

## ANNEX 2 on RULES OF ORIGIN

### SECTION I

#### DEFINITIONS

##### Article 1 Definitions

For purposes of this Annex, the following definitions shall apply:

- a) "**Agreement**" refers to the Agreement establishing the AfCFTA;
- b) "**Classified**" refers to the classification of a product or material under a particular heading or sub-heading of the HS;
- c) "**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;
- d) "**Generally Accepted Accounting Principles (GAAPs)**" means a framework of accounting standards, rules and procedures defined by the accounting professional bodies and recognised by States Parties with respect to the recording of revenues, expenses, costs, assets, and liabilities, the disclosure of information, and the preparation of financial statements. Generally Accepted Accounting Principles may encompass broad guidelines for general application, as well as detailed standards, practices, and procedures;
- e) "**Manufacture**" means any kind of working or processing including assembly or specific operations;
- f) "**c.i.f value**" means the price paid by the importer that includes the costs, insurance and freight needed to transport goods to a port of destination;
- g) "**Certificate of Origin**" means the documentary proof of origin issued by a designated competent authority, confirming that a particular product complies with the origin criteria applying to preferential trade under the Annex Protocol on Trade in Goods and in accordance with Article 16 of this Annex [ Proof of Origin];

- h) “**Chapter**” means the two-digit Chapters code used in the nomenclature which makes up the HS;
- i) “**Country of origin**” means the States Party in which the goods have been produced or manufactured, according to criteria laid down in this Annex;
  
- j) “**Customs value**” means the value as determined in accordance with the WTO Agreement on implementation of Article VII of the General Agreement on Tariffs and Trade 1994 (WTO Agreement on customs valuation);
  
- k) “**designated competent authority**” means a body or organisation designated by a States Party to issue Certificates of Origin;
  
- l) “**Exporter**” means any natural or legal person who exports goods to the territory of another States Party, who is able to prove the origin of the good, whether or not that person is the manufacturer and whether or not that person carries out the export formalities;
  
- m) “**Ex-works price**” means the price paid for the product ex-works to the manufacturer in the States Party in whose undertaking the last working or processing is carried out, provided the price includes the value of all the materials used minus any internal taxes paid which are, or may be, repaid when the product obtained is exported;
  
- n) “**Free Trade Area**” means the territories of the States Parties of the African Continental Free Trade Area;
  
- o) “**Goods**” means both materials and products;
  
- p) “**Harmonized System**” means the Harmonized Commodity Description and Coding System established by the International Convention on the Harmonized Commodity Description and Coding System.
  
- q) “**Heading**” means the four-digit headings used in the nomenclature which makes up the Harmonized System (HS);
  
- r) “**Material**” means any ingredient, raw material, component or part used in the manufacture of a product;

- s) “**Origin declaration**” means an appropriate statement as to the origin of the goods made, in connection with their exportation by the manufacturer, producer, supplier, exporter or any other competent person on the commercial invoice or any other document relating to the goods;
- t) “**Producer**” includes a mining, manufacturing or agricultural enterprise or any other individual grower or craftsman who supplies goods for export;
- u) “**Product**” means the output of a manufacturing process, even if it is intended for later use in another manufacturing operation;
- v) “**Secretariat**” means Secretariat established under Article 9 of the Agreement Establishing the African Continental Free Trade Area;
- w) “**Special Economic Arrangements / Zones**” means special regulatory provisions applicable in a geographical demarcation within a States Party’s territory where the legal, regulatory and fiscal and Customs schemes, applicable to business differ, generally in a more liberal way, from those in application in the rest of that States Party’s territory.
- x) “**Sub-heading**” means the six-digit code used in the nomenclature which makes up the Harmonized System;
- y) “**Territory**” the State Party’s territory includes including the territorial sea and the Exclusive Economic Zone as defined under the UN Convention on the Laws of the Sea.
- z) “**Value added**” means the difference between the ex-works [price] of a finished product and the Customs Value of the material imported from outside the State parties and used in the production;
- aa) “**Value of materials**” means the customs value 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 any States Party;
- bb) “**Sub-Committee**” means a Sub-Committee established under Article 40 of this Annex.

