

THE AFRICAN CONTINENTAL FREE TRADE AREA SECRETARIAT



# RULES OF ORIGIN MANUAL

VOLUME 1.0 (JULY 2022)



Creating One African Market



## FOREWORD

- I. The AfCFTA Rules of Origin Manual is drafted in accordance with Article 42 of the Annex 2 of the Protocol on Trade in Goods.
- II. The AfCFTA Rules of Origin Manual sets out guidelines on the operationalisation of Annex 2 on Rules of Origin in order to accord tariff preferences to Goods that meet the origin rules and are traded between the AfCFTA State Parties.
- III. The Manual spells out in detail the application of the rules used in determining the origin status of Goods, procedures of administering the rules and the institutional framework for the implementation of the AfCFTA Rules of Origin.
- IV. This Manual aims to enable uniform interpretation and application of the AfCFTA Rules of Origin in the State Parties, and to enable Customs officers and other stakeholders involved in the clearance of Goods to understand the mechanisms of according the preferential tariff treatment to Goods traded in the AfCFTA. It is also intended to make the traders and other stakeholders understand the procedures and requirements for Goods to qualify under the AfCFTA trade regime.
- V. The Manual can be used both as an operational instrument and in training of Customs officers, Clearing Agents, Designated Competent Authorities, government institutions, manufacturers, traders and other stakeholders. The Manual will be continuously updated when new additions are developed. Periodical review will also be undertaken on the Manual to ensure that it remains consistent with any new changes in trade both at international and regional levels as well as the AfCFTA legal instruments.
- VI. This Manual does not in any way override the AfCFTA Agreement, its Protocols, Annexes and Appendices, as the aforementioned legal instruments take precedence over this Manual.
- VII. The Manual is available on-line at the following website: [www.au-afcfta.org](http://www.au-afcfta.org).
- VIII. For any further information on the AfCFTA Rules of Origin, please contact the Designated Competent Authority of the State Parties or you may direct your enquiries to the following addresses: AfCFTA Secretariat, Africa Trade House, Ambassadorial Enclave, Liberia Road, Accra – Ghana.



## TERMS AND ABBREVIATIONS USED IN THIS MANUAL

"AfCFTA"	means the African Continental Free Trade Area means the Agreement establishing the African Continental Free Trade Area
"Agreement"	means the Agreement establishing the African Continental Free Trade Area
"Approved Exporter"	means an exporter who is authorised by a Designated Competent Authority for the purpose of making out Origin Declarations for the purpose of exporting Goods under the AfCFTA
"Certificate of Origin"	means the documentary proof of origin issued by a Designated Competent Authority, confirming that a particular Product complies with the origin criteria applying to preferential trade under the Annex Protocol on Trade in Goods and in accordance with paragraph 1(a) of Article 17 of Annex 2
"Chapter"	means the two-digit Chapter code used in the nomenclature which makes up the Harmonized System
"FOB Value"	means the price paid by the importer that includes the costs to the port of the exporting country
"Classified"	refers to the classification of a Product or Material under a particular Heading or Sub-heading of the Harmonized System;
"Consignment"	means Products which are either sent simultaneously from one Exporter to one consignee or covered by a single transport document covering their shipment from the Exporter to the consignee or, in the absence of such a document, by a single invoice;
"Country of Origin"	means the State Party in which the Goods have been Produced or manufactured, according to the criteria laid down in the Annex 2

"Customs Authority"	means the administrative authority responsible for administering Customs Laws in a State Party
"Customs Value"	means the value as determined in accordance with the WTO Agreement on implementation of Article VII of the General Agreement on Tariffs and Trade 1994 (WTO Agreement on customs valuation)
"Designated Competent Authority"	means a body or organisation designated by a State Party to issue Certificates of Origin
"CTH"	means Change in Tariff Heading
"CTSH"	means Change in Tariff Sub-Heading
"Exporter"	means any natural or legal person who exports Goods to the Territory of another State Party, who is able to prove the origin of the Goods, whether or not that person is the manufacturer and whether or not that person carries out the export formalities;
"Ex-Works Price"	means the price paid for the Product Ex-Works to the manufacturer in the States Party in whose undertaking the last working or processing is carried out, provided the price includes the value of all the Materials used minus any internal taxes paid which are, or may be, repaid when the Product obtained is exported
"Free Trade Area"	means the territories of the State Parties of the African Continental Free Trade Area
"Generally Accepted Accounting Principles (GAAPs)"	means a framework of accounting standards, rules and procedures defined by the accounting professional bodies and recognised by State Parties with respect to the recording of revenues, expenses, costs, assets, and liabilities, the disclosure of information, and the preparation of financial statements. Generally Accepted Accounting Principles may encompass broad guidelines for general application, as well as detailed standards, practices, and procedures
"Goods"	means both Materials and Products

"Heading"	means the four-digit Headings used in the nomenclature which makes up the Harmonized System (Harmonised System)
"HS"	means the Harmonized Commodity Description and Coding System of the World Customs Organization;
"Importer"	means a person located in the territory of a State Party where Goods are imported by such a person;
"Manufacture"	means any kind of working or processing including assembly or specific operations
"Materials"	means any ingredient, raw material, component or part used in the Manufacture of a Product
"MFN"	means Most Favoured Nation
"Non-originating Materials"	means Materials originating and imported from a country other than a State Party or Materials, the origin of which is unknown
"Origin Declaration"	means an appropriate statement as to the origin of the Goods made, in connection with their exportation by the manufacturer, Producer, supplier, Exporter or other competent person on the commercial invoice or any other document relating to the Goods
"Originating Materials"	means Materials which have been produced in a State Party and meet the requirements of the AfCFTA Rules of Origin
"Producer"	includes a mining, manufacturing or agricultural enterprise or any other individual grower or craftsman who supplies Goods for export
"Product"	means the output of a manufacturing process, even if it is intended for later use in another manufacturing operation
"Special Economic Arrangements/Zones"	means special regulatory provisions applicable in a geographical demarcation within a State Party's Territory where the legal, regulatory and fiscal and Customs schemes, applicable to business differ, generally in a more liberal way, from those in application in the rest of that State Party's Territory

"State Parties"	means a Member States that have ratified or acceded to this Agreement and for which the Agreement is in force
"Sub-heading"	means the six-digit code used in the nomenclature which makes up the Harmonized System
"Proof of Origin"	means the AfCFTA Certificate of Origin or Origin Declaration
"Territory"	means the State Party's Territory including the
"Third Party"	territorial sea as defined under the UN Convention on the Law of the Sea 1982 (UNCLOS)
"UNCLOS"	means any country other than a State Party means United Nations Convention on the Law of the Sea
"Value Added"	means the difference between the Ex-Works price of a finished Product and the Customs Value of the Material imported from outside the State Parties based on FOB and used in the production
"Value of Materials"	means the Customs Value at the time of importation of the non-originating Materials used based on FOB, or if this is not known and cannot be ascertained, the first ascertainable price paid for the Materials in any State Party.



