

*English is not an official language of the Swiss Confederation. This translation is provided for information purposes only and has no legal force.*

## **Ordinance on the Certification of the Non-Preferential Origin of Goods (OCG)**

of 9 April 2008 (Status as of 1 January 2022)

---

*The Swiss Federal Council,*

based on Articles 3 paragraph 2, 4 paragraph 1, 5 and 7 paragraph 5 of the Federal Act of 25 June 1982<sup>1</sup> on International Trade Measures, in implementation of the Agreement of 15 April 1994<sup>2</sup> on Rules of Origin (Annex 1A.11 of the Agreement Establishing the World Trade Organisation), Article 11 of the International Convention of 3 November 1923<sup>3</sup> Relating to the Simplification of Customs Formalities and Article 2 of the International Convention of 18 May 1973<sup>4</sup> on the Simplification and Harmonisation of Customs Procedures,

*ordains:*

### **Section 1      General Provisions**

**Art. 1**              Subject matter and scope of application

<sup>1</sup> This Ordinance regulates the issue and use of certifications and declarations of origin used in external trade.

<sup>2</sup> It applies in Switzerland and its foreign customs enclaves (the territory).

**Art. 2**              Definitions

In this Ordinance:

- a. *production* means any working or processing of a good, including assembly or specific processes;
- b. *product* means the good obtained, even if it is intended for later use in another manufacturing operation;

AS 2008 1833

<sup>1</sup> SR 946.201

<sup>2</sup> SR 0.632.20, Annex 1A.11

<sup>3</sup> SR 0.631.121.1

<sup>4</sup> Wording according to the Protocol of Amendment of 26 June 1999 to the Convention; SR 0.631.21

- c. *materials* means any ingredient, raw material, component or part, used in the manufacture of a product;
- d. *goods* means both products and materials;
- e. *customs value* means the value as determined in accordance with the Agreement of 15 April 1994<sup>5</sup> on Implementation of Article VII of the General Agreement on Tariffs and Trade 1994 (WTO Customs Valuation Agreement);
- f. *ex-works price* means the price paid for the good ex-works, minus any internal taxes which may be repaid when the product is exported;
- g. *value of materials* means the customs value at the time of importation of the non-originating materials used, or, if this is not known and cannot be ascertained, the first ascertainable price paid for the materials the territory;
- h. *chapters and headings under the Harmonised System* means the chapters and four-digit headings in the nomenclature used under the International Convention of 14 June 1983<sup>6</sup> on the Harmonised Commodity Description and Coding System.

### Art. 3 Certifications of origin

<sup>1</sup> Certifications of origin shall serve as proof of the origin and the value or price of a good; they may contain additional data required in order to identify the good.

<sup>2</sup> The following are certifications of origin:

- a. *certificate of origin*: this is issued on the form provided for this purpose;
- b. *attestation of origin*: this is added to commercial invoices or other commercial documents issued by the supplier;
- c. *internal certificate*: this is made out on commercial invoices or other commercial documents issued by the supplier and is deemed solely a preliminary document within the territory.

### Art. 4 Other attestations relating to origin

The certification offices may attest to verifiable facts relating to origin, and in particular:

- a. the working or processing of goods that has been carried out within the territory but which does not confer origin;
- b. the shipment of goods.

### Art. 5 Declaration of origin

<sup>1</sup> The declaration of origin shall serve as proof of the Swiss origin of a good. Suppliers with a place of residence or registered office within the territory may include this on their commercial invoices or other commercial documents.

<sup>5</sup> SR 0.632.20, Annex 1A.9

<sup>6</sup> SR 0.632.11

<sup>2</sup> This shall be deemed solely an initial document within the territory.

#### **Art. 6** Certification offices

<sup>1</sup> The Federal Department of Economic Affairs, Education and Research (EAER)<sup>7</sup> shall appoint the certification offices and establish their geographical areas of competence.

<sup>2</sup> The certification offices shall issue certifications of origin to individuals and businesses that:

- a. produce or trade in goods; and
- b. have a place of residence or registered office within their respective geographical area of competence.

<sup>3</sup> The certification offices may issue certifications of origin to individuals and businesses that do not have a place of residence or registered office within their respective geographical area of competence if:

- a. the good concerned was produced in their respective geographical area of competence, and
- b. the competent certification office consents to doing so.