## **SECTION II**

### **PURPOSE, PRINCIPLES, OBJECTIVES, AND ORIGIN CONFERRING CRITERIA**

#### **Article 2 Purpose**

The purpose of this Annex is to implement provisions of Article 12 of the Protocol on Trade in Goods concerning Rules of Origin.

#### **Article 3 Principles**

Rules of Origin in this Annex shall provide transparent, clear and predictable criteria for determining whether or not the traded products are eligible for preferential treatment under the AfCFTA.

#### **Article 4 Objectives**

The provisions of this Annex shall be interpreted and applied in accordance with the following objectives:

- a) Deepening market integration at regional and continental levels;
- b) Boosting Intra African Trade;
- c) Promoting regional and continental value chains; and
- d) Fostering economic transformation of the continent through industrialization.

#### **Article 5 Origin conferring criteria**

1. A product shall be considered as originating from a States Party if it:
  - a) Has been wholly obtained in that States Party within the meaning of Article 6; or
  - b) Has undergone substantial transformation in that States Party within the meaning of Article 7.

#### **Article 6 Wholly obtained products**

1. The following products shall be considered as wholly obtained in a States Party when exported to another State Party:

- a) Mineral products and other non-living natural resources extracted from the ground, sea bed, below sea bed and in the territory of a States Party in accordance with the provisions of the UN Convention on the Law of the Sea.
  - b) Plants including aquatic plants, and plant products, vegetables and fruits, grown or harvested therein;
  - c) Live animals born and raised therein;
  - d) Products obtained from live animals raised therein;
  - e) Products from slaughtered animals born and raised therein;
  - f) Products obtained by hunting and fishing conducted therein;
  - g) Products of aquaculture including mariculture, where the fish, crustaceans, molluscs and other aquatic invertebrates are born and or raised therein from eggs, larvae, fry or fingerlings born or raised therein;
  - h) Products of sea fishing and other products taken from the sea outside the territory of a States Party by their vessels;
  - i) Products made aboard their factory ships exclusively from products referred to in subparagraph (h);
  - j) Used articles fit only for the recovery of materials, provided that such articles have been collected there;
  - k) Scrap and waste resulting from manufacturing operations therein;
  - l) Products extracted from marine soil or sub-soil outside their territorial waters provided that they have sole rights to work that soil or sub-soil.
  - m) Goods produced there exclusively from products specified in subparagraphs (a) through (l);
  - n) Electric energy produced there.
2. The terms "their vessels" and "their factory ships" in paragraph 1(h) and 1(i) shall apply only to vessels, leased vessels, bare boat and factory ships which are registered in a States Party in accordance with the national laws of a States Party and meet one of the following conditions:
- a) the vessel sails under the flag of a States Party; or
  - b) at least, 50 per centum of the officers of the vessel or factory ship are nationals of the States Party or States Parties; or
  - c) at least, 50 per centum of the crew of the vessel or factory ship are nationals of the States Party or States Parties; or
  - d) at least, [50/51] per centum of the equity holding in respect of the vessel or factory ship are held by nationals of the States Party or States Parties or institutions, agency, enterprise or corporation of the government of the States Party or States Parties.

**Article 7**  
**Sufficiently worked or processed products**

1. For the purposes of Article 5(b), products which are not wholly obtained are considered to be sufficiently worked or processed when they fulfil one of the following criteria:
  - a) value addition;
  - b) non-originating material content;
  - c) change in tariff heading; or
  - d) specific processes.
2. Notwithstanding paragraph 1 of this Article, goods listed in Appendix IV shall qualify as originating goods if they satisfy the specific rules set out therein.

## **Article 8**

### **Transitional Arrangements**

1. The States Parties agree that the following provisions of this Annex are outstanding :
  - a) Article 1 on the definitions of “value addition”;
  - b) Appendix IV on the Rules of Origin to be applied in the African Continental Free Trade Area; and
  - c) Article 6.2 on the requirements for “vessels and their factory ships”.
2. Pending the conclusion of negotiations on the provisions stated in paragraph 1 of this Article, the States Parties agree that the rules of origin in the existing trade regimes shall be applicable.