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## CHAPTER 1 – INTRODUCTION

### 1.1. Background

1. The 25th Ordinary Session of the Assembly of Heads of State and Government of the African Union which was held in Johannesburg, South Africa, in June 2015 launched the negotiations for the establishment of the African Continental Free Trade Area (AfCFTA). The launch of the negotiations marked a major milestone in the implementation of the Summit Decision to establish a Continental Free Trade Area by 2017. The main objective of the AfCFTA negotiations was to achieve a comprehensive and mutually beneficial trade agreement among the Member States of the African Union.
2. The inaugural session of the AfCFTA Negotiating Forum (AfCFTA-NF) was held in February 2016. The AfCFTA-NF established Technical Working Groups (TWGs), which supported the negotiations one of which was on Rules of Origin (TWG on RoO).
3. The AU Heads of State and Government at an Extra Ordinary Summit on 21st March 2018 in Kigali, Rwanda, signed the AfCFTA Agreement and its Protocols. Further, the AU Heads of State and Government have adopted nine (9) Annexes to the AfCFTA Protocol on Trade in Goods and the other five (5) to the Protocol on Rules and Procedures on the Settlement of Disputes at a Summit held in Nouakchott, Mauritania, on 1st – 2nd July 2018. Annex 2 to the Protocol on Trade in Goods is on the AfCFTA Rules of Origin.
4. Annex 2 on Rules of Origin has four (4) Appendices, one of which is Appendix IV on AfCFTA Rules of Origin. This Appendix IV contains a Hybrid or General and Product Specific Rules assigned to HS Chapters, Headings and Sub-headings.
5. Article 13 of the AfCFTA Protocol on Trade in Goods provides that Goods shall be eligible for preferential tariff treatment “if they originate in any of the State Parties in accordance with the criteria and conditions set out in Annex 2 on Rules of Origin, and in accordance with the Appendix to be developed on General and Product Specific Rules”.
6. The determination of the eligibility of products to AfCFTA origin and the granting of preferential tariff treatment to Goods originating in the State Parties are important processes in the implementation of the AfCFTA trade regime.
7. The implementation of the AfCFTA Rules of Origin requires State Parties to apply common procedures in determining the eligibility of products to AfCFTA origin and the granting of tariff preferences as provided for under the Agreement establishing the AfCFTA. The effective and uniform implementation of the provisions of the AfCFTA Rules of Origin by State Parties is important as it helps in strengthening the AfCFTA trade regime.

## 1.2. Scope

8. This Manual covers the provisions governing the determination of the origin status of Goods under the Agreement establishing the AfCFTA, the administration procedures of the rules of origin and organisational requirements for implementing the rules of origin. In addition, the Manual is expected to be a useful tool for training purposes.

## 1.3. Purpose of the AfCFTA Rules of Origin Manual

9. According to Article 42.2 of the Annex 2 on Rules of Origin, Manual shall, upon his adoption by the Assembly, form an integral part of Annex 2. It will therefore have to be used in conjunction with AfCFTA legal instruments.
10. The purpose of this Manual is to, namely:
  - i. Simplify the AfCFTA Rules of Origin for practical application by State Parties;
  - ii. Explain the basic origin criteria under the AfCFTA preferential trade regime;
  - iii. Provide guidance on the origin certification procedures;
  - iv. Provide guidance on the issuance of Proof of Origin;
  - v. Provide guidance on origin verification;
  - vi. Provide guidelines on the registration of exporters;
  - vii. Give guidance on the organizational requirements for the effective implementation of the AfCFTA Rules of Origin

## 1.4. Product Coverage

11. The AfCFTA Rules of Origin Manual covers Goods that qualify for preferential tariff treatment under the AfCFTA Agreement if they originate in State Parties. This means that all Goods that meet the requirements of the AfCFTA Rules of Origin qualify for preferential tariff treatment when they are traded within the AfCFTA. However, in terms of Article 7(2) of Annex 2 on Rules of Origin, 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 and do not qualify for preferential tariff treatment under the AfCFTA Agreement.

## 1.5. Users

12. This Manual is intended for use by Designated Competent Authorities (Customs administrations, Chambers of Commerce, Export Promotion Boards etc.), government institutions, manufacturers, traders, other agencies and other stakeholders involved in intra-African continental trade.

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## CHAPTER 2 – AFRICAN CONTINENTAL FREE TRADE AREA RULES OF ORIGIN

### 2.1. Definition and Purpose of AfCFTA Rules of Origin

13. AfCFTA Rules of Origin are a set of criteria and conditions used to determine whether or not goods that are traded between State Parties are qualify as originating goods.
14. In accordance with the AfCFTA trade regime, Goods qualify for preferential tariff treatment if they originate in State Parties. This means that all Products that meet the requirements of the AfCFTA Rules of Origin shall qualify for preferential tariff treatment when they are traded within the AfCFTA.
15. Goods that are not originating from the State Parties attract MFN tariff rates.

### 2.2. Origin Conferring Criteria (Article 4 of Annex 2)

16. In terms of Article 4 of Annex 2, a Product shall be accepted as originating from a State Party if it has:
  - (a) been wholly obtained in that State Party within the meaning of Article 5 of Annex 2; or
  - (b) undergone substantial transformation in that State Party within the meaning of Article 6 of Annex 2.

#### 2.2.1. Wholly Obtained Products (Article 4 of Annex 2)

17. Products are regarded as wholly obtained in a State Party when exported to another State Party if only that State Party has been involved in their production. No Materials from outside the AfCFTA should be used in their production and any use of such Materials disqualifies the Products from being "wholly obtained".
18. This criterion generally applies to the natural resources of a State Party and to Products made entirely from Materials obtained in a State Party.
19. In terms of Article 5(1), the following Products are deemed to be wholly obtained in the State Parties:
  - a) mineral Products and other non-living natural resources extracted from the ground, seabed, below seabed 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.
20. Fish and other fishery Products taken from the high seas are considered as originating in a State Party if they meet the following conditions contained in Article 5 (2). The terms "their vessels" and "their factory ships" in paragraphs 1(h) and 1(i) shall apply only to vessels, leased vessels, bare boat 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:
- i. at least, 50 per centum of the officers of the vessel or factory ship are nationals of the State Party or State Parties; or
  - ii. 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

- iii. 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.
- iv. Notwithstanding Article 41 under this Annex, the island states will apply a 40% threshold for 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.

1. Gold mined in South Africa is wholly obtained because it is extracted in the soils of South Africa.
2. Maize harvested in Kenya is wholly obtained even if the maize seed planted was originally imported from, say, Argentina.
3. Hides obtained from cattle that are born and raised and slaughtered in Chad are regarded as wholly obtained.
4. Copper recovered in Guinea from scrap electrical wire is wholly obtained, regardless of where the wire was originally produced. If the copper is used to make copper plates, the plates are also wholly obtained in Guinea.
5. Handbags made of Ethiopian leather are wholly obtained.

### **2.2.2. Sufficiently Worked or Processed Products (Article 6 of Annex 2)**

21. Products which are not wholly obtained in a State Party are considered to be sufficiently worked or processed when they fulfil one of the following criteria:
- (a) Specific Processes;
  - (b) Change in Tariff Heading;
  - (c) Value Added; or

- (d) Non-originating Material content
22. **Note:** Goods listed in Appendix IV shall qualify as originating Goods if they satisfy the specific rules set out therein."
23. Appendix IV to Annex 2 on Rules of Origin contains a hybrid type of Rules of Origin. That is, it contains both General and, where applicable, Product Specific Rules. These rules are based on tariff classifications under the 96 Chapters of the HS. In each Chapter there is a General Chapter Rule. Where a Heading or Sub-heading is assigned a different rule from the Chapter Rule that will be a Product Specific Rule.
24. In the absence of different rules being applied at specified Headings and Sub-headings, then the General Chapter Rule applies to all Goods of that Chapter. Any Headings not specified for different rules are also covered by the General Chapter Rule. Similarly, any Sub-heading not falling under a Heading specified for a different rule is also covered by the General Chapter Rule.
25. In applying the rules in Appendix IV, the user must determine the HS Chapter and Heading or Sub-heading classification of the Goods to be exported and use that classification to find the applicable General or Product Specific rule of origin. If the Goods fulfil the assigned rule of origin, it is regarded as originating in a State Party.

