



EU-WCO RULES OF ORIGIN
AFRICA PROGRAMME
World Customs Organization

Practical Guide for the Implementation of the AfCFTA Rules of Origin

2023



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1. Introduction

Rules of origin are crucial legal instruments for the application of preferential trade agreements. With the proliferation of these agreements, economic operators and Customs Administrations are faced with a plethora of divergent and often overlapping rules which presents challenges for both authorities that establish and enforce rules of origin, and businesses that have to apply rules of origin in compliance with legal and procedural requirements.

Customs Administrations, as key authority in the import and export of goods, are in charge of the practical implementation and application of rules of origin. Customs work, therefore, requires an extensive knowledge on rules of origin and Customs Administrations need to strike a balance between facilitating legitimate trade under a free trade agreement and ensuring a fair, efficient and effective revenue collection through necessary controls.

The private sector and trade associations are concerned about origin complexity and multiplicity. For them, the requirement to handle complex rules of origin generates administrative burden and production-related or administrative costs.

The World Customs Organization with the support of the European Union under the EU-WCO Rules of Origin Africa Programme presents this Practical Guide for the Implementation of the AfCFTA Rules of Origin as a guide to assist Customs Administrations and economic operators with the practical implementation of the AfCFTA Annex 2 on Rules of Origin of the Protocol on Trade and its relevant appendices.

A better understanding of the AfCFTA rules of origin is crucial to the correct implementation and application of the agreement and necessary to enhance intra-African trade.

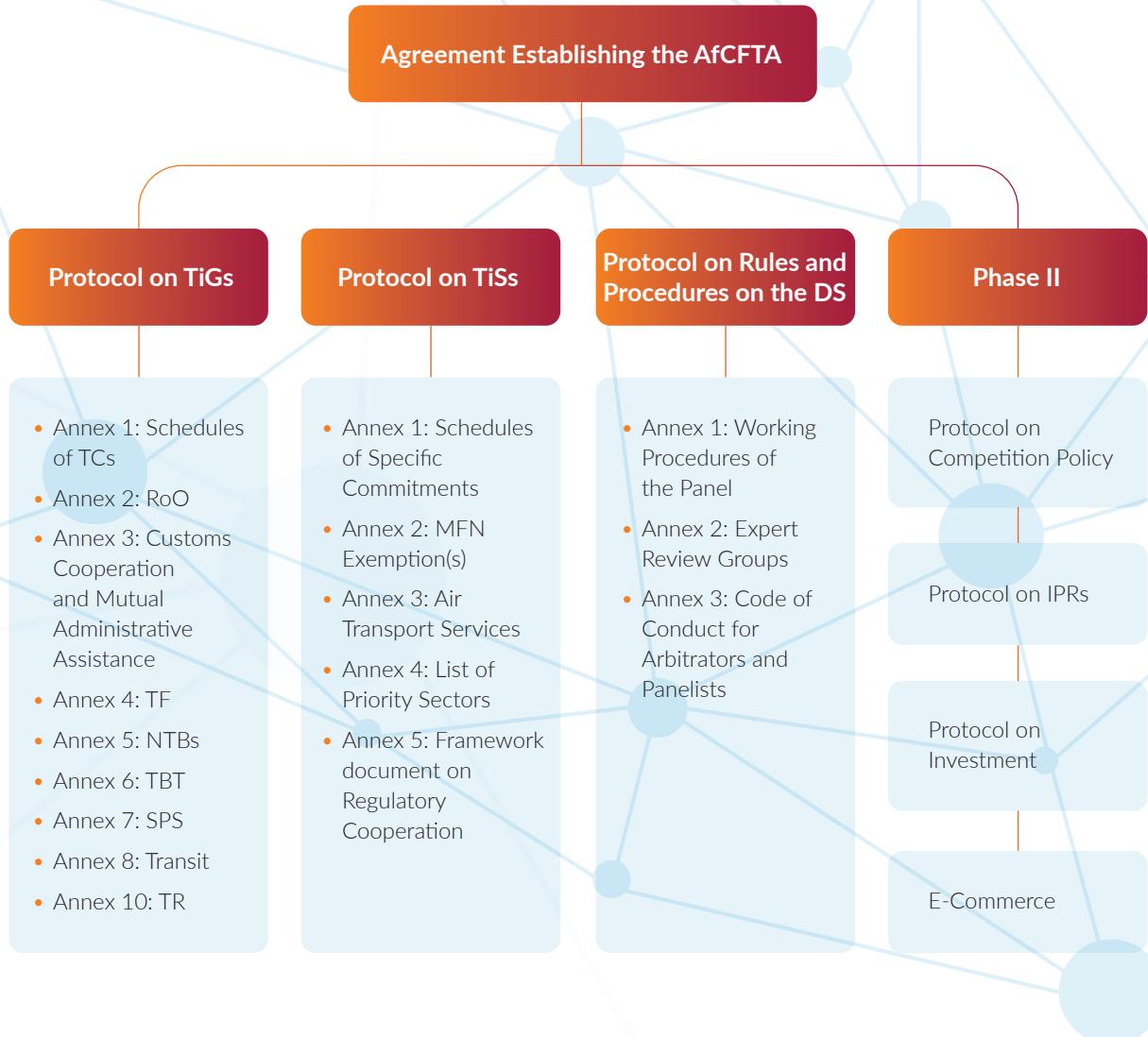
The guide does not in any way replace the AfCFTA legal documents on rules of origin.

1.1 Background

The African Union (AU) Heads of States and Government during the summit meeting held in January 2011 adopted the recommendation of the 6th Ordinary Session of the AU Ministers of Trade held in the year 2010 to fast-track the establishment of a Pan-African Free Trade Agreement in January 2012. The main objectives of the African Continental Free Trade Area (AfCFTA) Agreement are to create a single continental market for goods and services, with free movement of business persons and investments, and thus pave the way for accelerating the establishment of a Customs Union in the future.

The AfCFTA Package is made up of a framework agreement along with different protocols which include the Protocol on Trade in Goods. See below the Framework of the AfCFTA Agreement.





The AfCFTA entered into force on 30 May 2019, and the AfCFTA trade started on 1 January 2021.

Goods need to fulfill the AfCFTA rules of origin as outlined in Annex 2 on Rules of Origin of the AfCFTA Protocol on Trade in Goods to benefit from this continental trade agreement and hence circulate without paying customs duties within the AfCFTA State Parties.



2. Basic Origin Provisions in the AfCFTA Agreement

Preferential rules of origin legislations consist of the following elements :

- **Conditions for Origin Determination** – which are provisions outlining the general requirements for the determination of the originating status of the goods.
- **Territorial and Consignment Criteria** – which are administrative requirements imposed to ensure that the goods originate in the free trade area and that the goods arriving in the country of import are the same as those which left the country of export and that the goods are not manipulated during transport.
- **Procedural Aspects** dealing with the origin certification and verification requirements.
- **Other Provisions** on penalties, confidentiality of information, international cooperation and mutual assistance or dispute settlement etc..

In the AfCFTA Agreement, rules of origin are found in Annex 2
of the Protocol on Trade in Goods.

2.1 Provisions for origin determination

The provisions linked to the determination of the preferential origin provide the guiding principles and conditions for acquiring originating status. They also contain the definitions which explain the terminology used in the origin legislation. They include provisions alleviating the impact of the product specific rules through general tolerances/de minimis rules, cumulation possibilities or other derogations (derogation to the principle of territoriality, etc.) as well as provisions on insufficient working or processing operations/non-qualifying operations.

2.1.1 Definitions

Definitions constitute an important part of origin legislation, as they explain major terminology used in the legal wording of the origin provisions. In order to apply the origin rules, it is essential to be familiar with the meaning of the various terms used in the context of the rules and consulting the definitions is one of the first steps to take when applying origin provisions.

In the AfCFTA Agreement, definitions are found in Article 1. They cover various terms including consignment, CIF value, Customs Authority, origin declaration etc.

2.1.2 Origin Criteria

These are the core origin provisions stipulating the criteria to be fulfilled within the free trade area for goods to be considered as originating.

The core AfCFTA requirements for origin determination include the following two broad criteria:

- goods wholly obtained or produced in a State Party; or
- goods having undergone substantial/sufficient transformation.

The AfCFTA product specific rules of origin (PSR) are listed in the Appendix IV to the Annex 2 on Rules of Origin according to the Harmonized Commodity Description and Coding System (HS).

2.1.2.1 Wholly obtained or Produced Goods

The criterion “wholly obtained or produced” is mainly used for natural products and for goods made from natural products which are obtained entirely in one country or area, comprising products extracted or harvested in a country and live animals born, raised or hunted there. The scope of wholly obtained or produced products is normally interpreted in a very strict way, insofar as the addition of imported parts or materials excludes such products from being wholly obtained or produced.

Commodities with imported parts or materials cannot be considered to be wholly obtained or produced. Such products must be sufficiently transformed by satisfying the applicable requirement set out in the product specific rules (PSRs), if they are to be considered as originating in the context of a specific free trade agreement.