## **Article 9**

### **Working or processing not conferring origin**

1. The following operations are insufficient to confer origin on a product, whether or not the requirements of Article 5 are satisfied:
  - a) Operations exclusively intended to preserve products in good condition during storage and transport;
  - b) Breaking-up or assembly of packages;
  - c) Washing, cleaning, or operations to remove dust, oxide, oil, paint, or other coverings from a product;
  - d) Simple ironing or pressing operations;
  - e) Simple painting or polishing operations;
  - f) Husking, partial or total bleaching, polishing, or glazing of cereals and rice;
  - g) Operations to colour sugar or form sugar lumps, partial or total milling of crystal sugar;

- h) Peeling, stoning, or shelling of vegetables of Chapter 7, fruits of Chapter 8, nuts of heading 08.01 or 08.02 or groundnuts of heading 12.02. fruits, nuts or vegetables.
- i) Sharpening, simple grinding, or simple cutting;
- j) Simple sifting, screening, sorting, classifying, grading, or matching;
- k) Simple packaging operations, such as placing in bottles, cans, flasks, bags, cases, boxes, or fixing on cards or boards;
- l) Affixing or printing marks, labels, logos, and other like distinguishing signs on the products or their packaging;
- m) Simple mixing of materials, whether or not of different kinds; simple mixing does not include an operation that causes a chemical reaction;
- n) Simple assembling of parts of articles to constitute a complete article;
- o) A combination of two or more operations specified in subparagraphs (a) to (o); and
- p) Slaughter of animals.

Provided that, notwithstanding any provision in this Annex, agricultural products whether or not processed in any way, obtained or partially obtained from Food Aid or monetization or similar assistance measures, including arrangements based on non-commercial terms, shall not be considered as originating in a States Party.

2. For the purpose of paragraph 1, an operation shall be considered simple when neither special skills, nor machines, apparatus, nor tools especially produced or installed for those operations are required for their performance or when those skills, machines, apparatus, or tools do not contribute to the product's essential characteristics or properties.

### **Article 10 Cumulation of Origin within the Continent**

1. For the purposes of implementing this Article, all States Parties shall be considered as a single territory.
2. Raw materials or semi-finished goods originating in any of the States Parties and undergoing working or processing in another States Party shall, be deemed to have originated in the States Party where the final processing or manufacturing takes place.
3. Working or processing carried out in any of the States Parties shall be considered as having been carried out in the States Parties when the materials undergo further working or processing in a States Party.

4. Notwithstanding paragraph 1 and 2, products further manufactured in a States Party shall be considered as originating in a States Party where the last manufacturing process takes place provided that the last working or processing operations exceed those operations under Article 9 of this Annex.

**Article 11**  
**Goods produced under Special Economic Arrangements / Zones**

1. States Parties shall take all necessary measures to ensure that products which are traded undercover of proof of origin, and which during their transportation use a special economic arrangement / zone situated in their territory shall remain under the control of the customs authority and are not substituted by other goods.
2. Notwithstanding paragraph 1, where products originating in a States Party which are imported into a special economic arrangement / zone under a proof of origin undergo processing or transformation, the competent customs authorities shall issue a new movement certificate at the request of the exporter, if the processing or transformation carried out is in accordance with this Annex.
3. Goods produced in special economic arrangements / zones shall be treated as originating goods provided that they satisfy the rules in this Annex and in accordance with the provisions of Article 22.2 of the Protocol on Trade in Goods.

**Article 12**  
**Unit of qualification**

The unit of qualification for the application of the provisions of this Annex shall be the particular product which is considered as a basic unit when determining classification. Therefore for the purpose of this Annex:

- a) The tariff classification of a particular product or material shall be determined according to the HS Nomenclature;
- b) A product composed of a group or assembly of articles or components is classified pursuant to the terms of the HS under a single heading or subheading, the whole shall constitute a unit of qualification; and
- c) where a shipment consists of a number of identical products classified under the same heading or subheading of the HS, each product shall be considered separately.

**Article 13**  
**Treatment of Packing**

1. Where for purposes of assessing customs duties, a States Party treats goods separately from their packing, it may also, in respect of its imports consigned from another States Party, determine separately the origin of such packing.
2. Where paragraph 1 of this Rule is not applicable, packing shall be considered as forming a whole with the goods and no part of any packing required for their transport or storage shall be considered as having been imported from outside the States Party when determining the origin of the goods as a whole.
3. For the purpose of paragraph 2 of this Rule, packing with which goods are ordinarily sold at retail shall not be regarded as packing required for the transport or storage of goods.
4. Containers which are used purely for the transport and temporary storage of goods and are to be returned shall not be subject to customs duties and other charges of equivalent effect. Where containers are not to be returned, they shall be treated separately from the goods contained in them and be subject to import duties and other charges of equivalent effect.