### 2.2.2.1. Specific working or processing criterion

*Working or processing where a Specific working or processing is carried out*

Finished Products are considered sufficiently worked or processed when particular specific working or processing is carried out. For example:

HS Heading	Description of the Product	Working or processing carried out on non-originating Materials that confers originating status
1	2	3
ex 71.02, ex 71.03 and ex 71.04	Worked precious or semi-precious stones (natural, synthetic or reconstructed)	Manufacture from unworked, precious or semi-precious stones

### **Explanation:**

26. In this case, a Producer of say polished diamonds of Heading ex-71.02 based in a State Party can import rough diamonds from a Third Party and for polishing. The polishing of rough diamonds is a substantial process and the polished diamonds can be regarded as originating in the State Party where the polishing took place.

### **2.2.2.2. Change in Tariff Heading criterion**

27. Pursuant to paragraph 2 of Article 6 of the Annex, in this Appendix the Change of Tariff Heading (CTH) and Change of Tariff Sub-Heading (CTSH) shall apply as follows:

Expression used	Application / Meaning
Manufacture from Materials of any Heading except that of the Product	The non-originating Materials used must be Classified in a different Heading from that applicable to the final Product.  The Headings may be in the same or different Chapters.
Manufacture from Materials of any Sub-heading except that of the Product	The non-originating Materials used must be Classified in a different Sub-heading from that applicable to the final Product.  The Sub-headings may be in the same or different Headings.

### **2.2.2.2.1. Working or processing where there is a change in tariff Heading (CTH)**

In this case, finished Products are considered to be sufficiently worked or processed when the non-originating Materials used in production are classified within a tariff Heading that is different from that of the finished Product. For example:

HS Heading	Description of the Product	Working or processing carried out on non-originating Materials that confers originating status
1	2	3
65.06	Plastic shower caps	Manufacture from Materials of any Heading, except that of the Product

### **Explanation:**

28. The shower caps can qualify as originating in a State Party if they are produced from a non-originating plastic Materials of Heading 39.01 imported from a Third Party and made into shower caps of Heading 65.06 in a State Party.

In this case, finished Products are considered to be sufficiently worked or processed when the non-originating Materials used in production are classified within a tariff Sub-heading which is different from that of the finished Product. For example:

HS Heading	Description of the Product	Working or processing carried out on non-originating Materials that confers originating status
1	2	3
8212.10	Razors	Manufacture from Materials of any Sub-heading except that of the Product

### **Explanation:**

29. Razors can be manufactured in a process that incorporates safety razor blades, razor blade blanks and other parts of Sub-headings 8212.20 and 8212.90. In this instance the razors of 8212.10 can qualify as originating in a State Party since they fall in a different Sub-heading from those of the inputs used during Manufacture.

### **2.2.2.3. Value Added Criterion**

30. The Formula for applying the value-added criterion is expressed as follows in (%):

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

**VA (%)**: means the required threshold for goods to qualify

**VA**: means the difference between the Ex-Works price of a finished Product and the Customs Value of the Material imported from outside the State Parties based on FOB and used in the production.

**EXW**: means Ex-Works Price.

### Example of application of the Value-Added criterion

HS Heading	Description of the Product	Working or processing carried out on non-originating Materials that confers originating status
1	2	3
1902	Pasta, whether or not cooked or stuffed (with meat or other substances) or otherwise prepared, such as spaghetti, macaroni, noodles, lasagne, gnocchi, ravioli; couscous, whether or not prepared.	Manufacture in which the value added of the materials used exceeds 40% of the Ex-Works price of the product

#### 2.2.2.4. Value of Non-Originating Materials Criterion

31. The Formula for applying the Value of non-originating Materials criterion is expressed as follows in percentage (%):

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

**VNOM (%)**: means the required threshold for goods to qualify

**VNOM**: means the Customs Value at the time of importation of the non-originating Materials used based on FOB, or if this is not known and cannot be ascertained, the first ascertainable price paid for the Materials in any State Party.

**EXW**: means Ex-Works Price.

32. Example of application of the Value of Non-Originating Materials criterion

HS Heading	Description of the Product	Working or processing carried out on non-originating Materials that confers originating status
1	2	3
84.02	Steam or other vapour generating boilers (excluding central heating hot water boilers capable also of producing low pressure steam); super-heated water boilers	Manufacture in which the value of all the Materials used does not exceed 60% of the ex-works price of the Product

### **Explanation:**

33. In this example, Steam or other vapour generating boilers (excluding central heating hot water boilers capable also of producing low pressure steam); super-heated water boilers of heading 84.02 can qualify as originating in a State Party if the value of the materials imported from Third Parties used does not exceed 60% of the Ex-Works price of the Steam or other vapour generating boilers of heading 84.02.

#### **2.2.2.4.1. Points to note when applying the material content criterion**

34. The Goods should be produced in a State Party wholly or partially from non-originating (or Materials of unknown origin) and the value of such Materials should not exceed the maximum percentage of the Ex-Works price of the finished Product stipulated in Appendix IV of Annex 2 on Rules of Origin.
35. When applying this criterion, the value of non-originating Materials shall be the on the basis of FOB at the time of importation of the non-originating Materials used, or if this is not known and cannot be ascertained, the first ascertainable price paid for the Materials in the State Party.
36. Materials whose origin is unknown are considered as “non-originating” for purposes of calculating the value of non-originating Materials.
37. Wages paid to operatives responsible for the Manufacture of Goods include wage-related benefits incurred in connection with the process of Manufacture.
38. In terms of Article 12 of Annex 2 on Rules of Origin, all costs to be considered for the calculation of the Ex-Works price shall be recorded and maintained in conformity with the Generally Accepted Accounting Principles (GAAPs) applicable in the State Party where a Product is produced.

### **Where:**

VNOM is the value of non-originating materials and/or the value of materials of unknown origin; and

EXW is the price calculated as provided below.]

#### 2.2.2.4.2. Calculation of the Ex-Works price

39. In the calculation of the Ex-Works price, for purposes of fulfilling the conditions specified in Appendix IV of Annex on Rules of Origin, the following elements of cost, charges and expenses in paragraphs 2 shall be included plus the factory profit margin:
- i. Materials: The cost of non-originating Materials, including the cost of waste Materials and Materials lost in the process of Manufacture, as represented by landed cost of these Materials at the factory, including any charges incidental to the delivery of such Materials to the factory or if this is not known or cannot be ascertained, the first ascertainable price paid for them in the State Party where they were used in a process of production:
    - a. The following expenses shall be deducted; the costs of freight, insurance, packing and all other costs incurred in transporting the Materials within the territory of a State Party to the location of the producer;
    - b. duties, taxes and customs brokerage fees on the Material paid in the territory of a State Party; and
    - c. the cost of originating Materials used in the production of the non-originating Material in the territory of a State Party.
    - d. The cost of local Materials, including the cost of waste Materials and Materials lost in the process of Manufacture, as represented by their delivery price at the factory.
  - ii. Other input costs:
    - a. The cost of direct labour as represented by the wages paid to the operatives responsible for the Manufacture of the Goods;
    - b. The cost of direct factory expenses are represented by:
      - i. The operating cost of the machine being used to Manufacture the Goods;
      - ii. The expenses incurred in the cleaning, drying polishing, pressing or any other process, as may be necessary for the finishing of the Goods;
      - iii. The cost of putting the Goods up in their retail packages and the cost such retail packages but excluding any extra cost of packing the Goods for transportation or export and the cost of any extra packages;