Article 5 of Annex 2 on Rules of Origin contains an exhaustive list of wholly obtained products:

- (a) Mineral products and other non-living natural resources extracted from the ground, sea bed, below sea bed and in the Territory of a State Party in accordance with the provisions of UNCLOS;
 - (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 State 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 therein;
 - (k) Scrap and waste resulting from manufacturing operations therein;
 - (l) Products extracted from marine soil or sub-soil outside their territorial waters provided that it has sole rights to work that soil or sub-soil;
 - (m) Goods produced therein exclusively from the Products specified in subparagraphs (a) to (l); and
 - (n) Electric energy produced therein.
-

With regard to goods of the sea fishing industry (Article 5, 1(h) and (i)), the provisions on wholly obtained or produced goods are supplemented by definitions of what constitutes a vessel and a factory ship of a State Party. These definitions have been agreed after the adoption of Annex 2 and, therefore, Article 5.2 of the Annex includes two options. The applicable definitions will be included in Annex 2 when it is revised, and have been agreed as follows:

2. The terms "their vessels" and "their factory ships" in paragraphs 1(h) and 1(i) shall apply only to vessels, leased vessels, bareboat and factory ships which are registered in a State Party in accordance with the national laws of a State Party and carry the flag of the State Party and, in addition, meet one of the following conditions:
 - a. at least, 50 per centum of the officers of the vessel or factory ship are nationals of the State Party or State Parties; or

- b. at least, 40 per centum of the crew of the vessel or factory ship are nationals of the State Party or State Parties; with a temporary 5-year exception for Island State Parties during which at least 30 per centum of the crew of the vessel or factory ship are nationals of the State Party or State Parties; or
- c. at least, 50 per centum of the equity holding in respect of the vessel or factory ship are held by nationals of the State Party or State Parties or institutions, agency, enterprise or corporation of the government of the State Party or State Parties.

Notwithstanding Article 41 under this Annex, the island states will apply a 40% threshold for the crew after 5 years. Subsequently, an assessment will be undertaken by the Council of Ministers with the view of an eventual increase of the requirement laid down under paragraph 2(b) for all State Parties from 40 per centum to 50 per centum after due consultation. The assessment guidelines are developed by the structures under this Agreement to frame the assessment process for approval by the Council of Ministers. The assessment guidelines, including amongst others the scope, specific assessment criteria, designation of the assessors, timelines, responsibilities, are agreed upon by the Council of Ministers.

Example 1

 A farmer in AfCFTA State Party A produces tomatoes from seeds imported from a non-AfCFTA State Party. The tomatoes are supplied to a supermarket in AfCFTA State Party B. Are the tomatoes considered to be originating in State Party A?



 Yes. The tomatoes are originating in State Party A as they are grown or harvested there (Article 5 paragraph 1(b) of AfCFTA Annex 2 on rules of origin).

Example 2

 A producer in State Party A distils fragrant plants to produce essential oils of these plants. The plants were grown in the State Party. Is the essential oil originating under the wholly obtained rules in State Party A?



 Yes, the essential oil is originating in State Party A according to Article 5 paragraph 1(m), cf. 1(b) of Annex 2 as it is produced in a State Party exclusively from the products specified in subparagraphs (a) to (l) of Article 5.

2.1.2.2 Sufficiently Worked or Processed Products

Sufficient working or processing is a production requirement guaranteeing that a meaningful manufacturing process has taken place in the free trade area in order to confer originating status to a product.

Article 6 of AfCFTA Annex 2 on Rules of Origin states that in order for a product to be considered sufficiently worked or processed, one of the following criteria has to be fulfilled:

- (a) Value added;
 - (b) non-originating material content;
 - (c) change in tariff heading; or
 - (d) specific processes.
-

Goods listed in Appendix IV to the Annex qualify as originating if they satisfy the specific rules of origin set out therein.

Value added

A product is considered as originating when the value of the product is increased up to a specified level expressed by an ad valorem percentage, i.e. a minimum requirement of domestic content.

The formula used in the AfCFTA Agreement for applying the value-added criterion is the following:

$$VA(\%) = \frac{VA}{EXW} \times 100$$

VA(%) is the required threshold for goods to qualify. The applicable threshold can be found in the list of product specific rules of origin in Appendix IV.

VA is the difference between the ex-works price of a finished product and the customs value (based on FOB) of the materials imported from outside the State Parties and used in the production.

EXW is the ex-works price.

Non-originating material content

A final product can be considered as originating provided that the foreign inputs do not exceed a certain threshold, i.e. a maximum allowance for non-originating materials (maximum third country content allowance).

The AfCFTA formula for applying the value of non-originating materials criterion is the following:

$$VNOM(\%) = \frac{VNOM}{EXW} \times 100$$

VNOM(%) is the required threshold for goods to qualify. The applicable threshold can be found in the list of product specific rules of origin in Appendix IV.

VNOM is the customs value (based on FOB) at the time of importation of the non-originating materials used in the production, or if this is not known and cannot be ascertained, the first ascertainable price paid for the materials in any State Party.

EXW is the ex-works price.

Example 1

Catalytic converters (HS 8421.39) for motor vehicle mufflers

are produced in AfCFTA State Party A using parts (HS 8421.39) from a non-AfCFTA State Party. The value of these parts is 30% of the ex-works price of the converters.



? Is the final product originating in State Party A?

→ Yes, as the product specific rule (see below) in Appendix IV of Annex 2 states that the value of the non-originating materials should not exceed 60% of the ex-works price of the final product, the converters are considered originating.

Ex-84.21

Centrifuges, including centrifugal dryers: filtering or purifying machinery and apparatus, for liquids or gases

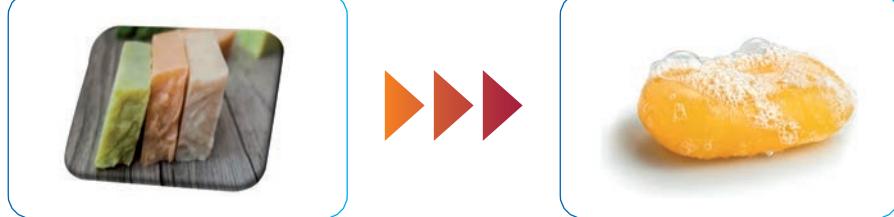
Manufacture in which the value of the Materials used does not exceed 60% or the ex-works price of the Product

Change in tariff heading

A product is considered originating in a State Party if there is a change in tariff heading (on 4 digit level) or sub-heading (6 digit level) between the final product and all the imported, non-originating inputs used in its production.

The applicable criterion can be found in the list of product specific rules of origin in Appendix IV.

Example 1



Animal fat HS 15.06; perfume HS 33.02; disodium.... HS 38.24

Soap bars HS 34.01

Rule

Chapter 34

Soap, doeorganic surface-active agents, washing preparations, lubricating preparations, artificial waxes, prepared waxes, polishing or scouring preparations, candles and similar articles, modelling pastes, "dental waxes" and dental preparations with a basis of plaster

Manufacture from Materials of any Heading other than that of the Product or

The text above reflects the product specific rule for soap products. In the example, all raw materials are found in different HS codes than the final product, and therefore the soap bars are considered as originating.

Example 2**A straw basket, classified in heading 4602 of the HS is manufactured in State Party A.**

The rule for the whole of Chapter 46 is "Manufacture from Materials of any Heading other than that of the Product provided that Materials of Chapter 14 are wholly obtained ". If the straw material was imported from a non-AfCFTA State Party, the product specific rule is not fulfilled, and the basket is considered as not originating in the State Party where it was manufactured.



Heading 1401



Heading 4602

Specific production processes

Regardless of any change in its classification or the extent of value added, a product is considered to be substantially transformed when it has undergone a specific manufacturing or processing operation which is described in the list of product specific rules of origin in Appendix IV.

Example 1**Diamonds of heading 71.02**

are exported from State Party A to State Party B. The rule of origin for this HS code is "Manufacture from unworked, precious or semi-precious stones".

If a manufacturer in State Party A imports raw diamonds and further processes them (polishing etc.), the final product will be considered as originating in that State Party according to the AfCFTA rules of origin.

2.1.2.3 Working or Processing not Conferring Origin

In order to ensure that only manufacturing processes that fall within the range of substantial transformation count as origin conferring processes, Annex 2 on Rules of Origin in its Article 7 contains a list of operations which are considered to have only minor effects on the final goods. These minor operations do not confer origin even where the applicable rule included in the list of product specific rules of origin would have been satisfied.

Insufficient operations carried out individually, or even in combination, will never confer origin to a final product. However, if a manufactured product achieves its originating status through operations that go beyond the insufficient operations, it does not matter if the product is, in addition, subjected to one or more minimal operations.

The list of insufficient operations contained in Article 7 is the following:

- (a) operations exclusively intended to preserve products in good condition during storage and transportation;
 - (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; which 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 sub-paragraphs (a) to (n); and
 - (p) slaughter of animals.
-

According to Annex 2, Article 7 para. 3, operations are 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.

Also, according to Article 7 para. 2, agricultural products whether or not processed in any way, obtained or partially obtained from Food Aid or monetisation or similar assistance measures, including arrangements based on non-commercial terms, shall not be considered as originating in a State Party.

Example 1

An abattoir in AfCFTA State Party A

imports cattle from a non-AfCFTA State Party and exports beef cuts to various butcheries in AfCFTA State Parties. Do these beef cuts qualify for preferential treatment under the AfCFTA Agreement?

 **No;** according to Article 7 (p) of Annex 2 on AfCFTA rules of origin the beef cuts are considered as insufficiently processed and therefore they are not considered as originating in the AfCFTA State Party.



Cattle



Beef cuts

Example 2

A producer in State Party A mixes spices grown in one non-AfCFTA State Party with spices grown in another non-AfCFTA State Party to produce a bag of mixed spices.

 Is the bag of mixed spices originating in State Party A?

 **No;** according to Article 7 (k), (m) and (o), the bag of spices is considered as insufficiently processed and therefore not considered as originating in State Party A.

2.1.3 Cumulation of Origin within the AfCFTA Agreement

The concept of cumulation allows countries which are part of a preferential trade area to share production and jointly comply with the relevant rules of origin provisions. In other words, it allows products of one party to be further processed or added to products in another party, as if they originate in the latter country. In this way, the production may be aggregated with other countries' inputs, thus, offering additional opportunities to source input materials. This essentially widens the definition of originating products and provides flexibility to develop economic relations and value chains between countries within a preferential trade scheme. Hence, through the concept of cumulation in a free trade agreement, the use of input materials and manufacturing processes within that free trade area is encouraged. This promotes regional economic integration amongst members of the free trade area.