#### **Article 14**

##### **Separation of materials**

1. For those products or industries where it would be impracticable for the producers to separate physically materials of similar character but different origin used in the production of goods, such separation may be replaced by an appropriate accounting system which ensures that no more goods are deemed to originate in the States Party than would have been the case if the producer had been able to physically separate the materials.
2. Any accounting system shall conform to such conditions as may be agreed upon by the Sub-Committee on Rules of Origin, provided for under Article 40 of this Annex in order to ensure that adequate control measures shall be applied.

#### **Article 15**

##### **Accessories, spare parts and tools**

Accessories, spare parts and tools despatched with a piece of equipment, machine, apparatus or vehicle, which are part of the normal equipment and included in the price thereof or which are not separately invoiced, shall be regarded as one with the piece of equipment, machine, apparatus or vehicle in question.

#### **Article 16**

##### **Sets**

1. Sets as defined in General Rule 3 of the HS shall be regarded as originating when all components products are originating.

2. Nevertheless, when a set is composed of originating and non-originating products a set as a whole shall be regarded as originating provided that the value of non-originating products does not exceed 15% of the ex-works price of the set.
3. The value of non-originating component products is calculated in the same manner as the value of non-originating materials.

### **Article 17** **Neutral elements**

For the purpose of determining whether a product is originating, it is not necessary to determine the origin of the following which might be used in its production:

- a) Energy and fuel;
- b) Plant and equipment;
- c) Machines and tools; or
- d) Materials which do not enter and which are not intended to enter into the final composition of the product.

### **Article 18** **Principle of Territoriality**

1. A product that has undergone production that satisfies the requirements of Article 7 shall be considered originating only if, subsequent to that production, the product:
  - a) Does not undergo further production or any other operation outside the territories of the States Parties, other than unloading, reloading, or any other operation necessary to preserve it in good condition, to transport the product to the territory of a States Party; and
  - b) Remains under customs control while outside the territories of the States Parties.
2. The storage of products and shipments or the splitting of shipments that take place under the responsibility of the exporter or of a subsequent holder of the products while the products remain under customs control in the country or countries of transit shall not affect the originating status of the product.
3. If an originating product exported from a States Party to a third country returns, it shall be considered as non-originating, unless it can be demonstrated to the satisfaction of the customs authorities that the returning product:
  - a) Is the same as that exported; and
  - b) Has not undergone any operation beyond that necessary to preserve it in good condition.

## **SECTION III**

## **PROOF OF ORIGIN**

### **Article 19 Proof of Origin**

1. Products originating in a States Party shall, on importation into another States Party, benefit from the provisions of the Annex upon submission of either:
  - a) a certificate of origin, whether in hard copy or electronic, a specimen of which appears in Appendix I. Issuance and acceptance of electronic certificate of origin would be in accordance with each States Party's national legislation; or
  - b) in the cases specified in Article 21, a declaration, subsequently referred to as the 'Origin Declaration', given by the exporter on an invoice, a delivery note or any other commercial document which describes the products concerned in sufficient detail to enable them to be identified.
2. The text of the Origin Declaration and supplier or producer's declaration appears in Appendices II.
3. Notwithstanding paragraph 1, originating products within the meaning of this Annex shall, in the cases specified in Article 30 concerning exemption from proof of origin, benefit from the Protocol on Trade in Goods without it being necessary to submit any proof of origin.
4. A proof of origin shall be valid for twelve months from the date of issue in the exporting country, and must be submitted within the said period to the customs authorities of the importing country.
5. Proofs of origin which are submitted to the customs authorities of the importing country after the final date for presentation specified in paragraph 3 may be accepted for the purpose of applying preferential treatment, where the failure to submit these documents by the final date set is due to exceptional circumstances duly justified .

### **Article 20 Submission of Proof of Origin**

Proof of origin shall be prepared and submitted to the customs authorities of the importing country in any of the AU official languages and in accordance with the procedures applicable in that country. The said authorities may require a translation of a proof of origin.