- 
- iv. The cost of special design, drawings or layouts; and
  - v. The hire of tools, or equipment for the production of goods; and
  - vi. The cost of factory overhead as represented by:
    - 1. rent, rates and insurances charges directly attributed to the factory;
    - 2. indirect labor charges, including salaries paid to the factory managers, wages paid to foremen, examiners and testers of the goods.
    - 3. power, light, water and other service charges directly attributed to the cost of manufacture of the goods;
    - 4. consumable stores, including minor tools, grease, oil and other incidental items and Materials used in the manufacture of the goods; and
    - 5. depreciation and maintenance of factory buildings, plant machinery, tools and other items used in the Manufacture of the Goods; and others.
40. In the calculation of the Ex-Works price for purposes of fulfilling the conditions specified in Appendix IV of Annex 2 on Rules of Origin, the following elements of cost, charges and expenses shall be excluded:
- i. Administration expenses represented by:
    - a. office expenses, office rent and salaries paid to accountants, clerk's manager and other executive personnel.
    - b. directors fees other than salaries paid to directors who act in the capacity of factory managers;
    - c. statistical and costing expenses in respect of manufactured goods; and
    - d. investigation and experimental expenses;
  - ii. Selling expenses represented by:
    - a. the cost of soliciting and securing of orders, including expenses such as advertising charges and agents or salespersons' commissions or salaries; and
    - b. expenses incurred in the making of design, estimates and tenders;
  - iii. Distribution expenses, represented by all the expenditure incurred after the Goods have left the factory, including:

- a. The cost of any Material and payments of wages incurred in the packaging of the Goods for export;
  - warehousing expenses incurred in the storage of the finished Goods; and
  - c. the cost of transporting the Goods to their destination;
- iv. Charges not directly attributed to the Manufacturer of the Goods represented by:
- a. any customs duty and other duties and charges of equivalent effect paid on the imported raw materials;
  - b. any excise duty paid on raw Materials produced in the State Party where the finished Goods are manufactured;
  - c. any other indirect taxes paid on the manufactured Products;
  - d. any royalties paid in respect of patents, special machinery or designs; and
  - e. finance charges related to working capital.]

**Example:**

41. Manufacturer M based in State Party A manufactures vacuum cleaners of HS Heading 85.08 using local and imported parts for export to another State Party. Manufacturer M provides the following details but is not sure if the vacuum cleaners qualify as originating in line with AfCFTA Rules of Origin:

Item	(Currency Units)
Chassis and other parts (local)	15
Motor (imported from Brazil)	5
Filter bag (imported from China)	2
Other components (imported from Germany)	3
Labour	5
Overheads	8
Ex-factory cost	38
Profit	10
Ex-Works (factory) price	48

### 2.2.2.4.3. General Chapter Rule applicable to vacuum cleaners of heading 85.08 reads:

***"Manufacture in which the value of all the Materials used does not exceed 60 % of the Ex-Works price of the Product".***

42. Based on the above General Chapter Rule the percentage value of non-originating Materials is calculated as follows:

Non-originating Materials	(Currency Units)
Motor (imported from Brazil)	5
Filter bag (imported from Brazil)	2
Other components (imported from Germany)	3
Total value of non-originating Materials	10
Value of non-originating Materials as % of Ex-Works price	$\frac{10}{48} = 21\%$

NB: The value of non-originating Materials should be calculated to the nearest whole number.

#### **Explanation:**

43. In the above example, the percentage value of non-originating materials used in production is 21% of the Ex-Works price which is less than the maximum stipulated threshold of %, therefore enabling the vacuum cleaner to qualify as originating in AfCFTA State Party A. In this case, the local value added in State Party A is therefore 100% less 21% which gives 79% of the Ex-Works price of the vacuum cleaner.
44. **Note:** In Some cases, there can be alternative criteria or a combination of criteria.

**45. Example of Application of alternative criteria**

In this case, a producer has an option to use any of the rules provided in Column 3 of the Appendix. For example:

HS Heading	Description of the Product	Working or processing carried out on non-originating Materials that confers originating status
1	2	3
Chapter 30	Pharmaceutical products	<p>Manufacture from Materials of any Heading, except that of the Product OR</p> <p>Manufacture in which the value of the Materials used does not exceed 60 % of the Ex-Works price of the Product OR</p> <p>Chemical processing rules as per Introductory Note 8 to this Appendix.</p>

**Explanation:**

**46. First option:**

A manufacturer of medicines can opt to use materials imported from Third Parties and ensure that those materials used are classified in Headings which are different from that of the finished medicine classified in any Heading of Chapter 30.

**47. Second option:**

Alternatively, a manufacturer can opt to use Materials imported from Third Parties and the value of all such Materials used must not account for more than 60% of the Ex-Works price of the finished medicine. In other words, the value of originating Materials and the working undertaken (i.e. the value added) in a State Party should account for not less than 40% of the Ex-Works price of the medicine.

**48. Third option:**

A manufacturer can opt to apply the Chemical processing rules provided in Introductory Note 8 of the Appendix. It is also important to take note of the specific processes that do not confer origin that may be provided under a given Rule. For example, under Rule 1 on Chemical Reaction Origin, the following are not considered to be chemical reactions for the purposes of determining whether a Product is an originating in a State Party:

- i. dissolution in water or in other solvents;
- ii. the elimination of solvents including solvent water; or
- iii. the addition or elimination of water of crystallization

#### **2.2.2.4.4. Example of the combination of criteria**

49. In such an instance all the criteria set out in that Column must be fulfilled.

Example:

Finished Products are considered sufficiently worked or processed when the Products meets the conditions specified in Column 3. For example:

HS Heading	Description of the Product	Origin Criteria (Working or processing carried out on non-originating materials that confers originating status)
1	2	3
22.05	Vermouth and other wine of fresh grapes flavoured with plants or aromatic substances:	Manufacture from materials of any heading except that of the product and in which any grapes and other materials derived from grapes used must be wholly obtained

#### **Explanation:**

50. In this case, a Producer will use non-originating Materials that are not Classified in heading 22.05 and ensure that the grapes or materials derived from grapes used are wholly Obtained in a State Party for the finished product (the vermouth) to be considered as originating in a State Party.

#### **2.2.2.5. How to apply Appendix IV of Annex 2 on Rules of Origin**

51. Appendix IV of Annex 2 on Rules of Origin provides the specific Rules of Origin goods. It is therefore useful to know how to deal with it.
52. It is advisable to read and understand the Introductory Notes in Appendix IV of Annex 2 on Rules of Origin which explain and provide clarity using examples on how the Appendix should be applied. Appendix IV is structured as follows:

HS Heading	Description of the Product	Working or processing carried out on non-originating Materials that confers originating status
1	2	3

**Column 1** – provides a tariff Chapter, Heading or Sub-heading of the Product to be exported;

**Column 2** – provides a description of the Product to be exported; and

**Column 3** – provides the minimum working or processing that should be carried out on non-originating Materials imported from a Third Party (i.e. the origin criterion) to be met for the Product to be regarded as originating in a State Party.