<sup>4</sup> The Federal Office for Customs and Border Security (FOCBS)<sup>8</sup> may allow further exceptions.

#### **Art. 7** Information on origin

<sup>1</sup> On written request, the FOCBS shall provide written information on the non-preferential origin of goods; Article 20 paragraphs 2–5 of the Customs Act of 18 March 2005 (Customs Act)<sup>9</sup> applies.

<sup>2</sup> It shall provide the information no later than 40 days after receiving the documents required to answer the request.<sup>10</sup>

#### **Art. 8** Charges

<sup>1</sup> The certification offices shall levy charges for issuing certifications of origin and also for other services rendered under this Ordinance.

<sup>2</sup> The scale of charges adopted by the certification offices shall require approval by the EAER.

<sup>7</sup> The name of this administrative unit was amended on 1 Jan. 2013 in application of the Art. 16 para. 3 of the Publications Ordinance of 17 Nov. 2004 (AS **2004** 4937). This amendment has been made throughout the text.

<sup>8</sup> The name of this administrative unit was changed on 1 Jan. 2022 pursuant to Art. 20 para. 2 of the Publications Ordinance of 7 Oct. 2015 (SR **170.512.1**) (AS **2021** 589). This change has been made throughout the text.

<sup>9</sup> SR **631.0**

<sup>10</sup> Inserted by No I 7 of the Ordinance of 6 June 2014 on Official Processing Times for Matters within the Jurisdiction of the Federal Customs Administration, in force since 1 Sept. 2014 (AS **2014** 2051).

<sup>3</sup> The FOCBS shall levy charges under the Ordinance of 4 April 2007<sup>11</sup> on FOCBS Charges.

<sup>4</sup> In all other respects, the provisions contained in the General Fees Ordinance of 8 September 2004<sup>12</sup> applies.

## Section 2      Origin Criteria

### Art. 9              Swiss origin

A product shall be considered to be of Swiss origin if it either has been wholly obtained or produced or has been sufficiently worked or processed within the territory.

### Art. 10             Wholly obtained or produced

The following shall be considered to be wholly obtained or produced within the territory:

- a. mineral products extracted from its soil;
- b. vegetable products harvested or obtained from vegetable cell cultures there;
- c. live animals born or hatched and raised there;
- d. products derived from live animals raised or from animal cell cultures there;
- e. products of hunting or fishing conducted there;
- f. products of sea-fishing and other products taken from the sea and caught by Swiss vessels;
- g. goods produced on board Swiss factory ships solely from the products referred to in subparagraph (f);
- h. used articles collected there for the purpose of recovering raw materials;
- i. waste and scrap resulting from manufacturing operations conducted there;
- j. produced exclusively from the products specified products produced there exclusively from products referred to in subparagraphs (a) to (i).

### Art. 11             Sufficiently worked or processed

<sup>1</sup> A product shall be considered to be sufficiently worked or processed if:

- a. the value of all materials of foreign origin used in its production does not exceed 50 % of its ex-works price;
- b. on account of working or processing, it has to be classified under a heading in the Harmonised System different from the one applicable to the products of foreign origin used in its production; or

<sup>11</sup> SR 631.035

<sup>12</sup> SR 172.041.1

- c. possible specific origin-conferring processing or working has been undertaken in accordance with paragraph 2.

<sup>2</sup> The EAER may define specific origin-conferring working or processing for particular products. It may exclude the applicability of paragraph 1 letters a and b for certain of these products.

<sup>3</sup> Tolerance rules may be specified for products falling under paragraphs 1 letter b and 2.

#### **Art. 12** Materials originating within the territory

<sup>1</sup> A product that has been sufficiently worked or processed within the territory and which is used in the production of another product shall be considered to be a material of Swiss origin. It is irrelevant whether the material was produced in the same or in another business.

<sup>2</sup> Materials of foreign origin that have been used in the production of a domestic material under paragraph 1 are not to be taken into account when determining the origin of the other product.