## **Article 21**

### **Origin Declarations**

1. An Origin Declaration as referred to in Article 19 may be made out by:
  - a) an approved exporter within the meaning of Article 22; or
  - b) any exporter for any consignment consisting of one or more packages containing originating products whose total value does not exceed five thousand US dollars.
2. An Origin Declaration may be made out if the products concerned can be considered as products originating in the States Party and fulfil the other requirements of this Annex.
3. The exporter making out an Origin Declaration shall be prepared to submit at any time, at the request of the designated Competent Authority of the exporting States Party, all appropriate documents proving the originating status of the products concerned as well as the fulfilment of the other requirements of this Annex.
4. An Origin Declaration shall be made out by the exporter by typing, stamping or printing on the invoice, the delivery note or another commercial document using one of the AU official languages and in accordance with the provisions of the national legislation of the exporting States Party. If the Origin Declaration is handwritten, it shall be written in ink in printed characters. Origin Declarations shall bear the original signature of the exporter.
5. An Origin Declaration may be made out by the exporter when the products to which it relates are exported, or after exportation on condition that it is presented in the importing country no longer than twelve months after the importation of the products to which it relates as provided for under national legislation.

## **Article 22**

### **Approved Exporter**

1. The designated competent authorities of the exporting States Party may authorize any exporter, hereinafter referred to as “approved exporter”, who frequently exports products covered by this Annex and provides, to the satisfaction of the customs authorities, all the guarantees for verifying the originating status of products as well as compliance with all other requirements of this Annex, to make out origin declarations regardless of the value of the products concerned.
2. Designated competent authorities may grant the status of approved exporter subject to any conditions which they consider appropriate.

3. Designated competent authorities shall issue to the approved exporter an authorization number, which must appear on the origin declaration.
4. Designated competent authorities shall monitor the use made of the authorization by the approved exporter.
5. Designated competent authorities may withdraw the authorization at any time. They must do so when the approved exporter no longer provides the guarantees referred to in paragraph 1, no longer fulfils the conditions referred to in paragraph 2 or otherwise makes improper use of the authorization.

### **Article 23** **Issuance of Certificate of Origin**

1. A Certificate of origin shall be issued by the designated competent authority of the exporting country on application having been made in writing by the exporter or, under the exporter's responsibility, by his authorized representative.
2. For this purpose, the exporter or his authorized representative shall fill out the Certificate as an application form, a specimen of which appears in Appendix I. These form shall be completed in accordance with the provisions of this Annex. Where it is handwritten, it shall be completed in ink in printed characters. The description of the products must be given in the box reserved for this purpose without leaving any blank lines. Where the box is not completely filled, a horizontal line must be drawn below the last line of the description, the empty space being crossed through.
3. The exporter applying for the issue of a Certificate of origin shall be prepared to submit, at any time, at the request of the designated competent authority of the exporting country where the Certificate is issued, all appropriate documents proving the originating status of the products concerned as well as the fulfilment of the other requirements of this Annex.
4. The designated competent authority shall take any steps necessary to verify the originating status of the products and the fulfilment of the other requirements of this Annex.
5. For this purpose, they shall have the right to call for any evidence and to carry out any inspection of the exporter's accounts or any other verification considered appropriate. The customs or designated competent authority shall also ensure that the form referred to in paragraph 1 is duly completed. In particular, they shall check whether the space reserved for the description of the products has been completed in such a manner as to exclude all possibility of fraudulent additions.

6. The date of issue of the Certificate of Origin shall be indicated in the relevant box of the Certificate.
7. A Certificate of Origin shall be issued by the designated competent authority and made available to the exporter, to the best possible extent, before actual exportation has been effected.

#### **Article 24** **Supporting documents**

The documents, referred to in paragraph 3 of Article 23, to be submitted to the designated competent authority of the exporting country may include documents relating to the following:

- a) the production processes carried out on the originating product or on materials used in the production of that product;
- b) the purchase, cost, value of and payment for the product;
- c) the origin, purchase, cost, value of and payment for all materials, including neutral elements, used in the production of the product; and
- d) the shipment of the product.
- e) any other documents that the designated competent authority may consider necessary.