53. To determine whether a Product qualifies as originating in a given State Party, one should follow the following steps:

**Step 1:**

54. Establish the tariff classification of the product to be exported. (i.e. Chapter, Heading, or Subheading) as provided in Column 1 of the Appendix

**Step 2:**

55. Establish the applicable General Chapter Rule or Product Specific Rule in Column 3. Where two or more rules are provided in Column 3 and separated by the word "or", the Exporter has a choice of using any of the rules in that Column. Where the rule is met, then the Product may be regarded as originating in a State Party. If not, then the Product does not qualify for preferential tariff treatment in the AfCFTA.

**Step 3:**

56. Where a specific rule is not mentioned for a given Product, then the General Chapter Rule will apply. For example, Column 1 of Appendix IV makes no reference to a specific rule for Products of Heading 40.11. In such a case, the rule to be applied is that applicable across Chapter 40.

- 57 Where all Products of a given Chapter, Heading or Sub-heading are not subject to the same rule(s), the Chapter, Heading or Sub-headings is preceded by "ex". "Ex' means that the rule in Columns 3 applies to Goods classified in the Chapter, Heading or Sub-heading with certain exceptions. The exceptions are then listed separately and will have their own rules in Column 3.

**Example:**

HS Heading	Description of the Product	Working or processing carried out on non-originating Materials that confers originating status
1	2	3
Ex- CHAPTER 40	Rubber and Articles Thereof	Manufacture from Materials of any Heading other than that of the Product Or Manufacture in which the value of all the Materials used does not exceed 60% of the ex-works price of the Product
40.01	Natural rubber, balata, gutta-percha, guayule, chicle and similar natural gums, in primary forms or in plates, sheets or strip:	Manufacture in which all the Materials used must be wholly obtained.
ex-40.12	Retreaded pneumatic tyres of rubber;	Retreading of used tyres

**Explanation:**

58. Chapter 40 comprises of 17 Headings, namely, 40.01 to 40.17. of the 17 Headings, only Heading 40.01 and ex-40.12 have been provided for separately. This means that Products of Headings 40.02 to 40.11 and 40.13 to 40.17 including some Products of Heading 40.12, need to satisfy one of the two rules in Column 3 for "ex-Chapter 40" if they are to qualify as originating in a State Party. For example, Pneumatic tyres of rubber of heading 40.11 can qualify as originating in a State Party if it meets either the CTH or Value of Non-Originating Material rule in Column 3.
59. In 40.12 only retreaded pneumatic tyres of rubber are subject to a process rule of retreading of used tyres. The rest of the Products in Heading 40.12 will qualify under one of the two rules for "ex-Chapter 40".

**Step 4:**

60. If the product qualifies as originating, a Certificate of Origin to support its originating status is then completed. Alternatively, an Origin Declaration may be made on the commercial documents. (Refer to Chapter 3 for details on Proof of Origin).

### **2.3. Origin conferring Conditions (Article 13 of the Protocol on Trade in Goods)**

61. Article 13 of the Protocol on Trade in Goods stipulates those goods are originating in accordance with the criteria and conditions set out in Annex 2 on Rules of Origin. These conditions are the following.

#### **2.3.1. Absorption Principle (Additional Provision on Annex 2)**

62. The absorption principle provides flexibility by allowing the use of more non-originating Materials than the amounts of non-originating Materials under the limitations provided for in the rules contained in Appendix IV of Annex 2 on Rules of Origin. It allows intermediate products produced in a given State Party to maintain their originating status when they are used for further manufacturing operations of originating Goods in the same State Party and to disregard the part of all former non-originating Materials contained in intermediate products for the determination of the origin of the finished Product. The effect of this is that:
- i. the value of the non-originating Materials contained in intermediate products which acquire originating status is disregarded in the calculation of the Value of Non Originating Materials; or
  - ii. the non-originating parts contained in intermediate products are not considered for the determination of origin under a change of tariff Heading rule; or
63. the manufacturing processes of non-originating Materials contained in intermediate Products are not taken into account when assessing the requirements of other technical operations for the origin determination of a final Product.

**Box 2: Example of application of absorption principle:**

Intermediate Product X meets the origin requirement for a change of tariff Heading (CTH) rule in Company A based in a AfCFTA State Party G. Product X is then sold to Company B also based in the same State Party G where it is used with other Materials to make Product Y. The origin rule for Product Y requires Y to be made from non-originating Materials of a value not exceeding 40% of the Ex-Works price, for example. To determine the percentage of non-originating Materials used, the value of non-originating Materials used to make Product X will not be included as Product X is now an originating input into the making of Product Y.

### 2.3.2. Tolerance Rule (Additional provision of Annex 2)

64. Tolerance Rule on value is meant to provide relief when a product does not qualify as originating only because of restriction in the use of some non-originating materials rule applicable.
65. AfCFTA tolerance rule is applicable for Non-Originating Materials which, according to the conditions set out in Appendix IV to the Annex 2 for sufficient worked or processed products should not be used in the Manufacture of a given Product, may, nevertheless be used, provided that:
- i. their total value does not exceed 15 per cent of the Ex-Works Price of the final Product;
  - ii. the percentages for the maximum content of non-originating Materials as outlined in the Product Specific Rules laid out in Appendix IV should not exceed 15 per cent of the Ex-Works Price of the final Product.
  - iii. Tolerance rule shall not apply to Products falling within Chapters 50 through 63.
66. It shall be applied subject to the provisions of Article 7 on working or processing not conferring Origin.

**Example:**

HS Heading	Description of the Product	Working or processing carried out on non-originating Materials that confers originating status
1	2	3
Chapter 83	Miscellaneous articles of base metal	Manufacture from materials of any Heading, except that of the Product

Padlocks of heading 83.01 are manufactured by an AfCFTA State Party from the following non-originating materials: Steel plate (72.19) Rivet (73.18), Screws (73.18), Steel bar (72.15), and Lock mechanism of heading (83.01). The value of the lock mechanism is 10% of the ex-works price of the final product.

Normally, the use of lock mechanisms of Heading 83.01 will disqualify the product as it is classified under the same heading as that of the product. However, applying value tolerance qualifies the product as the value of the lock mechanism is less than 15% of the ex-works price of the product. The product therefore qualifies for AfCFTA origin. The other materials listed are all classified in Headings other than that of the product and they can therefore be used freely.

### 2.3.3. Working or Processing Not Conferring Origin [Article 7 of Annex2]

67. In applying the AfCFTA Rules of Origin, there are certain working or processing operations that have a minor effect on the finished Product such that they cannot be regarded as conferring originating status on finished Products. Such minor operations can either be carried out individually or combined with other operations listed in sub-paragraphs from (a) to (p) of paragraph 1 of Article 7 to Annex 2 on Rules of Origin.
68. Under the AfCFTA Rules of Origin, the following operations are insufficient to confer origin on a Product, whether or not the requirements of Article 4 of Annex 2 are satisfied:
- i. operations exclusively intended to preserve Products in good condition during storage and transportation;
  - ii. breaking-up or assembly of packages;
  - iii. washing, cleaning or operations to remove dust, oxide, oil, paint or other coverings from a Product;
  - iv. simple ironing or pressing operations;
  - v. simple painting or polishing operations;
  - vi. husking, partial or total bleaching, polishing or glazing of cereals and rice;
  - vii. operations to colour sugar or form sugar lumps, partial or total milling of crystal sugar;
  - viii. 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;
  - ix. sharpening, simple grinding or simple cutting;
  - x. simple sifting, screening, sorting, classifying, grading or matching;
  - xi. simple packaging operations, such as placing in bottles, cans, flasks, bags, cases, boxes or fixing on cards or boards;
  - xii. affixing or printing marks, labels, logos, and other like distinguishing signs on the Products or their packaging;
  - xiii. simple mixing of Materials, whether or not of different kinds; which does not include an operation that causes a chemical reaction;
  - xiv. simple assembling of parts of articles to constitute a complete article;
  - xv. a combination of two or more operations specified in sub-paragraphs (a) to (n); and
  - xvi. slaughter of animals.