Article 8 of Annex 2 on Rules of Origin stipulates that all AfCFTA State Parties shall be considered as one single territory, which is the basic requirement for cumulation.

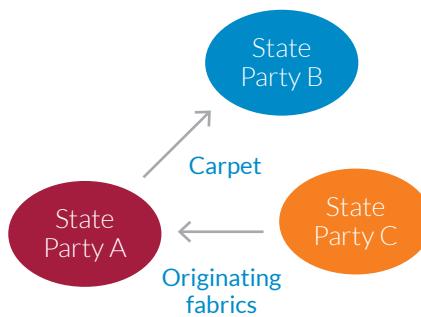
Producers in the State Parties are allowed to use raw materials or semi-finished goods originating in any State Party for their working or processing as if these inputs originate in their own State Party, i.e. where the final processing or manufacturing takes place (Article 8.2). This kind of cumulation is known as regional or diagonal cumulation.

Article 8.3 provides for cumulation of manufacturing operations among State Parties by indicating that the production in a given State Party is treated as if it took place in the State Party where the final product is produced. Cumulation of manufacturing operations is commonly known as full cumulation.

Article 8.4 allocates the origin of products which were further manufactured to the State Party where the last manufacturing process took place, provided that the last working or processing operations exceed the insufficient operations listed in Article 7 of Annex 2.

Example 1**Diagonal/Regional cumulation (cumulation of originating inputs)**

State Party A exports carpets (HS Chapter 57) to State Party B. One of the applicable rules of origin for Chapter 57 is “Manufacture from yarn”, so in principle the manufacturer in State Party A should import yarn, make fabric out of the yarn and then, finally, manufacture a carpet from the fabric. Cumulation, however, allows the manufacturer to import originating fabrics from another State Party and use them in the production of carpets which then qualify for preferential access in State Party B.

**Example 2**

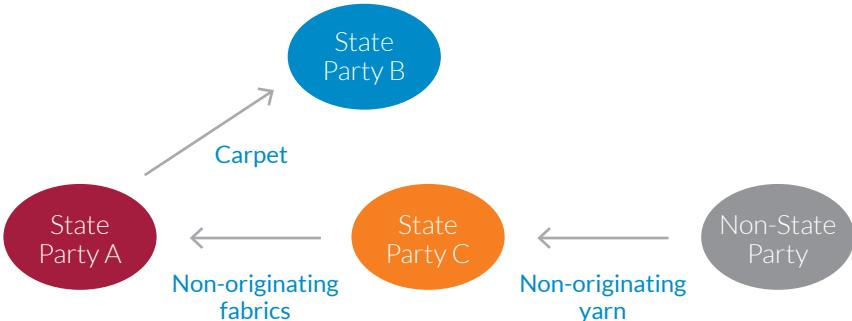
A manufacturer in State Party A produces prefabricated structural components for building or civil engineering (HS 6810.91). In the production he/she uses materials classified in HS 6810.91 originating in another AfCFTA State Party. The value of these materials is 50% of the ex-works price of the final product.

The rule of origin for HS 6810.91 is “manufacture from materials of any sub-heading other than that of the product”. As 50% of the imported materials are classified in the same sub-heading as the final product, the origin criterion is not fulfilled and, in principle, the final product is deemed non-originating (we cannot use the tolerance rule as we exceed 15%, see 2.1.12 below). However, the cumulation provision allows the imported materials originating in another AfCFTA State Party to be considered as already originating in State Party A where the final product is manufactured and, therefore, the final product is deemed originating in that AfCFTA State Party.

Example 3

Full cumulation (cumulation of manufacturing operations)

State Party A exports carpets (HS Chapter 57) to State Party B. One of the applicable rules of origin for Chapter 57 is “Manufacture from yarn”, so in principle the manufacturer in State Party A should import yarn, make fabric out of the yarn and then, finally, manufacture a carpet from the fabric. Full cumulation, however, allows the manufacturer in State Party A to import non-originating fabrics from State Party C (fabrics made from non-originating yarn) and use them in the production of carpets which then qualify for preferential access in State Party B, as the rule of origin “Manufacture from yarn” was jointly fulfilled by manufacturers C and A within the AfCFTA.



Cumulation in the framework of the AfCFTA Agreement can be used for goods falling in categories A, B and C of the importing Party's tariff concessions. For goods covered by categories B and C, customs duties will be paid upon import into the importing State Party, but the imported raw materials or components can then be used in the manufacture of a subsequent final product there as if they originated in that importing State Party (regional/diagonal cumulation) or as if the manufacturing processes of the component took place there (full cumulation).

The originating status of the inputs is disconnected from the actual payment of customs duties, which depend on the tariff concession schedule submitted by the importing State Party.

Administration of different types of cumulation

Full cumulation requires a sophisticated system to trace back the different manufacturing processes made by the various producers in the different countries. A producer may only be certain of complying with the specific origin rules when he knows what kind of origin conferring contributions were provided by previous manufacturers (the use of originating or non-originating input in the case of cumulation with originating inputs, or the totality of the share of origin contributions in the manufacturing chain for the overall assessment of full cumulation).

Traceability for originating inputs is easier to provide in regional/diagonal cumulation than in full cumulation. Under regional/diagonal cumulation, the origin of a product is indicated in the customs declaration; the customs declaration shows whether or not the inputs were imported under preferences and the respective proof of origin submitted for customs clearance is indicated in the import declaration.

Inputs used under full cumulation may be imported without preferences with the consequence that origin relevant inputs for the use of full cumulation must be indicated separately. Therefore, an information system must be established between the economic operators in the preferential area to ensure that the information on previous origin conferring manufacturing operations provided by former producers will be delivered to the subsequent producers in the manufacturing chain.

Information and Procedure for Cumulation Purposes

Article 31 of Annex 2 on Rules of Origin lays down the specific provisions related to the information to provide and the procedures to follow for cumulation purposes.

In cases where regional/diagonal cumulation was used, the proof of origin for the materials coming from a State Party shall be given by a certificate of origin or an origin declaration in the form of Appendix I or II of the Annex (Article 31.1).

In cases of full cumulation, the evidence of the working or processing shall be given as a supplier's or producer's declaration, in the State Party from which the materials are exported. The supplier's or producer's declaration is set out in Appendix III of Annex 2 (Article 31.2).

A certificate of origin issued pursuant to Article 8 on cumulation shall be endorsed with the word "CUMULATION" to be inserted in box 3 of the certificate of origin(Article 31.3 and 31.4).

In addition to the supplier's or producer's declaration referred to in paragraph 2 of Article 31, the bill of lading, together with the catch certificates shall accompany the certificate of origin (article 31.5).

2.1.4 Goods produced under Special Economic Arrangements / Zones

According to Article 9.1 of Annex 2, goods produced in Special Economic Arrangement / Zone shall be treated as originating goods provided that they satisfy the rules of origin in the Annex and in accordance with the provisions of Article 23.2 of the Protocol on Trade in Goods.

State Parties shall take all necessary measures to ensure that products which are traded under the cover 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 (Article 9.2).

If products originating in a State 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 the Annex (Article 9.3).

In order to protect the internal market against unfair competition, the provisions of the Trade Remedies Annex, the Protocol on Competition Policy and the infant industry protection provision shall be applicable to products originating from Special Economic Zones. Each State Party shall have the right to regulate its Special Economic Zones in accordance with its national legislation (Article 9.4).

2.1.5 Unit of Qualification

According to Article 10 of Annex 2, the origin determination is linked to the tariff classification of products, meaning that the basic unit for classification into the Harmonized System (HS), is also the basis for the origin determination. Thus, the correct tariff classification of a product is of utmost importance for origin determination.

A product composed of various components which is considered as one single item under the Harmonized System for classification purposes, shall also be considered as one single item for the origin determination (Article 10, 2 (b)).

Example 1**Elements of milking machine presented for customs clearance at the same time:**

- vacuum pump;
- pulsator;
- teat cup shells;
- milk pail etc.



State Party A exports a disassembled milking machine of heading 84.34 to State Party B. All the components together are considered as one unit for classification purposes, and consequently also for the purposes of origin determination.

However, where a consignment consists of a number of identical products classified under the same heading, each product has to be considered individually for the purposes of origin determination (Article 10, 2 (c)).

Example 2**State Party A exports a consignment consisting of identical milking machines of heading 84.34 to State Party B.**

In this case, each product, i.e. each milking machine, must be taken individually for origin determination purposes.



2.1.6 Treatment of Packing

Article 11 of Annex 2 deals with the treatment of packing material.

Most origin legislations follow the recommendation made by the WCO Kyoto Convention with regard to packing and packaging materials, namely that they should be deemed to have the same origin as the goods they contain unless the national legislation of the country of importation requires them to be declared separately for tariff purposes, in which case their origin should be determined separately from that of the goods.

In the same way, Article 11.1 of Annex 2 indicates that State Parties can determine the origin of packing material separately if they also treat these material separately for the assessment of customs duties.

Article 11.2, on the other hand, states that where para. 1 is not applicable, packing material shall be considered as forming a whole with the goods. Packing required for transportation or storage shall not be considered as having been imported from outside the State Party when determining the origin of the goods.

Equally, according to Article 11.3, packing with which goods are ordinarily sold at retail shall not be regarded as packing required for transportation or storage of goods. These packing materials shall, thus, be seen as part of the goods.