#### **Article 25** **Certificate of Origin Issued Retrospectively**

1. Notwithstanding paragraph 7 of Article 23, a Certificate of Origin may exceptionally be issued after exportation of the products to which it relates if:
  - a) It was not issued at the time of exportation because of errors or involuntary omissions or special circumstances; or
  - b) It is demonstrated to the satisfaction of the designated competent authority that a Certificate of Origin was issued but was not accepted at importation for technical reasons.
2. For the implementation of paragraph 1, the exporter must indicate in his application the place and date of exportation of the products to which the Certificate of Origin relates, and state the reasons for his request.
3. The designated competent authority may issue a Certificate of Origin retrospectively only after verifying that the information supplied in the exporter's application agrees with that in the corresponding file.
4. Certificates of Origin issued retrospectively must be endorsed with the following phrase:  
**“ISSUED RETROSPECTIVELY”**

5. The endorsement referred to in paragraph 4 shall be inserted in the Box 3 of the Certificate of Origin.

**Article 26**  
**Transitional Provision for Goods in Transit or Storage**

Goods which comply with the provisions of this Annex and which, on the date of entry into force of the Agreement, are either in transit or temporary storage under customs warehouses or free zones of one of the States Parties, may be eligible for the provisions of this Annex subject to submission, within six months of the said date, to the customs authorities of the importing States Party, of a Certificate of Origin issued retrospectively by the competent authorities of the exporting States Party together with documents showing that the goods have been transported directly in accordance with the provisions of Article 32.

**Article 27**  
**Issuance of a Duplicate Certificate of Origin**

1. In the event of theft, loss or destruction of a Certificate of Origin, the exporter may apply to the designated competent authority which issued it for a duplicate made out on the basis of the export documents in their possession.
2. The duplicate issued in this way must be endorsed with the following word:  
**“DUPLICATE”**
3. The endorsement referred to in paragraph 2 shall be inserted in the Box 3 of the duplicate Certificate of Origin.
4. The duplicate, which must bear the date of issue of the original Certificate of Origin, shall take effect as from that date.

**Article 28**  
**Issuance of a Replacement Certificate of Origin**

When originating goods are placed under the control of a customs in one of the States Parties it may be possible to replace the Certificate of Origin by one or several certificate of movement of goods in order to allow for the said goods or part thereof to be sent elsewhere in the other States Parties. A replacement Certificate of Origin shall be delivered to the customs authority under whose control the goods were placed.

**Article 29**  
**Importation by Instalments**

Where, at the request of the importer and on the conditions laid down by the customs authorities or competent authorities of the importing country, dismantled or non-assembled products within the meaning of General Interpretative Rules of the Harmonized System are imported by instalments, a single proof of origin for such products shall be submitted to the customs authorities or competent authorities upon importation of the first instalment.

### **Article 30**

#### **Exemption from Proof of Origin**

1. The following goods shall be admitted as originating products without requiring submission of a proof of origin:
  - a) Originating products sent as small packages from private persons in a States Party to private persons in another States Party or forming part of traveller's personal luggage; and
  - b) Imports which are occasional and consist of originating products for the personal use of the recipient or travellers or their families shall not be considered as commercial imports by way of trade.
2. The total value of these products shall not exceed the value of five hundred US Dollars in the case of small packages or one thousand two hundred US Dollars in the case of products forming part of traveller's personal luggage as the case may be.

### **Article 31**

#### **Fairs and Exhibitions**

1. Originating products sent for fairs and exhibitions in a country and sold, at the end of the fair or exhibition, for the purpose of importation into one of the States Parties shall, at the time of importation, benefit from the provisions of the Agreement, provided that there is satisfactory proof to the customs authorities that:
  - a) an exporter has shipped these products from the State Party to the country of the fair or exhibition and has exhibited same therein;
  - b) the products have been sold or otherwise disposed of by that exporter to a person in the State Party;
  - c) the products have been consigned during the exhibition or immediately thereafter in the State in which they were sent for fairs and exhibitions; and
  - d) that from the time they were shipped for fairs and exhibitions, the products were not used for purposes other than for display at that fair or exhibition.
2. Proof of origin must be issued or made out in accordance with the provisions of Section II and submitted under normal conditions to the customs authorities of the importing country. The name and address of the fair or exhibition must be indicated. If

necessary, additional documentary evidence of the conditions under which they had been exhibited may be required.