**NOTE:**

69. Notwithstanding any provision of Annex 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.

**NOTE:**

70. 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.

Box 3: Example of working or processing not conferring origin:

**Box 3: Example of working or processing not conferring origin:**

Compound D fertilizer is imported in bulk from Brazil into a State Party, where it is packed into different packaging and exported to another State Party. As repackaging is not a sufficient operation to confer origin, the fertilizer retains its Brazilian origin.

### 2.3.4. Cumulation of Origin within the AfCFTA [Article 8 of Annex 2]

71. Article 8(2) provides cumulation among State Parties by allowing Producers in the State Parties to use Raw Materials or semi-finished Goods originating in any State Party and undergoing working or processing in another State Party, and the Product shall be deemed to have originated in the State Party where the final processing or manufacturing takes place.
72. Article 8(2) provides cumulation among State Parties by allowing Producers to carry out working or processing in any of the State Parties, and that any working or processing shall be considered as having been carried out in the State Parties when the Materials undergo further working or processing in a State Party.

**NOTE:**

73. Article 8(4) allocates the origin of the Products which were further manufactured in a State Party. These shall be considered as originating in a State Party where the last manufacturing process takes place provided that the last working or processing operations exceed those operations under Article 7 of Annex 2.

**NOTE:**

74. For purposes of implementing Article 8, all State Parties shall be considered as a single Territory.

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**75. Box 4: Example of application of cumulation provisions**

A textile producer in Namibia imports synthetic fibre from Germany and makes yarn. The yarn is then exported to Kenya where it is woven into a fabric and the fabric is then exported to Togo where it is used to make men's trousers. According to the rules of cumulation of working and processing, the making of the fibre into yarn carried out in Namibia and the weaving of the yarn into fabric carried out in Kenya are considered as having been carried out in Togo. The men's trousers made in Togo are considered as Products of Togolese origin.

### **2.3.5. Unit of Qualification (Article 10 of Annex 2)**

76. It is important to establish the correct tariff classification of the Product or Material to be exported under the Harmonized System (HS) of Classification. This is because the way the Products or Materials are treated for tariff classification purposes is the same way they are treated for purposes of determining their origin.

In order to qualify for tariff preferences under the provisions of Annex 2, the unit of qualification shall be the particular Product, which is considered as a basic unit when determining classification. If the shipment consists of a number of identical Products classified under a single Heading or Sub-Heading, each Product in the shipment shall be considered separately. However, if a Product composed of a group or assembly of articles or components is classified within a single Heading or Sub-heading in accordance with the HS Interpretative Rules, the whole shall be treated as one.

**77. Box 5: Example of application of Article 10**

A tool set made up of an adjustable spanner (82.04), a hand drill (82.05) and screwdriver (HS 82.05) is classified in heading 82.06. Hence to determine the origin of the set, it is the rule applicable to heading 82.06 that will be applied and not the rule applicable to the individual components of this set.

### **2.3.6. Treatment of Packing (Article 11 of Annex 2)**

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

### **2.3.7. Separation of Materials (Article 12 of Annex 2)**

82. For the purposes of determining origin of Products, the Producer of Products whose Materials of similar character, but different origin, are impractical to physically separate, may apply to the Customs/Designated Competent Authority of a State Party for permission to use an accounting system (e.g., First In First Out (FIFO) Last in First Out (LIFO)).
83. The accounting system to be applied shall be adequate to ensure that no more Goods are deemed to originate in the State Party than would have been the case if the Producer had been able to physically separate the Materials.
84. Such accounting system shall conform to the conditions as may be agreed upon by the Sub-Committee on Rules of Origin, to ensure that adequate control measures shall be applied.

#### Box 6: Example of application of Article 12

Company X, a manufacturer of vinegar of heading 2209 based in ESwatini imports 2,000 litres of acetic acid of heading 2915.21 from China on 15 April 2022. On 25 April 2022 Company X buys 1,000 litres originating acetic acid of the same type from a company in ESwatini and these are intermingled at Company X's warehouse.

For the purposes of determining origin of vinegar, as acetic acid from different origin are impractical to physically separate, may apply to the Customs/Designated Competent Authority of a State Party for permission to use an accounting system (e.g., First In First Out (FIFO) Last in First Out (LIFO)).

If Company X selects LIFO method, the last 1,000 litres acetic acid used to fill an order are considered of ESwatini origin, regardless of their actual origin.

#### 2.3.8. Accessories, Spare Parts and Tools (Article 13 of Annex 2)

85. Accessories, spare parts and tools which are dispatched with a piece of equipment, machine, apparatus or vehicle and are part of the normal equipment whose price is included in the price thereof or separately invoiced, are regarded as one with the piece of equipment, machine, apparatus or vehicle in question.
86. For example, jacks and wheel spanners are part of the normal equipment that is supplied with a new car. In determining the origin of the car, the origin of the jack and that of the wheel spanner are disregarded.

#### 2.3.9. Sets (Article 14 of Annex 2)

87. The tariff classification of sets is governed by Rule 3 of the General Interpretative Rules to the HS. To determine the tariff classification of a set, one needs to determine the article that gives the set its essential character and the same applies for purposes of determining the origin of sets. In addition, one also needs to determine the origin of the individual components that make up the set. If all the components are originating, then the whole set is originating. However, sets containing originating and non-originating components may also be regarded as originating in a State Party if the value of the non-originating components does not exceed 15% of the Ex-Works Price of the set. The value of the non-originating component Products shall be calculated in the same manner as the value of non-originating Materials.

**88. Box 7: Example of application of Article 14 for a set of assorted kitchen or table ware of HS 8215**

Materials used	Ex-Works price
Spoons (Originating)	28
Forks (originating )	23
Ladles (imported from India )	4
Fish-knives imported from China)	3,2
Total value of non-originating Materials	7,2
Total Value of Materials	<u>60</u>
Value of non-originating Materials as % of Ex-Works price	<u>12%</u>

89. This set of kitchen or table ware will be considered as originating as the value of the non-originating components does not exceed 15% of the Ex-Works Price of the set.

### 2.3.10. Neutral Elements [Article 15 of Annex 2]

90. Neutral elements are those factors of production that do not form an integral part of the finished Product. Such elements like electrical power, fuel, plant, machinery and tools used in the production of the Products are regarded as wholly obtained in the State Parties.
91. **Box 8: Example of application of Article 15:**

Fork-lift trucks are manufactured in Ghana using Materials originating in the AfCFTA and Materials imported from USA. These trucks are manufactured using state of the art plant and equipment originating in the USA. One of the origin rules for such trucks is “Manufacture in which the value of all the Materials used does not exceed X% of the Ex-Works Price of the Product.”

When applying this rule, to calculate the value of the non-originating Materials, the manufacturer does not add the cost of the plant and equipment to determine the value of non-originating Materials used in manufacture. He will instead add the costs incurred to run the plant and equipment as local (Ghanaian) overhead costs in calculating the Ex-Works Price of the truck.