#### **Art. 13** Insufficient working or processing

The following are considered insufficient for conferring originating status:

- a. treatments intended to keep the products in the same state during transportation or storage (ventilation, dispersion, drying, cooling, freezing, immersion in brine or water containing sulphur or other added substances, removal of spoiled parts and similar treatments);
- b. simple dust removal, sieving, segregation, classification, sorting (including the making of assortments), washing, painting, cutting up;
- c. simple packing work, specifically:
  - 1. the replacement of packaging binders, the division or assembly of packing units,
  - 2. simple placing in bottles, cans, flasks, bags, cases, boxes, fixing on boards and , vacuum-packing and enclosure in a controlled atmosphere;
- d. applying brand names, labels or other similar distinguishing marks to the products themselves or to their packaging;
- e. simple mixing of products, including different types of products, if one or more elements of the mixture do not meet the conditions for products with originating status;
- f. simple assembly of parts into a complete product;
- g. the combination of two or more operations specified in letters a to f;
- h. the slaughter of animals and the cutting up of meat (disjointing, shredding and chopping).

**Art. 14** Unit of qualification for determining origin

<sup>1</sup> A product made up of parts is regarded as a unit if it is classified under a single heading in the Harmonised System.

<sup>2</sup> Each group or assembly of different products classified under a single heading in the Harmonised System represents, when taken as a whole, the unit of qualification.

<sup>3</sup> If a consignment is made up of identical products that are classified under the same heading in the Harmonised System, each product must be considered on its own merits when determining origin.

**Art. 15** Neutral elements

The following products used in production may not be taken into account when determining origin:

- a. power and fuels;
- b. plant and equipment;
- c. machinery and tools;
- d. products that are not included or are not to be included in the product's final composition.

**Art. 16** Outward processing

A domestic product that is temporarily exported for working, processing or repair shall retain its Swiss origin if the value added abroad does not exceed 50 % of the ex-works price of the product for which originating status is claimed.

**Art. 17** Foreign origin

<sup>1</sup> In order to certify the foreign origin of goods, the certification office must be presented with a certification of origin (basic or replacement certificate) that has been issued by a competent authority of the country of origin or transit.

<sup>2</sup> Proof of the foreign origin of goods shall be established within the territory:

- a. by means of the basic or replacement certificate made out to the domestic supplier; or
- b. by means of an internal certificate.

**Section 3****Issue of Certifications of Origin and Addition of Declarations of Origin****Art. 18** Issue of certifications of origin

<sup>1</sup> Certifications of origin shall be issued on application.

<sup>2</sup> If the applicant is a business, it must be listed in the commercial register.

<sup>3</sup> The certificate of origin shall not be issued if the applicant fails to pay the specified charge or fails to provide any guarantee for this.

**Art. 19** Submission of applications

<sup>1</sup> Applications for the issue of certifications of origin shall be submitted to the competent certification office in paper form or electronically.

<sup>2</sup> The applicant shall provide the certification office and, where appropriate, the FOCBS with the information necessary to allow them to review all the documentation and shall grant them access to the business premises.

<sup>3</sup> The EAER shall regulate:

- a. the procedure;
- b. the requirements for the content of applications and the documentation to be submitted.

**Art. 20** Agreements on simplified procedures

<sup>1</sup> The certification offices may agree with individuals and businesses on simplified procedures for the issue of certifications of origin. The EAER shall regulate the details.

<sup>2</sup> Agreements on simplified procedures shall require approval by the FOCBS.

**Art. 21** Electronic certification procedure

<sup>1</sup> The certification offices may make provision for certificates of origin to be issued electronically.

<sup>2</sup> It must be ensured that the procedure is followed properly and that data is secure.

<sup>3</sup> The certification offices shall enter into an agreement under Article 20 with individuals and businesses permitted to use the electronic certification procedure.

**Art. 22** Examination of the application

<sup>1</sup> The certification office shall examine whether the applicant's data as set forth in the certificate of origin is correct.

<sup>2</sup> If there is reason to suspect or if it is determined that provisions of this Ordinance have been infringed, the certification office shall notify the FOCBS, providing it with evidence of this.

<sup>3</sup> The agencies, employees and representatives of the certification office shall be subject to the Government Liability Act of 14 March 1958<sup>13</sup> and the duty of confidentiality under Article 320 of the Swiss Criminal Code<sup>14</sup>.

**Art. 23**                      Verification by the certification office and the FOCBS

<sup>1</sup> The certification office may at any time verify the information contained in a certification application or certification of origin and request information on the location and dispatch of goods, as well as samples.