3. Paragraph 1 shall apply to all exhibitions, fairs or similar public events of a commercial, industrial, agricultural or handicraft nature, other than those organized for private purposes in commercial premises or shops and for the purpose of selling foreign products, during which the products remain under customs control.

### **Article 32** **Direct Transportation**

1. The preferential treatment provided for in this Annex applies only to products meeting the requirements of this Annex, which are transported directly between the territories of the States Parties or through those territories. However, the transportation of products constituting a single consignment may take place through other States Parties' territories, where appropriate, with transshipment or temporary storage in those territories, provided that the products remain under the supervision of the customs authorities of the country of transit or storage and that they are not subject to other operations other than unloading or reloading or any other operation intended to ensure their preservation as such.
2. Originating products may be transported by pipeline across territories other than those of the States Parties acting as exporting and importing parties.
3. Proof that the conditions referred to in paragraph 1 have been fulfilled shall be by providing the customs authorities of the importing States Party with:
  - a) Either a single transport document covering the passage through the country of transit;
  - b) or a certificate issued by the customs authorities of the country of transit, containing:
    - i) an accurate description of the products;
    - ii) date of unloading and reloading of the products, with, where applicable, the names of the ships or other means of transport used; and
    - iii) certifying the conditions under which the products remained in the transit country;
  - c) Or, failing that, of any other relevant document.

### **Article 33** **Information and procedure for cumulation purposes**

1. For the application of paragraph 2 of Article 10 of this Annex, the proof of origin of the materials coming from a States Party shall be given by a Certificate of Origin or an origin declaration specimen of which appear in Appendices I and II of this Annex.

2. For the application of paragraph 3 of Article 10 the evidence of the working or processing shall be given by the supplier or producer's declaration, a specimen of which appears in Appendix III of this Annex, given by the supplier or producer in the States Party in which the materials are exported.
3. When Article 10 is applied, the Certificate of Origin issued in this way must be endorsed with the following phrase:  
**"CUMULATION"**
4. The endorsement referred to in paragraphs 2 of this Article shall be inserted in the Box 3 of the Certificate of Origin.
5. In addition to the supporting documents referred to in paragraph 2, the bill of lading, together with the catch certificates shall be accompanying the Certificate of Origin.

#### **Article 34**

##### **Preservation of records**

1. An exporter who has applied for the issuance of a Certificate of Origin shall keep a copy of the application, as well as the supporting documents referred to in Article 24, for at least five (5) years after the completion of the application.
2. An importer that has been granted preferential tariff treatment shall keep documentation relating to the importation of the product, including a copy of the Certificate of Origin, for at five (5) years after the date on which preferential treatment was granted.
3. A States Party may deny preferential tariff treatment to a product that is the subject of an origin verification when the importer, exporter, or producer of the product that is required to maintain records or documentation under this Article:
  - a) Fails to maintain records or documentation relevant to determining the origin of the product in accordance with the requirements of this Annex; or
  - b) Denies access to those records or documentation.
4. The designated competent authority of the exporting country issuing a Certificate of Origin shall keep for a minimum of five (5) years the copy of the issued Certificate.
5. The designated competent authority of the importing country shall keep for a minimum of five (5) years the Certificate of Origin submitted to them.

**Article 35**  
**Discrepancies and formal errors**

1. The discovery of slight discrepancies between the Statements made in the Certificate of Origin and those made in the documents submitted to the customs or other designated competent authority for the purpose of carrying out the formalities for importing the products shall not, because of that fact, render the Certificate of Origin null and void if it is established that the Certificate of Origin corresponds to the products submitted.
2. Obvious formal errors such as typing errors on a Certificate of Origin shall not cause the Certificate of Origin to be rejected if these errors do not create doubts concerning the correctness of the statements made in the document.

**SECTION IV**  
**ADMINISTRATIVE COOPERATION**

**Article 36**  
**Notifications**

1. The States Parties shall cooperate in the uniform administration and interpretation of this Annex and, through their designated competent authorities, assist each other in verifying the originating status of the products on which a Certificate of Origin is based.
2. For the purposes of facilitating the verifications or assistance referred to in paragraph 1, the designated competent authorities of the States Parties shall, through the Secretariat, exchange their respective addresses and the specimen of the stamps and signatures used in their offices for the issuance of the Certificates of Origin.
3. It is understood that the designated competent authority of the States Party of export assumes all expenses in carrying out the obligations provided for in paragraph 1.
4. It is further understood that the designated competent authorities of the States Parties shall, from time to time, consider the overall operation and administration of the verification process, including forecasting of workload and setting priorities. If there is an unusual increase in the number of requests, the designated competent authorities of the States Parties shall establish priorities and take the necessary steps to manage the workload, taking into account operational requirements.