### 2.3.11. Principle of Territoriality [Article 16 of Annex2]

92. Article 16 defines the territory (i.e. the State Parties) in which Products acquire their originating status, that is, the geographical location where the goods Products acquire their origin status, either as wholly obtained or as Products resulting from sufficient working or processing.
93. Paragraph 1 of Article 16 allows and lays out the conditions for Products that have undergone production that satisfies the requirements of Article 6 of Annex 2 as originating in the AfCFTA State Party, to be exported temporarily outside the AfCFTA. To retain the AfCFTA origin the Product;
  - i. should not undergo further production or any other operation outside the territories of the State Parties, other than unloading, reloading, or any other operation necessary to preserve it in good condition, or to transport the Product to the Territory of a State Party; and
  - ii. remains under customs control while outside the territories of the State Parties.
94. Paragraph 2 of Article 16 also provides that the storage of Products and shipments or the splitting of shipments that take place under the responsibility of the Exporter or of a subsequent holder of the Products, while the Products remain under customs control in the country or countries of transit, shall not affect the originating status of the Product.
95. Paragraph 3 of the same Article regulates a return of an originating Product that was exported from a State Party to a Third Party. It shall be considered as non-originating, unless it can be proven to the satisfaction of the Customs Authorities that the returning Product:
  - i. is the same as that which was exported; and
  - ii. has not undergone any operation beyond that which was necessary to preserve it in good condition.

### 2.3.12. Direct Transportation (Article 30 of Annex 2)

96. In order for Products produced in the State Parties to benefit from AfCFTA tariff treatment, they shall be transported directly between the territories of the State Parties or through those territories. However, the Products constituting a single consignment may transit through the territories of other State Party or Third Parties but should remain under the supervision of the Customs Authorities of the State Party of transit or storage and should not be a subject to other operations other than unloading or reloading or any other operation intended to ensure their preservation as such. In such cases, the following documentary evidence should be produced to the Customs Authorities of the importing State Party:

- 
- i. a single transport document covering the passage through the State Party or transit; or
  - ii. a certificate issued by the Customs or Designated Competent Authorities of the State Party of transit:
    - a. giving an exact description of the Products;
    - b. stating the dates of unloading and reloading of the Products and, where applicable, the names of the ships, or the other means of transport used; and
    - c. certifying the conditions under which the Products remained in the transit State Party; or
  - iii. failing these, any substantiating documents.
97. Originating Products may be transported by pipeline across Territories other than those of the State Parties acting as exporting and importing State Parties.

### **2.3.13. [Treatment of Goods produced in Special Economic Arrangements / Zones (Article 9 of Annex 2)]**

- 98. In terms of paragraph 2 of Article 23 of the Protocol on Trade in Goods as read with Paragraph 1 of Article 9 of Annex 2, Products produced in Special Economic Arrangement / Zone (SEZ) qualify for preferential tariff treatment if they meet the rules of origin requirements specified in Annex 2.
- 99. Where originating Products accompanied by a Certificate of Origin use a SEZ situated in a State Party's Territory during their transportation, the State Party must take all necessary measures to ensure that these Products remain under the control of the Customs Authority and that the Goods which leave the SEZ are the same Goods as that entered that SEZ. However, where necessary, handling necessary for the preservation of the goods in good condition is allowed.

#### **NOTE:**

- 100. [Notwithstanding paragraph 1 of Article 9 of Annex 2, where Products originating in a State Party which are imported into a SEZ under a proof of origin undergo processing or transformation, the competent Customs or Designated Competent Authorities shall issue a new movement certificate at the request of the Exporter, if the processing or transformation carried out is in accordance with Annex 2<sup>1</sup>.]

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<sup>1</sup>This Article is an outstanding provision.

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## CHAPTER 3 – AfCFTA PROOF OF ORIGIN

### 3.1. Proof of origin General requirements (Article 17 of Annex 2)

101. AfCFTA Products originating in State Party shall, on importation into another State Party, benefit from the AFCTA preferential treatment upon submission of either:
  - i. 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
  - ii. the Origin Declaration (Appendix II of Annex II) 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.
102. A proof of origin shall be valid for twelve (12) months from the date of issue in the exporting State Party, and be submitted within the said period to the customs Authorities of the importing State Party.
103. Proof of origin which are submitted to the Customs Authorities of the importing State Party after twelve months may be accepted where the failure to submit these documents by the date set is due to exceptional circumstances duly justified.

### 3.2. Submission of proof of origin (Article 18 of Annex 2)

104. Proof 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. They said authorities may require a translation of such proof of origin.

### 3.3. Origin Declaration (Article 19 of Annex 2)

105. An Origin Declaration referred to in paragraph 1(b) of Article 17 of this Annex may be made out by:
  - i. an Approved Exporter within the meaning of Article 20 of this Annex; or
  - ii. any Exporter for any Consignment consisting of one or more packages containing originating Products whose total value does not exceed five thousand United States dollars (USD5,000).
106. An Origin Declaration may be made out if the Products concerned can be considered as Products originating in the State Party and fulfil the other requirements specified in this Annex.
107. The exporter making out an Origin Declaration shall submit at any time, at the request of the Designated Competent Authority of the exporting State Party, all appropriate documents proving the originating status of the Products concerned as well as the fulfilment of the other requirements specified in this Annex.

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108. An Origin Declaration shall be made out by the Exporter by typing, stamping or printing on the invoice, the delivery note or another commercial document using one of the AU official languages and in accordance with the provisions of the national legislation of the exporting State Party. If the Origin Declaration is handwritten, it shall be written in ink in printed characters. Origin Declarations shall bear the origin signature of the Exporter.
  109. An Origin Declaration may be made out by the Exporter when the Products to which it relates are exported, or after exportation on condition that it is presented in the importing State Party no longer than twelve (12) months after the importation of the Products to which it relates as provided for under national legislation.

### **3.4. Approved exporter (Article 20 of Annex 2)**

110. The Designated Competent Authorities of the exporting State Party may authorise any Exporter, hereinafter referred to as "Approved Exporter", who frequently exports Products covered by this Annex and provides, to the satisfaction of the customs authorities, all the guarantees for verifying the originating status of Products as well as compliance with all other requirements specified in this Annex, to make out Origin Declarations regardless of the value of the Products concerned.
111. The Designated Competent Authority may grant the status of Approved Exporter subject to any conditions considered appropriate.
112. The Designated Competent Authority shall issue to the Approved Exporter an authorisation number, which must appear on the Origin Declaration.
113. The Designated Competent Authority shall monitor the use made of the authorisation by the Approved Exporter.
114. The Designated Competent Authority may withdraw the authorisation at any time. The Designated Competent Authority must do so when the Approved Exporter:
  - i. no longer provides the guarantees referred to in paragraph 1 of this Article;
  - ii. no longer fulfils the conditions referred to in paragraph 2 of this Article; or
  - iii. otherwise makes improper use of the authorisation.

### **3.5. Issuance of certificate of Origin (Articles 21, 23, 25, 26 of Annex 2)**

115. A Certificate of Origin shall be issued by the Designated Competent Authority of the exporting State Party on application having been made in writing by the Exporter or, under the Exporter's responsibility, by the authorised representative.
116. The AfCFTA Certificate of Origin should measure 210 x 297mm and a tolerance of up to 8mm or minus 5mm in length may be allowed. The paper used should be white, sized for writing, not contain mechanical pulp and weigh not less than 25g/m<sup>2</sup>. It should have a printed green guilloche pattern background making any falsification by mechanical or chemical means apparent to the eye.
117. For the purpose of issuance of the 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 this Annex. The application form shall be completed in accordance with the provisions of this Annex. Where it is handwritten, it shall be completed in ink in printed characters. The description of the Products must be given in the box reserved for this purpose without leaving any blank lines. Where the box is not completely filled, a horizontal line must be drawn below the last line of the description, the empty space being crossed through.