<sup>2</sup> The FOCBS may at any time order a verification by the certification office or undertake this itself.

<sup>3</sup> The applicant shall bear the cost of the verification.

**Art. 24**                      Certificates of origin and attestations of origin  
for public procurement contracts

<sup>1</sup> If the Swiss origin of the good being supplied is a criterion for the awarding of a public procurement contract, the certification office shall issue the necessary certificates of origin and attestations of origin. These shall bear a corresponding endorsement and shall be valid for the purposes of the tender only.

<sup>2</sup> The EAER shall regulate the procedure.

**Art. 25**                      Issuing of declarations of origin

<sup>1</sup> The EAER shall regulate the form and content of declarations of origin.

<sup>2</sup> Articles 19 paragraph 2, 22 paragraphs 2 and 3 and 23 apply *mutatis mutandis* to suppliers who add declarations of origin.

**Art. 26**                      Record-keeping obligations

<sup>1</sup> The applicant shall retain the supporting documents for certification applications and also copies of declarations of origin and their supporting documents for a minimum of five years.

<sup>2</sup> The certification offices shall retain certification applications for a minimum of five years.

<sup>3</sup> Articles 97 and 98 of the Customs Ordinance of 1 November 2006<sup>15</sup> govern the form in which records are kept and also the organisational and security measures.

<sup>13</sup> SR 170.32

<sup>14</sup> SR 311.0

<sup>15</sup> SR 631.01



## **Section 4      Supervision and Controls**

### **Art. 27            Competence of the FOCBS**

The FOCBS supervises the certification offices.

### **Art. 28            Recall and revocation of certifications of origin**

<sup>1</sup> If a certification office has wrongly issued a certification of origin, it shall order it to be recalled.

<sup>2</sup> If the recall is unsuccessful or the wrongly issued certification of origin is no longer in the territory, the FOCBS shall order its revocation.

<sup>3</sup> If the revocation is legally valid, the FOCBS may also communicate this to the consignee of the goods and the competent offices in the consignee's territory.

### **Art. 29            Administrative measures in relation to declarations of origin**

Aside from having recourse to criminal proceedings, the FOCBS may by decree temporarily or permanently prohibit individuals or businesses that unlawfully issued declarations of origin from doing so.

### **Art. 30            Supervisory measures in relation to certification offices**

<sup>1</sup> The certification office shall remove an individual from his appointed position if he:

- a. continues to act in violation of his duties despite having been warned;
- b. has been convicted of a wilful violation of this Ordinance.

<sup>2</sup> Individuals in charge of certifications of origin against whom criminal proceedings are initiated because of a wilful violation of this Ordinance shall be suspended from their positions by the certification office for the duration of the proceedings.

<sup>3</sup> If a certification office has repeatedly issued improper certifications of origin or has violated this Ordinance in any other way, the EAER is authorised to remove its powers of certification.

## **Section 5      Data Protection and Administrative Assistance**

### **Art. 31            Information systems maintained by certification offices**

<sup>1</sup> Each certification office may maintain an information system and use it to process personal data to the extent necessary for the implementation of this Ordinance.

<sup>2</sup> The information system maintained by a certification office may contain the following data:

- a. personal data and addresses of individuals and businesses (natural persons, legal entities and associations of individuals) who have submitted applications for certification, for whom certifications of origin have been issued or whose certifications of origin have been subject to verification;
- b. data regarding the area of activity of the individuals and businesses referred to in letter a;
- c. content of certification applications and supporting documents to be produced, as well as contents and registration numbers of certifications of origin;
- d. data regarding the reasons for, as well as the date and outcome of, verifications of origin;
- e. agreements made pursuant to Articles 20 and 21 on simplified procedures and on the electronic certification procedure;
- f. data on financial movements in connection with the levying and regulation of charges and the guaranties provided for these.

**Art. 32** Access to information systems maintained by certification offices and data processing

Authorised staff within each certification office shall have access to the data maintained in their respective information system and may process this as part of their duties.

**Art. 33** Release of data from information systems maintained by the certification offices

<sup>1</sup> The certification offices may release data from their information systems to other certification offices for verifications conducted within the territory.

<sup>2</sup> The certification offices shall, on request, release data from their information systems to the Origin and Textiles Section of the General Directorate for Customs and the Criminal Matters Division of the General Directorate for Customs, as well as to the Investigation Section of the Regional Directorates for Customs.