5. States Parties shall notify each other immediately, through the Secretariat, with respect to any changes in requirements stated in paragraph 2.
6. States Parties shall notify each other immediately, through the Secretariat, of the approved exporters as provided in Article 22.

**Article 37**  
**Mutual Assistance**

1. In order to ensure the proper application of this Annex, the States Parties shall assist each other, through the competent customs authorities or designated competent authorities, in checking the authenticity of the Certificate of Origin, the origin declarations or the supplier's declarations and the correctness of the information given in these documents.
2. The States Parties' authorities consulted shall furnish the relevant information concerning the conditions under which the product has been made, indicating especially the conditions in which the rules of origin have been respected in the various States Parties.

**Article 38**  
**Verification of proof of origin**

1. Subsequent verifications of proof of origin shall be carried out at random or based on risk analysis or whenever the customs authorities of the importing country have reasonable doubts as to the authenticity of such documents, the originating status of the products concerned or the fulfilment of the other requirements of this Annex.
2. For the purposes of implementing the provisions of paragraph 1, the customs authorities of the importing country shall return the Certificate of Origin and the invoices, if they have been submitted, or a copy of these documents, to the customs authorities of the exporting country giving, where appropriate, the reasons for the request for verification. Any documents and information obtained suggesting that the information given on the proof of origin is incorrect shall be forwarded in support of the request for verification.
3. The verification shall be carried out by the customs authorities of the exporting country and the results of such verification shall be communicated to the requesting authority or country as soon as possible and in any case no later than six months. These results must indicate clearly whether the documents are authentic and whether the products concerned can be considered as products originating in a States Party. For this purpose, the customs authorities of the exporting country shall have the right to call for any evidence and to carry out any inspection of the exporter's accounts or any other check the authorities may consider appropriate.

4. If the customs authorities of the importing country decide to suspend the granting of preferential treatment to the products concerned while awaiting the results of the verification, release of the products shall be offered to the importer subject to any precautionary measures judged necessary.
5. In cases of reasonable doubt, or where there is no reply within six months of the date of the verification request or if the reply does not contain sufficient information to determine the authenticity of the document in question or the real origin of the products, the requesting customs authorities may, except in exceptional circumstances, refuse entitlement to the preferences.
6. Where the verification procedure or any other available information appears to indicate that the provisions of this Annex are being contravened, the exporting country on its own initiative or at the request of the importing country shall carry out appropriate enquiries or arrange for such enquiries to be carried out with due urgency to identify and prevent such contraventions and for this purpose the exporting country concerned may invite the participation of the importing country in these enquiries.

#### **Article 39 Penalties**

States Parties shall impose penalties, through national legislation, on any person who draws up, or causes to be drawn up, or uses, a document which contains information which the person knows to be false for the purpose of obtaining a preferential treatment for products.

### **SECTION V FINAL PROVISIONS**

#### **Article 40 Sub-Committee on Rules of Origin**

1. It is hereby established a Sub-Committee on Rules of Origin. This Sub-Committee shall be composed of representatives from a States Party's Customs, Trade and Industry and any other relevant agencies designated by a States Party, charged with monitoring and facilitating the implementation of the Annex on Rules of Origin.
2. The functions of the Sub-Committee shall be to oversee the implementation of this Annex.

#### **Article 41 Review**

This Annex shall be subject to review and possible amendment every three years or as may be deemed necessary by the States Parties.

#### **Article 42 Appendices**

The Appendices annexed to this Annex form an integral part thereof.

#### **Article 43 Dispute Settlement**

1. The provisions of the Protocol on Rules and Procedures Governing Dispute Settlement shall apply to disputes arising in the implementation of this Annex.
2. In all cases the dispute settlement between an importer and the customs authority of the importing country shall be settled as provided in the legislation of the importing country.