe the contrary. In such case, the customs authority of the importing Party may request the importer or his or her representative to provide appropriate 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 other evidence.

SECTION IV

PROOF OF ORIGIN

Article 15

Statement on origin

1. For the purpose of obtaining preferential tariff treatment in the importing Party, a proof of origin in the form of a statement on origin in accordance with Appendix 2 (Statement on Origin) must be completed by an exporter established in a Party for products originating in any Party and otherwise fulfilling the requirements of this Annex.

2. The statement on origin must be completed on an invoice or any other commercial document that identifies the exporter and the originating products, and, except as provided for in Article 16 (Approved exporter), bear the original signature of the exporter. Non-approved exporters should preferably indicate the tariff classification at four-digit level under the Harmonized System on the invoice or other commercial document, unless the total value of the originating products in the consignment does not exceed 6000 euro.

3. The statement on origin may be completed when the products to which it relates are exported, or after exportation. A statement on origin shall be valid one year from the date of completion.

4. Subject to domestic laws and regulations of the exporting Party, forwarding agents, customs brokers and other persons have to be empowered in writing by the exporter of the product to complete statements on origin. They must submit the said authorisation to the customs authorities, at their request.

5. An exporter who has completed a statement on origin must keep a copy of the statement on origin and all documents supporting the originating status of the product, in paper or electronic form, for at least three years from the date of completion.

Article 16

Approved exporter

1. The competent authority of the exporting Party may, subject to domestic requirements, authorise an exporter of that Party to complete a statement on origin without signature.

2. An exporter who requests such authorisation must offer, to the satisfaction of the competent authority of the exporting Party, all guarantees necessary to verify the originating status of the products as well as the fulfilment of any other requirement under this Annex.

3. The competent authority of the exporting Party shall provide to the approved exporter an authorisation number to be included in the statement on origin instead of the signature.

4. The competent authority of the exporting Party may verify the proper use of an authorisation and withdraw it if the exporter no longer fulfils the conditions or otherwise makes improper use of it.

SECTION V

PREFERENTIAL TREATMENT

Article 17

Importation requirements

1. Each Party shall grant preferential tariff treatment in accordance with the Agreement to originating products of a Party imported from another Party, on the basis of a statement on origin referred to in Article 15 (Statement on origin).

2. In order to obtain preferential tariff treatment, the importer must, in accordance with the procedures applicable in the importing Party, request preferential tariff treatment at the time of importation of an originating product.

3. A delayed claim for preferential tariff treatment may also be granted, where applicable, as provided for in the domestic laws and regulations of the EFTA State concerned, and as provided for in Chile's regulation by refund of duties within a period of two years from the date of acceptance of the import declaration.

4. A statement on origin must be submitted to the customs authority of the importing Party within one year from its completion. The expiration of this period may be suspended as long as the products covered by that statement on origin remain under customs control of the importing Party. After this period, a statement on origin may only be accepted in exceptional circumstances.

5. Notwithstanding paragraph 1, a Party may, in accordance with its domestic laws and regulations, waive the requirements to present a statement on origin.

6. An importer who has been granted preferential tariff treatment must keep the statement on origin and other relevant documents for three years in the EFTA States and for five years in Chile from the date on which preferential tariff treatment was granted.

Article 18

Importation by instalments

Where, at the request of an importer and subject to the conditions laid down by the customs authority of the importing Party, a dismantled or non-assembled product within the meaning of General Interpretative Rule 2(a) is imported by instalments, a single statement on origin may be submitted to the customs authority upon importation of the first instalment. Alternatively, a statement on origin may be submitted for each imported instalment.

Article 19

Cooperation of exporters and importers with the customs authority

1. Exporters and importers benefitting from the Agreement must cooperate, within the framework of this Annex and subject to domestic laws and regulations of the Party concerned, with the customs authority of the Party in which they are established and must submit, upon request, supporting documents regarding the fulfilment of the requirements of this Annex.

2. An exporter who has completed a statement on origin must:

(a) upon request of the customs authority of the exporting Party, submit the documents referred to in paragraph 5 of Article 15 (Statement on origin) to this authority, which may carry out inspections at any time and verify the accounts of the exporter or the producer and take other appropriate measures; and

(b) when becoming aware of or having reason to believe that a statement on origin contains incorrect information, immediately notify the importer and the customs authority of the exporting Party of any change affecting the originating status of each product covered by that statement on origin.