Example 1

A manufacturer in State Party A produces and exports fountain pens.

The pens are individually packed in a cheap plastic box. As the box is considered as packing material with which the pen is ordinarily sold at retail, the packing material shall be seen as part of the product and its origin shall not be determined separately.



Containers classified with the goods



Article 11.4 relates to the treatment of containers used for transportation and temporary storage of the goods. If these containers are to be returned, they should not be subject to customs duties. If these containers are not to be returned, they should be treated separately from the goods contained in them, i.e. as a product in themselves.

Example 1**Matresses are produced in State Party A and exported to State Party B.**

For transportation purposes, the mattresses are packed in containers. These containers are seen as a separate good and shall not be treated together with the mattresses. If the containers are returned to the transporter, they should not be subject to customs duties in State Party B ; if they are to remain in State Party B, they should be treated separately from the mattresses, i.e. as a good in their own, for origin and other import purposes.

Containers - Separate goods



2.1.7 Separation of Materials

If manufacturers use originating and non-originating materials - even if these are identical and interchangeable - under normal circumstances, they are required to stock those materials separately to allow a tracing back of the different origins of materials used in the production of goods. This ensures that only originating inputs are used for the manufacturing of originating goods intended for export under preferences.

The requirement to stock originating and non-originating input material separately may represent a huge financial burden for the manufacturer. Therefore, provisions on accounting segregation offer the possibility to use accounting methods to determine the different origins of input materials or goods which are identical and interchangeable, without any obligation to physically segregate stocks of non-originating and originating materials or goods.

Article 12.1 of Annex 2 on Rules of Origin stipulates, that where it would not be practicable for the producer to physically separate originating and non-originating materials, such separation can be done by an appropriate accounting system. The system must ensure that no more goods are deemed to originate in the State Party than would have been the case if the goods had been physically separated.

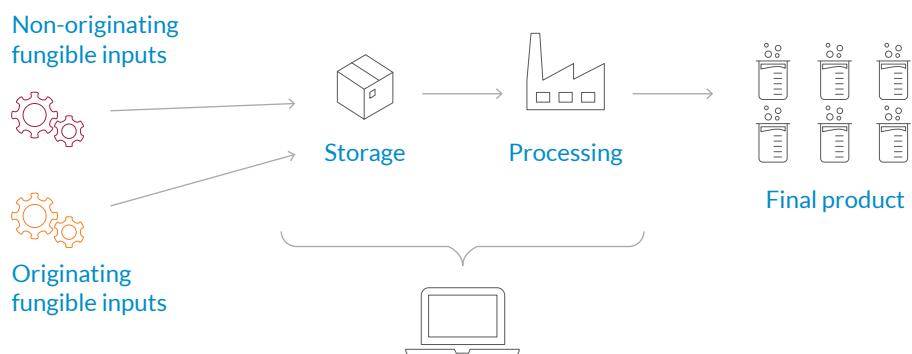
Conditions may be set out for such accounting systems to ensure that adequate control measures are applied (Article 12.2).

Example 1

A product is made from, among other inputs, a type of powder.

The producer purchases both originating and non-originating powder. The two types of powder are stored together and the producer cannot track which powder is being used in the production of the final good. Based on the applicable rules of origin, the products made from originating powder meets the origin criteria and the product made from non-originating powder does not. The producer knows the quantity of originating and non-originating materials stored at a given time and how much powder is used in the production of one unit of the final product.

With accounting segregation provision in place, the producer can determine the origin of the final product through the accounting system. Tracking whether the powder used in the production process is originating or not is not required and the origin of the final product is determined based on the overall amount of originating or non-originating materials used in the production on a daily, weekly etc. basis rather than on the precise origin of the inputs that have gone into that product.



Accounting / inventory management system allows to determine
how many of the final product can be considered originating
based on the rule of origin and rate of yield

2.1.8 Accessories, Spare Parts and Tools

Products such as machinery, equipment, vehicles or other products are often sold with accessories, spare parts, tools or manuals which are needed for their operation or maintenance.

Article 13 of Annex 2 contains guidelines on how to deal, for origin determination purposes, with such accessories, spare parts or tools which are dispatched with the machinery, equipment, vehicles etc..

This Article stipulates that accessories, spare parts and tools which are part of the normal equipment and included in the price thereof, shall be regarded as one with the piece of equipment, machine, apparatus or vehicle in question. The origin of these accessories, spare parts and tools should therefore not be determined separately, but as part of the whole.

Example 1

A manufacturer in State Party A exports a car to an importer in State Party B.

When determining the origin of the car, the spare parts, tools, instruction materials etc. are seen as a part of the car instead of as separate goods.



Spare parts and tools



Instructional materials



2.1.9 Sets

Goods put up in sets, consisting of two or more separate constituents that are classified in one single HS heading in accordance with Rule 3 of the General Rules for the Interpretation (GIRs) of the Harmonized System, often pose problems insofar as such sets are to be classified according to the component which gives the set its essential character.

Where the constituents of a set have various origins, this may also pose problems for the determination of the origin of the set.

According to Article 14.1 of Annex 2, sets as defined in General Rule 3 shall be regarded as originating when all components are originating.

If a set is composed of both originating and non-originating products, the set as a whole can be considered as originating if the value of the non-originating components does not exceed 15 % of the ex-works price of the entire set (Article 14.2).

The value of non-originating components shall be calculated in the same way as the value of non-originating materials, i.e. the customs value (based on FOB) at the time of importation of the non-originating component, or if this is not known and cannot be ascertained, the first ascertainable price paid for the component in any State Party.

Example 1

A manufacturer in State Party A produces drilling machines.

Before exporting the goods to State Party B, the machines are individually packed for retail sale in a fitted plastic box together with an assortment of drills. If some of the drills are not originating according to Appendix IV, the set (drilling machine plus drills) can still be considered originating as a whole, if the value of the non-originating drills does not exceed 15% of the ex-works price of the entire set.



2.1.10 Neutral Elements

Means of production such as energy, fuel, tools, machinery, equipment and plant that are used in the manufacturing of a product, but not incorporated into the final product, are called neutral elements.

According to Article 15 of Annex 2, the origin of the following elements used in the production are not taken into account in the determination of the origin of the final product:

- a) energy and fuel;
 - b) plant and equipment;
 - c) machines and tools;
 - d) materials which do not enter and which are not intended to enter into the final composition of the product.
-

Where the product specific rule of origin is based on value addition or value of non-originating materials, the cost – but not the origin – of the energy and fuel etc. used in the production will, however, be part of the calculation.

2.1.11 Absorption Principle

The AfCFTA State Parties have agreed on an additional provision to Annex 2 regarding the use of intermediate materials. The additional provision can be found in the AfCFTA Rules of Origin Manual.

The absorption principle allows intermediate products to maintain their originating status when they are used for subsequent manufacturing operations. The part of all non-originating inputs contained in the intermediate product is disregarded when assessing the origin of the final product.

This means that if a material/input used in the manufacturing of a subsequent product has already acquired originating status, the entire material/input is treated as originating when assessing the origin of the subsequently product:

- (a) the value of the non-originating inputs contained in intermediate materials which have acquired originating status is counted as originating content in the calculation of value added criteria;
 - (b) the non-originating parts or materials contained in intermediate materials are not considered when assessing whether a product specific rule based on change of tariff classification is fulfilled; or
 - (c) the manufacturing processes of non-originating inputs contained in intermediate materials are not taken into account when assessing the specific manufacturing or processing criteria.
-

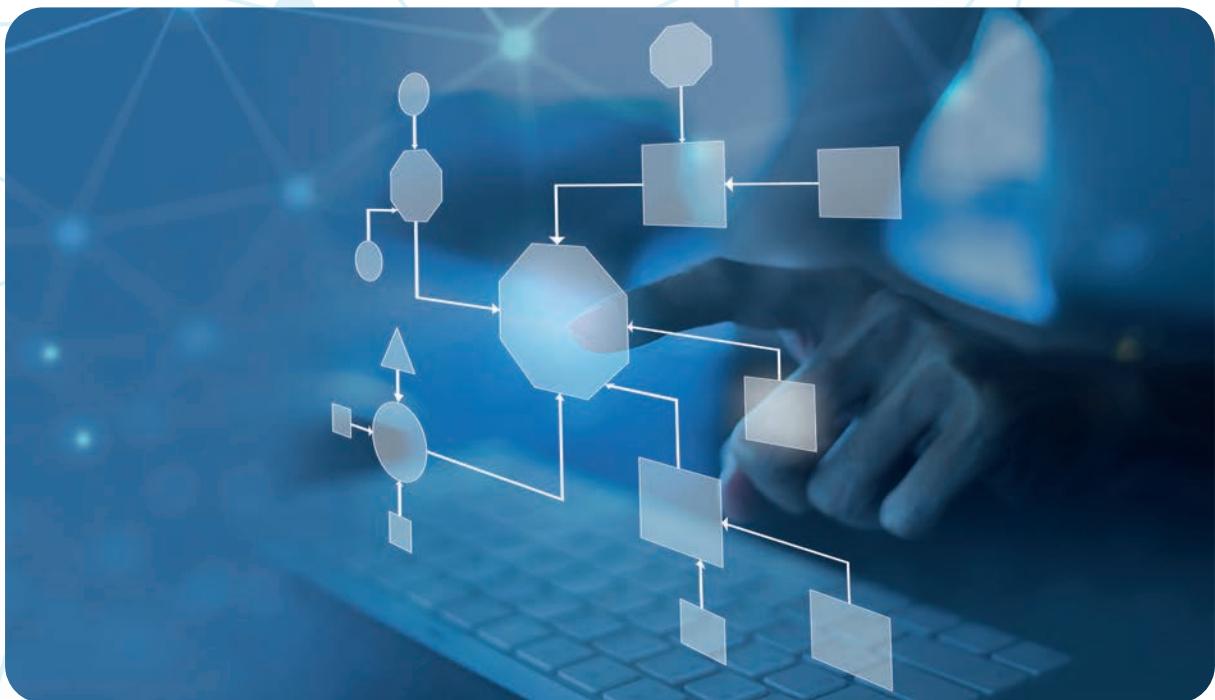
The absorption or roll-up principle makes rules of origin less restrictive, allowing the use of more non-originating inputs than what is permitted in the product specific rules. The absorption principle can be used for intermediate products bought from a manufacturer within the same AfCFTA State Party or from a manufacturer in another AfCFTA State Party.