<sup>3</sup> The release of data to domestic and foreign authorities by the FOCBS shall be governed by Articles 112 and 113 of the Customs Act<sup>16</sup>.

**Art. 34** Retention and deletion of data from information systems maintained by the certification offices

Data held in information systems maintained by the certification offices shall be retained for a minimum of five years and shall be deleted or destroyed after ten years at the latest.

<sup>16</sup> SR 631.0

**Art. 35** Data protection by the FOCBS and release of data to the certification offices

<sup>1</sup> Articles 110–113 of the Customs Act<sup>17</sup> dealing with data protection apply *mutatis mutandis*.

<sup>2</sup> In order to perform its duties, the FOCBS may process data from information systems maintained by the certification offices. It may release data to these in accordance with the provisions of Article 112 of the Customs Act.

**Art. 36** International administrative assistance

<sup>1</sup> The FOCBS may provide foreign authorities on request with administrative assistance in performing their duties with respect to certification of origin, particularly in guaranteeing the proper application of international trade and customs legislation, as well as in preventing, detecting and prosecuting violations, insofar as this is provided for by international treaty.

<sup>2</sup> In the absence of an international treaty, the FOCBS may provide the relevant foreign authority on request with confirmation whether domestic certifications of origin are true and genuine.

<sup>3</sup> It may seek administrative assistance from foreign authorities in relation to certification of origin.

<sup>4</sup> Article 115 paragraphs 2–4 of the Customs Act<sup>18</sup> apply *mutatis mutandis*.

<sup>5</sup> The certification office concerned may be called upon by the FOCBS for the purposes of verification. It shall provide it with proof.

**Art. 37** Verification of declarations of origin

<sup>1</sup> The certification offices may arrange for declarations of origin that have been issued by individuals or businesses with a place of residence or registered office outside their geographical area of competence and that are being used as a preliminary document for the issue of a certificate of origin or an attestation of origin to be verified by the competent certification office or the FOCBS.

<sup>2</sup> Article 115 paragraphs 2–4 of the Customs Act<sup>19</sup> apply *mutatis mutandis*.

<sup>17</sup> SR 631.0

<sup>18</sup> SR 631.0

<sup>19</sup> SR 631.0

## Section 6 Rights of Appeal

### Art. 38

<sup>1</sup> Orders falling within the scope of application of this Ordinance shall be issued by the FOCBS.

<sup>2</sup> Rights of appeal are governed by Article 116 of the Customs Act<sup>20</sup>.

## Section 7 Criminal Provisions

### Art. 39 Offences committed by employees or representatives of the certification offices

<sup>1</sup> Any person who, with the intention of adversely affecting the assets or other rights of an individual or procuring an unlawful advantage for himself or another:

- a. and being the individual responsible for certifications of origin within a certification office, incorrectly certifies the origin, value or price of a good or the identity of an applicant;
- b. and being the individual responsible for verifications within a certification office or an expert entrusted by a certification office with clarifying matters, submits a false finding or report regarding facts or circumstances that are to be or have been certified in a certification of origin

shall be liable to a custodial sentence not exceeding three years or to a monetary penalty.

<sup>2</sup> If the offender acts through negligence, the penalty shall be a fine of up to 20,000 francs.

<sup>3</sup> If the offender himself corrects the false finding or report before the certification or declaration of origin has been used, punishment may be waived.

### Art. 40 Offences committed by individuals who make declarations of origin

<sup>1</sup> Any person who improperly indicates the origin, value or price of a good in a declaration of origin with the intention of adversely affecting the assets or other rights of an individual or procuring an unlawful advantage for himself or another shall be liable to a custodial sentence not exceeding three years or to a monetary penalty.

<sup>2</sup> If the offender acts through negligence, the penalty shall be a fine of up to 20,000 francs.

<sup>20</sup> SR 631.0

**Art. 41** Forgery of certifications and declarations of origin

<sup>1</sup> Any person who:

- a. forges or falsifies a certification or declaration of origin with the intention of using it or uses the authentic signature of a certification office or an individual or business issuing a declaration of origin to produce a false certification or declaration of origin;
- b. forges or falsifies the finding or report of an individual entrusted with the verification or, as an expert, with the clarification of the origin, value or price of a good or uses the authentic signature of such person to produce a false finding or report

shall be liable to a custodial sentence not exceeding three years or to a monetary penalty.