3. An importer who has requested or has been granted preferential tariff treatment must:

(a) upon request of the customs authority of the importing Party, submit the documents referred to in paragraph 3 of Article 14 (Non-alteration) to that authority; and

(b) when becoming aware of or having reason to believe that the statement on origin contains incorrect information, immediately notify the customs

authority of the importing Party of any change affecting the originating status of each product covered by that statement on origin.

Article 20

Denial of preferential treatment

1. An importing Party may deny preferential tariff treatment or recover unpaid customs duties in accordance with its domestic laws and regulations where a product does not fulfil the requirements of this Annex or where the importer or exporter fails to demonstrate compliance with these requirements.

2. Slight discrepancies between the statements made in the statement on origin and those made in other documents submitted to the customs authority for customs clearance or obvious formal errors, such as typing errors in a statement on origin, shall not as such render the statement on origin invalid, provided that they do not create doubts concerning the accuracy of the information contained in the import documentation and that they do not affect the originating status of the goods itself.

3. An incorrect HS-code mentioned in any of the accompanying documents, including the statement on origin, shall not as such be a reason for rejecting a claim for preferential treatment.

SECTION VI

ADMINISTRATIVE COOPERATION

Article 21

Verification of statements on origin

1. The customs authority of the exporting Party shall carry out verifications of statements on origin upon request of the customs authority of the importing Party. The request and any subsequent communication, including the result, may be submitted through letter mail or via electronic means.

2. The verification request may question the authenticity of the statement on origin, the originating status of the product concerned or the fulfilment of any other requirements of this Annex. It shall identify the reason for the request and include a copy of the statement on origin and, where appropriate, any other document or information giving reason to believe that the statement on origin could be invalid.

3. The importing Party shall submit the verification request to the exporting Party within 34 months from the completion of the statement on origin. The exporting Party shall not be obliged to conduct verifications based on verification requests received after this period.

4. The customs authority of the importing Party may, subject to domestic laws and regulations, suspend preferential tariff treatment to a product covered by a statement on origin until the verification procedure has been completed.

5. The customs authority of the exporting Party may request evidence, carry out inspections at the exporter's or producer's premises, check the exporter's and the producer's accounts and take other appropriate measures to verify compliance with this Annex.

6. The requesting Party shall be informed of the results and findings of the verification within 15 months from the date of the verification request. If the requesting Party does not receive a reply within that time limit, or if the reply does not clearly state whether a product is originating or whether the statement on origin is valid, the requesting Party may deny preferential tariff treatment to the consignment covered by the statement on origin in question.

7. Where the requested Party is unable to comply with the time limit referred to in paragraph 6, it shall, upon request within that time limit, be granted an extension thereof.

Article 22

Notifications and cooperation

1. The Parties shall provide each other, through the EFTA Secretariat, with:

(a) the addresses of the customs authority of the Parties responsible for the verifications referred to in Article 21 (Verification of statements on origin) and other issues related to the implementation or application of this Annex;

(b) information on authorisation numbers allocated to approved exporters, pursuant to Article 16 (Approved exporter);

(c) information on the interpretation, application and administration of this Annex; and

(d) information on the electronic verification procedure.

2. The Parties shall provide, through the EFTA Secretariat, information regarding the entry into force of a new preferential trade agreement which they have concluded pursuant to Article 6 (Accumulation of origin).

3. The Parties shall endeavour to resolve technical matters related to the implementation or application of this Annex, to the extent possible, through direct consultations between the customs authorities referred to in subparagraph 1(a) or in the Sub-Committee on trade in goods. Disputes that cannot be settled through such consultations shall be submitted to the Joint Committee.

Article 23

Confidentiality

Any information in relation with this Annex, which is by nature confidential, or which is provided on a confidential basis, shall be protected in accordance with the domestic laws and regulations of each Party. Such information shall not be disclosed by the authorities of the Parties without the explicit permission of the person or authority providing it.

SECTION VII

FINAL PROVISIONS

Article 24

Penalties

Each Party shall provide for the imposition of criminal, civil or administrative penalties for violations of its domestic laws and regulations related to this Annex.

Article 25

Products in transit or storage

This Annex may be applied to products which, upon entry into force of the Protocol Amending the Free Trade Agreement between the EFTA States and the Republic of Chile, Done at Geneva, this 24th day of June 2024, are either in transit or in temporary storage in a customs warehouse or free zone under customs control. For such products, a statement on origin may be completed retrospectively up to six months after the entry into force of the Agreement, provided that the provisions of this Annex and in particular of Article 14 (Non-alteration) have been fulfilled.

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