The example below illustrates how the absorption or roll-up principle works.

Example 1

Company A manufactures a small motor from both originating and non-originating components.

The motor fulfils the relevant origin criterion which requires that the value of the non-originating materials does not exceed 60 % of the value of the final product. The motor is then sold to Company B where it is used as an intermediate material for the subsequent manufacture of a freezer. The absorption principle allows that the entire intermediate product (the motor from Company A) is considered originating when assessing the originating status of the subsequent final product (the freezer) produced by Company B.



2.1.12 Tolerance Rule

The tolerance rule alleviates the origin criteria in some cases, by offering the possibility to use "prohibited" non-originating inputs/materials to a certain extent, i.e. a certain percentage of the value or weight of the product. In other words, a product that contains non-originating materials that do not satisfy the applicable origin criterion for the product can still be considered originating if the amount of the non-originating materials is within a specified threshold.

The AfCFTA State Parties have agreed on an additional provision to Annex 2 regarding a tolerance rule for the determination of the origin of products manufactured in an AfCFTA State Party. The additional provision can be found in the AfCFTA Rules of Origin Manual.

The tolerance stipulated in the additional provision to Annex 2 on Rules of Origin is 15 % of the ex-works price of the final product. The tolerance rule cannot be used for rules of origin based on value addition or maximum content of non-originating materials.

The tolerance rule does not apply to goods falling within HS Chapters 50 through 63 (textile and apparel).

Example 1

A manufacturer in State Party A produces prefabricated structural components for building or civil engineering (HS 6810.91).

In the production he/she uses non-originating materials imported from outside the AfCFTA, and some of these materials are classified in HS 6810.91.

The rule of origin for HS 6810.91 is "manufacture from materials of any sub-heading other than that of the product". As some non-originating materials are classified in the same sub-heading as the final product, the origin criterion is not fulfilled and, in principle, the final product is deemed non-originating. However, if the value of these non-originating materials is less than 15% of the ex-works price of the final product, the tolerance rule allows these non-originating materials to be used and the final product to be deemed originating in the AfCFTA State Party.



2.2 Consignment Criteria

2.2.1 Direct Transport

Preferential treatment provided for under a free trade agreement is in principle accorded to goods which

- satisfy the origin requirements set out in the origin provisions; and
- are transported directly between the contracting parties (goods may, however, under certain circumstances, be transhipped through non-contracting parties without losing the originating status).

The objective of this rule is to reduce the risk that originating goods eligible for a preferential treatment under a free trade agreement are manipulated or mixed with non-eligible goods during transportation. The direct transport rule is an administrative requirement to prevent circumvention and abusive manipulations of originating goods during transportation.

Article 30 of Annex 2 on Rules of Origin stipulates that a product originating in the State Parties will only receive preferential tariff treatment at importation if it is transported directly between the territories of the State Parties or through those territories.

Transportation of originating products may take place through other State Parties with transshipment or temporary storage in those territories, provided that the products remain under customs control and do not undergo any operations other than unloading, reloading or any other operations to ensure their preservation (Article 30.2).

Article 30.4 explains how to prove that the direct transport requirement has been fulfilled:

Proof that the conditions referred to in paragraph 1 of this Article have been fulfilled shall be by providing the Customs Authorities of the importing State Party with either:

- (a) a single transport document covering the passage through the State Party of transit; or
 - (b) a certificate issued by the Customs Authorities of the State Party 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 State Party;
 - (c) or, failing that, any other relevant document.
-

2.2.2 Fairs or Exhibitions

As mentioned above, originating goods sold to another State Party must be transported directly from the exporting to the importing country. Originating goods may be sent to trade, industrial and crafts exhibitions where they can be sold to another State Party. Such goods should, in principle, be sent back to the exporting country in order to fulfil the direct transport requirement.

The exhibition rule allows originating exhibits sold during a fair or an exhibition to be directly shipped from the place of the exhibition to the State Party of the purchaser, without losing the benefit from a preferential treatment upon importation.

Thus, according to Article 29 of Annex 2, originating products sent for a fair or exhibition in a State Party and sold, at the end of the fair or exhibition, for the purpose of importation into one of the State Parties shall, at the time of importation, benefit from the provisions of this Annex, provided that there is satisfactory proof to the Customs Authorities that:

- (a) an exporter has shipped the products from the State Party to another State Party 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 fair or exhibition or immediately thereafter in the State Party in which they were sent for fairs and exhibitions; and
- (d) that from the time they were shipped for fairs or exhibitions, the products were not used for purposes other than for display at that fair or exhibition.

A proof of origin must be issued or made out in accordance with the provisions of Part III of Annex 2 and submitted under normal conditions to the Customs Authorities of the importing State Party. 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 (Article 29.2).

Paragraph 1 of Article 29 shall apply to all exhibitions, fairs or similar public events of a commercial, industrial, agricultural or handicraft nature, other than those organised 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 29.3).

2.2.3 Principle of Territoriality

The principle of territoriality requires that the production process must be carried out without interruption in the free trade area, and the conditions for obtaining an originating status must be fulfilled without interruption in the territory of the free trade area.

Thus, the principle of territoriality is a prerequisite for receiving preferences. Goods which were exported during the manufacturing operation to countries outside the territory of the preferential area must be considered entirely as non-originating when they return. The part of the manufacture which was initially carried out in the territory of the free trade area prior to the exportation of the product cannot be taken into consideration for the purposes of origin determination.

The principle of territoriality stipulated in Article 16 of Annex 2 on Rules of Origin requires that the production process must be carried out without interruption in the free trade area. A product shall be considered as originating only if it does not undergo further production or other operations outside the territories of the State Parties, and remains under customs control while outside the territories of the State Parties. Storage of goods and splitting of shipments while the goods are outside these territories is allowed under customs control.

According to Article 16.3, if an originating product exported from a State Party to a third party returns, it shall be considered as non-originating, unless it can be proven to the satisfaction of the Customs Authorities that the returning product is the same as that which was exported and that it has not undergone any operation beyond that which was necessary to preserve it in good condition.



2.3 Procedural Aspects

2.3.1 Certification of Origin / Proof of Origin

2.3.1.1 Introduction

All preferential origin legislations contain provisions on how the origin of a product can be proven and certified. In general, a claim for preferential tariff treatment upon importation must be supported by a proof of origin, which must be presented to the Customs Authority of the importing country upon request.

There are various systems for the issuance of a proof of origin, including the certification of origin by a competent authority of the exporting country and self-certification of origin by an approved exporter.

The advantage of a certificate of origin issued by a competent authority is that the quality of the certificate of origin is deemed to be assured, if the competent authority verified the originating status of the goods before issuing the certificate of origin. As the certificate of origin is issued by a competent authority which is considered as a trusted entity, in principle the content of the proof can be regarded as trustworthy.

On the other hand, this conventional method is disadvantaged from an economic perspective, compared to the self-certification of origin. The issuance of a certificate of origin may be subject to certain fees, which will increase the cost of doing business. Also, it requires time to apply and to pass by the office of the competent authority in order to have a certificate of origin issued.

Under the approved exporter system, an exporter approved by the competent authority will be allowed to make out a declaration of origin on an invoice or other commercial document.

The approved exporter status is provided as an exception or special privilege for an exporter that has gone through an approval process with the competent authority. The exporter must provide sufficient information to ascertain that he knows the rules and procedures and is actually in a position to determine the origin of the goods.

Due to the fact that it requires prior scrutiny by the competent authority, the approved exporter system can be considered as a less liberal procedure compared to other systems of self-certification.

2.3.1.2 Proof of Origin in the AfCFTA Agreement

2.3.1.2.1 General Requirements

According to the general requirements for origin certification in Article 17 of Annex 2 on Rules of Origin of the AfCFTA Agreement, goods originating in a State Party will benefit from preferential tariff treatment when imported into another State Party upon submission of either

- (a) a certificate of origin, whether in hard or electronic copy in the form of Appendix I of Annex 2. Issuance and acceptance of electronic certificate of origin shall be in accordance with each State Party's national legislation; or
 - (b) in the cases specified in Article 19 of the Annex, 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.
-

The text of the origin declaration appears in Appendix II of Annex 2.

The validity of an AfCFTA proof of origin is 12 months from the date of issuance in the exporting State Party, and it must be submitted within that same period to the Customs Authorities of the importing State Party (Article 17.4).

Proofs of origin which are submitted to the Customs Authorities of the importing State Party after the final date for presentation specified in paragraph 4 of Article 17 may be accepted where the failure to submit these documents by the date set is due to exceptional circumstances duly justified (Article 17.5).

2.3.1.2.2 Submission of Proof of Origin

Article 18 on the submission of proofs of origin indicates that proofs of origin shall be prepared and submitted to the Customs Authorities of the importing State Party in any of the AU official languages and in accordance with the procedures applicable in that State Party. The authorities may require a translation of the proof of origin.