<sup>2</sup> If the offender acts through negligence, the penalty shall be a fine of up to 20,000 francs.

**Art. 42** Obtaining and using false certifications and declarations of origin; misrepresenting origin

<sup>1</sup> Any person who:

- a. causes an individual entrusted with certifications of origin within a certification office to issue a false certification of origin or causes a supplier to include a false declaration of origin or causes an individual entrusted with the verification or, as an expert, with the clarification of the origin, value or price of a good, to issue a false finding or report;
- b. uses, or allows the use of, either within the territory or abroad, a certification or declaration of origin for goods to which it does not relate;
- c. uses, or allows the use of, either within the territory or abroad, a forged, fraudulently altered, false or revoked certification or declaration of origin;
- d. in any other way misrepresents, or allows the misrepresentation of, the origin of goods

shall be liable to a custodial sentence not exceeding three years or to a monetary penalty.

<sup>2</sup> If the offender acts through negligence, the penalty shall be a fine of up to 20,000 francs.

**Art. 43** Unlawful use of equipment

Any person who:

- a. produces or procures equipment to be used unlawfully for forging or fraudulently altering a certification of origin;
- b. unlawfully uses equipment for the certification of origin

shall be liable to a custodial sentence not exceeding three years or to a monetary penalty

**Art. 44** Foreign certifications of origin

<sup>1</sup> Article 41 paragraph 1 letter a also applies to foreign certifications of origin.

<sup>2</sup> Articles 42 paragraph 1 letter c and 43 also applies to foreign certifications of origin, if the offender uses them or allows them to be used within the territory.

**Art. 45** Violations

<sup>1</sup> Any person who:

- a. hinders, impedes or prevents the verification or clarification of facts or circumstances that have been or are to be certified in a certification of origin or that have been or are to be included in a declaration of origin;
- b. violates a provision of this Ordinance, an international treaty or other regulation of the laws on origin or an order directed at him making reference to the penalties under this Article;
- c. fraudulently obtains a certification of origin from a certification office that has no competence

shall be liable to a fine of up to 10,000 francs.

<sup>2</sup> If the offender acts through negligence, the punishment shall be a fine of up to 5,000 francs.

<sup>3</sup> Referral to a criminal court under Article 285 or 286 of the Swiss Criminal Code is reserved<sup>21</sup>.

**Art. 46** Prosecution

<sup>1</sup> Offences shall be prosecuted and judged in accordance with this Ordinance and with the Federal Act of 22 March 1974<sup>22</sup> on Administrative Criminal Law.

<sup>2</sup> The prosecuting and judging authority shall be the FOCBS.

<sup>3</sup> It may call on the certification offices for assistance with the investigation.

**Art. 47** Time limit for prosecution

The time limits for prosecution shall be governed by Article 7 paragraph 3 of the Federal Act of 25 June 1982 on International Trade Measures.

<sup>21</sup> SR 311.0

<sup>22</sup> SR 313.0

## **Section 8      Final Provisions**

### **Art. 48            Implementation**

The FOCBS and the certification offices shall be responsible for implementation.

### **Art. 49            Repeal of current legislation**

The Ordinance of 4 July 1984<sup>23</sup> on the Certification of Origin is repealed.

### **Art. 50            Amendment of current legislation**

The amendment of current legislation is set out in the Annex.

### **Art. 51            Transitional provision**

Agreements falling under Article 20 that have been concluded on the basis of Article 12a of the Ordinance of 4 July 1984<sup>24</sup> on the Certification of Origin shall remain valid.

### **Art. 52            Commencement**

This Ordinance come into force on 1 May 2008.

<sup>23</sup> [AS 1984 913; 1987 2675; 1993 2429; 2000 187 Art. 21 No 20; 2006 2995 Annex 4 No II 16, 4705 No II 110]

<sup>24</sup> [AS 1984 913; 1987 2675; 1993 2429; 2000 187 Art. 21 No 20; 2006 2995 Annex 4 No II 16, 4705 No II 110]

*Annex*  
(Art. 50)

## **Amendment of current legislation**

...<sup>25</sup>

<sup>25</sup> The amendments may be consulted under AS **2008** 1833.