2.3.1.2.3 Origin Declarations

Article 19 of Annex 2 stipulates that an origin declaration referred to in paragraph 1(b) of Article 17 may be made out by:

- (a) an approved exporter within the meaning of Article 20 of this Annex (see below); or
- (b) any exporter for any consignment consisting of one or more packages containing originating products whose total value does not exceed 5.000 USD.

An origin declaration may be made out if the products covered by the declaration can be considered as originating in the State Party and fulfil the other requirements specified in Annex 2 (Article 19.2).

The exporter making out an origin declaration shall submit at any time, at the request of the competent authority of the exporting State Party, all appropriate documents proving the originating status of the products covered by the declaration as well as the fulfilment of the other origin requirements (Article 19.3).



The exporter shall make out the origin declaration by typing, stamping or printing it 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 State 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 (Article 19.4).

An origin declaration may be made out by the exporter when the products covered are exported, or after exportation on condition that it is presented in the importing State Party no longer than 12 months after the importation of these products as provided for under national legislation (Article 19.5).

2.3.1.2.4 Approved Exporter

Article 20 of Annex 2 on Rules of Origin details the requirements linked to the status of approved exporter.

The competent authority of an exporting State Party may authorise an exporter (the “approved exporter”) who frequently exports originating products 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 specified in Annex 2, to make out origin declarations regardless of the value of the products concerned (Article 20.1).

The competent authority may grant the status of approved exporter subject to any conditions considered appropriate (Article 20.2) and shall provide the approved exporter with an authorisation number which must appear in the origin declaration (Article 20.3).

The competent authority shall monitor the use made of the authorisation by the approved exporter (Article 20.4).

Persuant to Article 20.5, the competent authority may withdraw the authorisation at any time and must do so when the approved exporter:

- (a) no longer provides the guarantees referred to in paragraph 1 of Article 20;
 - (b) no longer fulfils the conditions referred to in paragraph 2 of Article 20; or
 - (c) otherwise makes improper use of the authorisation.
-

2.3.1.2.5 Issuance of Certificate of Origin

Article 21 of Annex 2 to the AfCFTA Agreement contains the provisions related to the issuance of an AfCFTA certificate of origin.

A certificate of origin shall be issued by the competent authority of the exporting State Party upon prior written application by the exporter or, under the exporter's responsibility, by his/her authorised representative (Article 21.1).

For the purpose of obtaining a certificate of origin, the exporter or the authorised representative shall fill out the certificate of origin as an application form, as set out in Appendix I of Annex 2. The application form shall be completed in accordance with the provisions of Annex 2 and where it is handwritten, it shall be completed in ink in printed characters. The description of the products covered 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 (Article 21.2).

Notes for completing the AfCFTA certificate of origin as well as a specimen of the certificate form are included in Appendix I to Annex 2 on Rules of Origin.

At the request of the competent authority of the exporting State Party where the certificate of origin is issued, the exporter shall submit all appropriate documents proving the originating status of the products covered as well as the fulfilment of the other origin requirements specified in Annex 2 (Article 21.3).

The competent authority shall take any steps necessary to verify the originating status of the products and the fulfilment of the other requirements specified in Annex 2 on Rules of Origin (Article 21.4).

For this purpose, the Customs Authority or designated competent authority 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 Authority or designated competent authority shall also ensure that the application form is duly completed. In particular, the Customs Authority or designated competent authority 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 (Article 21.5).

The date of issuance of the certificate of origin shall be indicated in the relevant box of the certificate, i.e. box 14 to be filled in by the competent authority (Article 21.6).

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 21.7).

The Customs Authority uses box 15 to make reference to the relevant export declaration.

2.3.1.2.6 Supporting Documents

Article 22 of Annex 2 lists the supporting documents that an exporter can be requested to submit to the competent authority prior to the issuance of the certificate of origin. These documents may include documents related to:

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

SAMPLE

<p>ORIGINAL</p> <p>CERTIFICATE OF ORIGIN THE PEOPLE'S REPUBLIC OF CHINA</p> <p>1. Company Name: CHINA CHAMPS INDUSTRY CO., LTD. Address: No. 100, Lane 10, Shuangfeng Industrial Park, Shuangfeng Town, Shunde District, Foshan City, Guangdong Province, China 2. Product Name: LED Light Bar 3. Description: LED Light Bar 4. Quantity: 10000 5. Weight: 10000 kg 6. Value: 10000 USD 7. Country of Origin: China 8. Date of Manufacture: 2023-01-01 9. Certificate of Origin: Commercial Invoice 10. Declaration by the Exporter: The information provided above is true and correct. All the goods mentioned are produced in China. The goods are not made from wholly or partially non-originating material. The goods are not subject to any import or export restrictions or prohibitions.</p> <p>11. Certification: The undersigned certifies that the above statement is correct, that all the goods were produced in China, and that they are not made from wholly or partially non-originating material. The undersigned certifies that the goods are not subject to any import or export restrictions or prohibitions.</p> <p>12. Signature: [Signature]</p> <p>13. Date: [Date]</p> <p>14. Title: [Title]</p> <p>15. Name: [Name] Position: [Position]</p> <p>16. Address: [Address]</p> <p>17. Telephone: [Telephone]</p> <p>18. Fax: [Fax]</p> <p>19. Email: [Email]</p> <p>20. Website: [Website]</p> <p>21. Remarks: [Remarks]</p>	<p>ORIGINAL</p> <p>CERTIFICATE OF ORIGIN THE PEOPLE'S REPUBLIC OF CHINA</p> <p>1. Company Name: INNOVATE LTD. LTD. Address: 123 Main Street, Istanbul, Turkey 2. Product Name: LED Light Bar 3. Description: LED Light Bar 4. Quantity: 10000 5. Weight: 10000 kg 6. Value: 10000 USD 7. Country of Origin: Turkey 8. Date of Manufacture: 2023-01-01 9. Certificate of Origin: Commercial Invoice 10. Declaration by the Exporter: The information provided above is true and correct. All the goods mentioned are produced in Turkey. The goods are not made from wholly or partially non-originating material. The goods are not subject to any import or export restrictions or prohibitions.</p> <p>11. Certification: The undersigned certifies that the above statement is correct, that all the goods were produced in Turkey, and that they are not made from wholly or partially non-originating material. The undersigned certifies that the goods are not subject to any import or export restrictions or prohibitions.</p> <p>12. Signature: [Signature]</p> <p>13. Date: [Date]</p> <p>14. Title: [Title]</p> <p>15. Name: [Name] Position: [Position]</p> <p>16. Address: [Address]</p> <p>17. Telephone: [Telephone]</p> <p>18. Fax: [Fax]</p> <p>19. Email: [Email]</p> <p>20. Website: [Website]</p> <p>21. Remarks: [Remarks]</p>	<p>ORIGINAL</p> <p>MENSE ŞAHADETNAMESİ CERTIFICATE OF ORIGIN CERTIFICAT D'ORIGINE</p> <p>1. Company Name: INNOVATE LTD. LTD. Address: 123 Main Street, Istanbul, Turkey 2. Product Name: LED Light Bar 3. Description: LED Light Bar 4. Quantity: 10000 5. Weight: 10000 kg 6. Value: 10000 USD 7. Country of Origin: Turkey 8. Date of Manufacture: 2023-01-01 9. Certificate of Origin: Commercial Invoice 10. Declaration by the Exporter: The information provided above is true and correct. All the goods mentioned are produced in Turkey. The goods are not made from wholly or partially non-originating material. The goods are not subject to any import or export restrictions or prohibitions.</p> <p>11. Certification: The undersigned certifies that the above statement is correct, that all the goods were produced in Turkey, and that they are not made from wholly or partially non-originating material. The undersigned certifies that the goods are not subject to any import or export restrictions or prohibitions.</p> <p>12. Signature: [Signature]</p> <p>13. Date: [Date]</p> <p>14. Title: [Title]</p> <p>15. Name: [Name] Position: [Position]</p> <p>16. Address: [Address]</p> <p>17. Telephone: [Telephone]</p> <p>18. Fax: [Fax]</p> <p>19. Email: [Email]</p> <p>20. Website: [Website]</p> <p>21. Remarks: [Remarks]</p>
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2.3.1.2.7 Certificate of Origin issued Retrospectively

Retrospective issuance of certificates of origin is governed by Article 23 of Annex 2 to the AfCFTA Agreement.

As mentioned above, a certificate of origin shall be issued before the actual exportation of the goods (Article 21.7). Exceptionally, a certificate of origin may be issued after exportation of the products to which it relates if it:

- (a) was not issued at the time of exportation because of errors or involuntary omissions or special circumstances; or
 - (b) is demonstrated to the satisfaction of the competent authority that a certificate of origin was issued but was not accepted at importation for technical reasons (Article 23.1).
-

In case of retrospectively issued certificates of origin, the exporter must indicate in the application the place and date of exportation of the products covered by the certificate of origin and state the reasons for the request (Article 23.2).

The competent authority may issue a certificate of origin retrospectively only after verifying that the information supplied in the exporter's application is consistent with that in the corresponding file (Article 23.3).

A certificate of origin issued retrospectively must be endorsed with the phrase "ISSUED RETROSPECTIVELY" in box 3 of the certificate of origin (Article 23.4 and 23.5).

2.3.1.2.8 Transitional Provision for Goods in Transit or Storage

Article 24 of Annex 2 on Rules of Origin contains a transitional provision for goods in transit or storage and stipulates that goods which comply with the provisions of the said Annex and which, on the date of entry into force of the AfCFTA Agreement, are either in transit or temporary storage under customs warehouses or free zones of one of the State Parties, may be eligible for the provisions of the Annex subject to submission, within 6 months of the said date, to the Customs Authorities of the importing State Party, of a certificate of origin issued retrospectively by the competent authority of the exporting State Party together with documents showing that the goods have been transported directly in accordance with the provisions on direct transportation in Article 30 (see above).

The use of this transitional provision is no longer possible.

2.3.1.2.9 Issuance of a Duplicate Certificate of Origin

The exporter of originating products may be in a situation where he/she needs a duplicate certificate of origin.

Article 25 of Annex 2 on Rules of Origin stipulates that in the event of theft, loss or destruction of a certificate of origin, the exporter may apply to the competent authority which issued the certificate of origin in the first place for a duplicate made out on the basis of the export documents in their possession.

The duplicate issued in this way must be endorsed with the word “DUPLICATE” and this endorsement shall be inserted in box 3 of the duplicate certificate of origin (Article 25.2 and 25.3).

The duplicate, which must bear the date of issue of the original certificate of origin, shall take effect as from that date (Article 25.4). In this way, the 12 months’ validity of the certificate is still counted from the date of issuance of the original certificate.

2.3.1.2.10 Issuance of a Replacement Certificate of Origin

When originating goods are placed under the control of a Customs Authority in one of the State Parties it may be possible to replace the certificate of origin by one or several certificates of movement of goods in order to allow for the said goods or part thereof to be sent elsewhere in the other State Parties. A replacement certificate of origin shall consequently be delivered by the Customs Authority under whose control the goods were placed (Article 26).

In this way it is possible to split the consignment covered by a certificate of origin and still receive a preferential treatment for each part of it.

2.3.1.2.11 Importation by Instalments

Article 27 of Annex 2 allows for a single proof of origin to be submitted to the Customs Authorities or competent authority when dismantled or non-assembled products within the meaning of General Interpretative Rules of the Harmonized System are imported by instalments.

The use of a single certificate of origin must be requested by the importer and follow the conditions laid down by the Customs Authorities or Designated Competent Authorities of the importing State Party. The certificate of origin should be submitted upon importation of the first instalment.

2.3.1.2.12 Exemption from Proof of Origin

Most rules of origin provisions include exemption/exceptions from providing a proof of origin in specific cases when the submission of a proof of origin is deemed to be disproportionate.

Exemptions from the submission of a proof of origin are foreseen for small consignments sent from private persons to private persons, or for goods forming parts of travellers' personal luggage when such goods are not imported by way of trade (for commercial reasons).

Goods imported by means of such consignments are admitted as originating goods without requiring the submission of a proof of origin when there is no doubt as to the originating status of the goods.

Persuant to Article 28, the following goods shall be admitted as originating products without submission of a proof of origin:

- (a) originating products sent as small packages from private persons in a State Party to private persons in another State 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.
-

The total value of these products shall not exceed 500 USD in the case of small packages or 1.200 USD in the case of products forming part of traveller's personal luggage as the case may be (Article 28.2).

2.3.1.2.13 Record Keeping / Preservation of Records

Persuant to Article 32, 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 22, for at least 5 years after the completion of the application.

This principle would also apply to an exporter who has issued an origin declarataion.

Equally, 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 least 5 years after the date on which preferential treatment was granted (Article 32.2).

This principle would also apply to an exporter who has been granted a preferential treatment based on an origin declarataion.

Article 32.3 states that a State 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 Annex 2; or
 - (b) denies access to those records or documentation.
-

The competent authority of the exporting State Party issuing a certificate of origin shall keep for at least 5 years the copy of the issued certificate (Article 32.4).

The competent authority of the importing State Party shall keep for at least 5 years the certificate of origin submitted to them (Article 32.5).

The same would apply to origin declarations submitted to the competent authority.

2.3.1.2.14 Discrepancies and Formal Errors

Article 33 of Annex 2 on Rules of Origin stipulates that the discovery of slight discrepancies between the statements made in the certificate of origin and those made in the documents submitted to the Customs Authorities or 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.

Obvious formal errors such as typing errors on a certificate of origin shall not cause the certificate of origin to be rejected if the errors do not create doubts concerning the correctness of the statements made in the document (Article 33.2).

This would also apply to origin declarations made out for the products in question.

2.3.2 The Obligations and the Liability of the Players

Many players involved in the flow of preferential trade could be accountable for the originating status of goods. The following subparagraphs explain the obligations and liability of some of these players.

2.3.2.1 The Importer

No matter what system is applicable for the issuance of a proof of origin, the importer bears the general responsibility as accountable for the imported goods, since the preferential origin of goods constitutes an element for determining the amount of customs duty payable and it is the importer who claims the preferential tariff treatment in the importing country.

Therefore, the importer shall faithfully respond to the queries from the Customs Authority of the importing country to the maximum extent possible. This may include providing appropriate supporting documents to the Customs Authority of the importing country regarding the originating status of the goods in question. However, under the verification process laid down in the AfCFTA Agreement (see below on origin verification) only the exporter has the obligation to provide appropriate supporting documents regarding the originating status of the goods.

2.3.2.2 The Exporter

The responsibility of the exporter may vary depending on the system for the issuance of a proof of origin. When a certificate of origin is issued by a competent authority, the exporter would be liable for the accuracy of the information provided to the competent authority when applying for the issuance of a certificate of origin. If there is a change in the information initially submitted, the exporter has to notify the new facts regarding the production to the competent authority. In a similar manner, when the exporter notices that the initial application for the issuance of certificate of origin contained incorrect information, the exporter is required to faithfully inform the competent authority.

With regard to a verification requested subsequently by the Customs Authority of the importing country, the first contact point may be the competent authority that issued the certificate of origin. Thus, the exporter's responsibility may be regarded as relatively limited once the certificate of origin has been issued.

The approved exporter system is based on the authorisation by a competent authority. Thus, the responsibility of the exporter is very similar. An approved exporter will be held accountable for the accuracy of the information provided in the application to become an approved exporter as well as for the information contained in every origin declaration issued by him. Also there will be an obligation of record-keeping of such information.

When any exporter is allowed to self-certify – which is the case in the AfCFTA Agreement for exports that do not exceed 5.000 USD –, the exporter providing the origin declaration would have to bear the responsibility on the content stated in the document. In case of verification, the verification request needs to be sent to the Customs Authority or competent authority of the exporting country.

2.3.2.3 The Competent Authority

The competent authority plays an important role both in a system utilising an authority issued certificate of origin as well as in an approved exporter system. It is commonly accepted that the issuer of a certificate of origin being a competent authority has the responsibility to establish and disseminate the related information.

The competent authority plays an important role for the verification as well. Where a certificate of origin is issued by a competent authority, the competent authority or the Customs Authority is the contact point to receive the verification request from the importing country.



2.3.3 Origin Verification

The enforcement of preferential systems requires control elements to check that the tariff preferences are not accorded unduly to imports of goods which do not conform to the origin requirements, i.e., there must be a system in place for verifying that the origin related information given at the importation of goods is accurate.

A potential pitfall of origin control systems is that only the manufacturer/exporter has the necessary information as to whether or not a given product fulfils the contractual origin requirements established under a given preferential trade relationship. Thus, administrative systems are required to ensure the proper application of rules of origin.

In the AfCFTA Agreement, origin verification is based on administrative cooperation between the Customs Authority in the importing country (who can request a verification) and the Customs Authority in the exporting country (who will be responsible for carrying out the verification).

2.3.3.1 Notifications

Article 34 of Annex 2 on Rules of Origin of the AfCFTA Agreement states that the State Parties shall cooperate in the uniform administration and interpretation of the Annex and, through their competent authorities, assist each other in verifying the origin of the products on which a certificate of origin is based.

This principle would also apply to origin declarations.

For purposes of facilitating the verification or assistance, the competent authorities of the State Parties shall, through the AfCFTA Secretariat, exchange their respective addresses and the specimen of the stamps and signatures used in their offices for the issuance of certificates of origin. The competent authority of the exporting State Party shall assume all expenses in carrying out these obligations (Article 34.2 and 34.3).

It is further understood that the competent authority of the State 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 competent authority of the State Parties shall establish priorities and take the necessary steps to manage the workload, taking into account operational requirements (Article 34.4).

State Parties shall notify each other immediately, through the Secretariat, with respect to any changes in the specimens of stamps and signatures used for the issuance of certificates of origin (Article 34.5).

State Parties shall also notify each other immediately, through the AfCFTA Secretariat, of the exporters having required the status as approved exporters as provided in Article 20 above (Article 34.6).

2.3.3.2 Mutual Assistance

Article 35 of Annex 2 on Rules of Origin requires that, in order to ensure the proper application of the Annex, State Parties shall assist each other, through the Customs Authorities or competent authorities, in checking the authenticity of the certificate of origin, the origin declaration or the supplier's declarations and the correctness of the information given in these documents.

State Parties' authorities shall, upon request, furnish the relevant information concerning the conditions under which the product covered by a proof of origin or by a supplier's declaration has been made, indicating especially the conditions in which the rules of origin were complied with (Article 35.2).

2.3.3.3 Verification of Proof of Origin

Article 36 of Annex 2 opens up for different kinds of origin verification, indicating that 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 State Party have reasonable doubts as to the authenticity of the documents, the originating status of the products concerned or the fulfilment of the other requirements of the Annex.

For purposes of implementing the verification provisions, the Customs Authorities of the importing State Party 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 State Party 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 (Article 36.2). When requesting a verification, the AfCFTA Protocol on Trade in Goods Verification of Origin Questionnaire should be used.

The verification shall be carried out by the Customs Authorities of the exporting State Party – through mutual administrative assistance – and the results of such verification shall be communicated to the requesting authority or State Party as soon as possible and in any case no later than 6 months after the request. These results must indicate clearly whether the documents are authentic and/or whether the products concerned can be considered as products originating in a State Party. For this purpose, the Customs Authorities of the exporting State Party 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 (Article 36.3).

If the Customs Authorities of the importing State Party decide to suspend the preferential treatment for 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 considered necessary (Article 36.4). As part of the precautionary measures, the Customs Authority can request the payment of a caution covering the amount of non-preferential duties to be paid should the verification confirm that the goods cannot benefit from a preferential tariff treatment.

Article 36.5 covers the results of a negative or lack of reply to a verification request, indicating that in the case of any reasonable doubt, or where there is no reply within 6 months from 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 originating status of the products, the requesting authority or State Party may, except in exceptional circumstances, refuse entitlement to the preferences.

Where the verification procedure or any other available information appears to indicate that the provisions of Annex 2 on Rules of Origin are being contravened, the exporting State Party on its own initiative or at the request of the importing State Party shall carry out or arrange appropriate enquiries with due urgency to identify and prevent such contraventions and for this purpose the exporting State Party concerned may invite the participation of the importing State Party in these enquiries (Article 36.6).



2.4 Other Origin Related Provisions

2.4.1 Penalties

The enforcement of origin legislation must include the imposition of penalties/sanctions against any person who prepares, or causes to be prepared, a document containing false information with a view to obtaining documentary evidence of origin.

Persuant to Article 37 of Annex 2 of the AfCFTA Agreement, State Parties shall, through national legislation, provide for penalties, where any person 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.

2.4.2 Sub-Committee on Rules of Origin

Free trade agreements contain institutional frameworks for monitoring the functioning of the agreement. The institutions provide fora for monitoring, on different levels, the implementation and administration of different parts of the agreement.

Article 38 of Annex 2 on Rules of Origin indicates that the Committee on Trade in Goods shall, in accordance with Article 31 of the Protocol on Trade in Goods, establish a Sub-Committee on Rules of Origin.

The Sub-Committee shall be composed of duly designated representatives from State Parties and shall carry out the responsibilities assigned to it under Annex 2 or by the Committee on Trade in Goods (Article 38.2).



2.5 Final Provisions

2.5.1 Appendices

Article 39 states that the Appendices annexed to Annex 2 on Rules of Origin shall form an integral part hereof.

2.5.2 Dispute Settlement

Problems can arise in the interpretation and implementation of different free trade provisions, including, amongst others, rules of origin. Therefore these agreements have incorporated different models of dispute settlement provisions, under which such conflicts can be discussed and resolved multilaterally in Commissions, Association Councils or Committees established under those preferential trade agreements.

The dispute settlement provisions are generally applied to all kinds of disputes concerning the interpretation or application of the trade agreement.

Article 40 in Annex 2 of the AfCFTA Agreement on dispute settlement states that any dispute between the State Parties arising out of or relating to the interpretation or application of any provision of the Annex and its Guidelines, shall be settled in accordance with the Protocol on Rules and Procedures on the Settlement of Disputes.

2.5.3 Review and Amendment

Article 41 indicates that Annex 2 shall be subject to review and amendments in accordance with Articles 28 and 29 of the AfCFTA Agreement itself. Thus, the Annex shall be reviewed every 5 years after its entry into force (Article 28). Amendments to the Annex can be submitted according to Article 29 and for adoption by the Assembly.

2.5.4 Transitional Arrangements

Article 42 notes that State Parties agree that the following issues are outstanding:

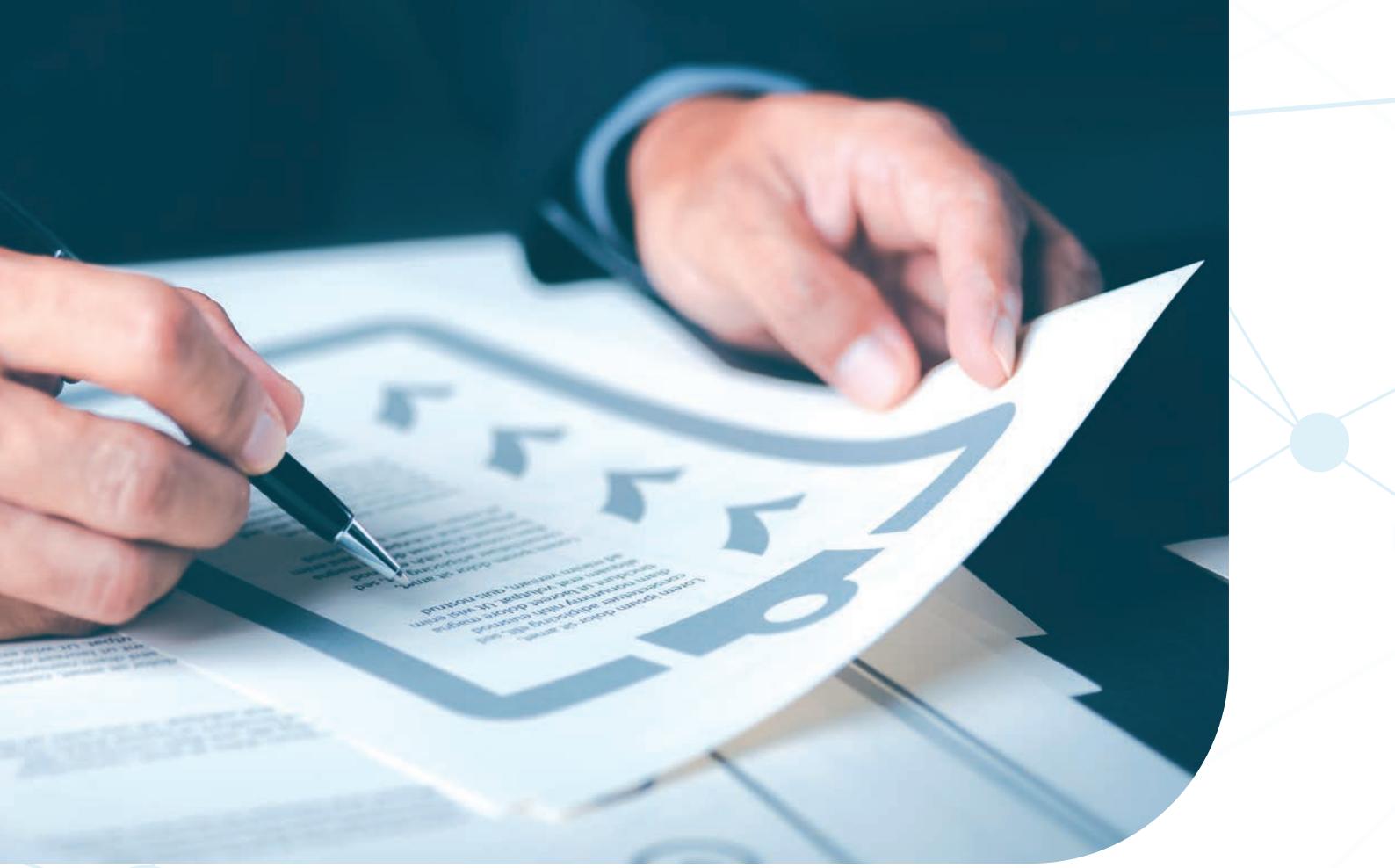
- (a) Implementing decisions on the definitions of "Value Added" in Article 1 (x) and requirements for "their vessels" and "their factory ships" in Article 5 (2) and 26 criteria and issues pertaining to Special Economic Arrangements / Zones In Article 9 in Annex 2 on Rules of Origin;
- (b) Drafting of additional definitions in Annex 2 on Rules of Origin;
- (c) Drafting hybrid rules in Appendix IV to Annex 2 on the Rules of Origin;
- (d) Drafting Regulations for Goods produced under Special Economic Arrangements / Zones;
- (e) Drafting of additional provisions in Annex 2 on Rules of Origin on value tolerance, absorption principle and accounting segregation/GAAP; and
- (f) Drafting AfCFTA Rules of Origin Manuals/Guidelines (NB: the AfCFTA Rules of Origin Manual has been drafted and agreed upon in July 2022).

The outstanding provisions referred to above shall, upon adoption by the Assembly, form an integral part of Annex 2 (Article 42.2).

According to Article 42.3, pending the adoption of the outstanding provisions, State Parties agree that the Rules of Origin in existing trade regimes shall be applicable.

Article 42 is expected to be deleted or amended when the Annex 2 on Rules of Origin is reviewed, 5 years after its entry into force. Some of the issues have already been agreed upon and included as legal provisions in the AfCFTA Rules of Origin Manual.





3. Administrative, Enforcement and Institutional Arrangement

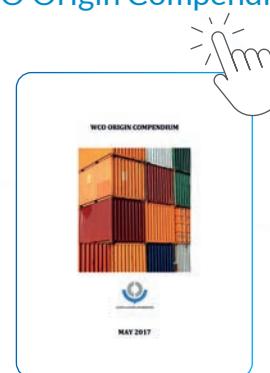
In its Chapter 4, the AfCFTA Manual on Rules of Origin brings forth recommendations for the organization of certification and verification procedures on a national level, including the tasks of the competent issuing authority, those of the Customs Authority as well as procedures linked to mutual administrative assistance in order to verify the origin of the goods.

Guidelines for the organization of customs work in relation to origin certification and origin verification can also be found in tools developed by the WCO:

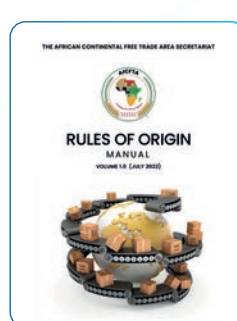
**Guidelines on
Certification
of Origin**



More general information about rules of origin and origin procedures can be found in the **WCO Origin Compendium**



The AfCFTA Rules of Origin Manual can be found [here](#)





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