118. The Exporter applying for the issue of a Certificate of Origin shall submit at the request of the Designated Competent Authority of the exporting State Party where the Certificate of Origin is issued, all appropriate documents proving the originating status of the products concerned as well as the fulfilment of the other requirements specified in this Annex.
119. The Designated Competent Authority shall take any steps necessary to verify the originating status of the Products and the fulfilment of the other requirements specified in this Annex.
120. 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 referred to in paragraph 1 of this Article 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.
121. The date of issue of the Certificate of Origin shall be indicated in the relevant box of the Certificate.
122. 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.

### **Certificate of Origin Issued Retrospectively (Article 23)**

123. Notwithstanding the provisions of paragraph 7 of Article 21 of this Annex, a Certificate of Origin may exceptionally be issued after exportation of the Products to which it relates if it:
  - i. was not issued at the time of exportation because of errors or involuntary omissions or special circumstances; or
  - ii. is demonstrated to the satisfaction of the Designated Competent Authority that a Certificate of Origin was issued but was not accepted at importation for technical reasons.
124. For the implementation of paragraph 1 of this Article, the Exporter must indicate in the application the place and date of exportation of the products to which the Certificate of Origin relates and state the reasons for the request.

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125. The Designated 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.
  126. A Certificate of Origin issued retrospectively must be endorsed with the following phrase: "**ISSUED RETROSPECTIVELY**".
  127. The endorsement referred to in paragraph 4 of this Article shall be inserted in Box 3 of the Certificate of Origin.

### **3.7. Issuance of a Duplicate Certificate of Origin (Article 25)**

128. In the event of theft, loss or destruction of a Certificate of Origin, the Exporter may apply to the Designated Competent Authority which issued the Certificate of Origin for a duplicate made out on the basis of the export documents in their possession.
129. The duplicate issued in this way must be endorsed with the following word: "**DUPPLICATE**"
130. The endorsement referred to in paragraph 2 of this Article shall be inserted in Box 3 of the duplicate Certificate of Origin.
131. The duplicate, which must bear the date of issue of the original Certificate of Origin, shall take effect as from that date.

### **3.8. Issuance of a Replacement Certificate of Origin (Article 26)**

132. 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 certificate 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 to the Customs Authority under whose control the Goods were placed.

### **3.9. Supporting documents (Article 22 of Annex 2)**

133. The documents, referred to in paragraph 3 of Article 21 of this Annex, to be submitted to the Designated Competent Authority of the exporting State Party may include documents relating to the following:
  - i. production processes carried out on the originating Product or on Materials used in the production of that Product;
  - ii. purchase, cost, value of and payment for the Product;
  - iii. origin, purchase, cost, value of and payment for all Materials, including neutral elements, used in the production of the Product;

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- iv. shipment of the Product; and
  - v. any other documents that the Designated Competent Authority may consider necessary.

### **Exemption from proof of origin (Article 28 of Annex 2)**

- 134. The following Goods shall be admitted as originating products without requiring submission of a proof of origin:
  - i. 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
  - ii. 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.

- 135. The total value of the products referred to in paragraph 1 of this Article, shall not exceed five hundred United State Dollars (USD500) in the case of small packages or one thousand two hundred United State Dollars (USD1,200) in the case of products forming part of traveller's personal luggage as the case may be.

### **3.11. Transitional provision for Goods in Transit or Storage Origin declaration (Article 24 of Annex 2)**

- 136. Goods which comply with the provisions of this Annex and which, on the date of entry into force of the Agreement, are either in transit or temporary storage under customs warehouses or free zones of one of the State Parties, may be eligible for the provisions of this Annex subject to submission, within six (6) months of the said date, to the Customs Authorities of the importing State Party, of a Certificate of Origin issued retrospectively by the Designated Competent Authority of the exporting State Party together with documents showing that the Goods have been transported directly in accordance with the provisions of Article 30 of this Annex.

### **3.12. Importation instalments (Article 27 of Annex 2)**

- 137. Where, at the request of the importer and on the conditions laid down by the Customs Authorities or Designated Competent Authorities of the importing State Party, dismantled or non-assembled products within the meaning of General Interpretative Rules of the Harmonized System are imported by instalments, a single proof of origin for such products shall be submitted to the Customs Authorities or Designated Competent Authority upon importation of the first instalment.

### **3.13. Fairs or exhibitions (Article 29 of Annex 2)**

- 138. 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:

- i. an Exporter has shipped the products from the State Party to another State Party of the fair or exhibition and has exhibited same therein;
  - ii. the products have been sold or otherwise disposed of by that Exporter to a person in the State Party;
  - iii. 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
  - iv. that from the time they were shipped for fairs or exhibitions, the products were not used for purposes other than display at that fair or exhibition.
139. Proof of origin must be issued or made out in accordance with the provision of Party III of this Annex 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.
- 140 Paragraph 1 of this Article shall apply to all exhibitions, fairs or similar public events of a commercial, industrial, agricultural or handcraft 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.

### **3.14. Information and procedure for cumulation purposes (Article 31 of Annex 2)**

141. For purposes of paragraph 2 of Article 8 of this Annex, the proof of origin of 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 this Annex.
142. For purposes of paragraph 3 of Article 8 of this Annex, the evidence of the working or processing shall be given by the supplier or Producer's declaration, in the State Party in which the Materials are exported in the form set out in Appendix III of this Annex.
143. A Certificate of Origin issued pursuant to Article 8 of this Annex shall be endorsed with the word "**CUMULATION**".
144. The endorsement referred to in paragraph 3 of this Article shall be inserted in Box 3 of the Certificate of Origin.
145. In addition to the supporting documents referred to in paragraph 2 of this Article, the bill of lading, together with the catch certificates shall accompany the Certificate of Origin.

### **3.15. Preservation of records (Article 32 of Annex 2)**

146. An exporter who has applied for the issuance of Certificate of Origin shall keep a copy of the application, as well as the supporting documents referred to in Article 22 of this Annex, for at least (5) years after the completion of the application.
147. 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 five (5) years after the date on which preferential treatment was granted.
148. 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 of the Product that is required to maintain records or documentation under this Article:
  - i. fails to maintain records or documentation relevant to determining the origin of the Product in accordance with the requirements of this Annex; or
  - ii. denies access to those records or documentation.
149. The Designated Competent Authority of the exporting State Party issuing a Certificate of Origin shall keep for at least five (5) years the copy of the issued Certificate.
150. The Designated Competent Authority of the importing State Party shall keep for at least five (5) years the Certificate of Origin submitted to them.

### **316. Discrepancies and Formal Errors (Article 33 of Annex 2)**

151. 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 Designated Competent Authority for the purpose of carrying out the formalities for importing the products shall not, because of that fact, render the Certificate of Origin null and void if it is established that the Certificate of Origin corresponds to the products submitted.
152. 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.

### **317. Completion of the AfCFTA Certificate of Origin: Appendix I of Annex 2 on Rules of Origin**

153. The Exporter must enter on the form of the Certificate of Origin all information required in Boxes 1 to 14 of the form, except Box 3 which, together with Box 15, are reserved for official use.
154. This form may be filled by any process provided that the entries are indelible and legible. Neither erasures nor super-impositions are allowed on the form, and any alterations must be made by striking out the erroneous entries and thereafter making

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or inserting any required additions. Any such alterations must be initialled by the person who completed the form and endorsed an official of the Designated Competent Authority in the exporting State Party.

155. Any unused spaces on the form should be crossed out in such a manner as to prevent any subsequent addition.
156. The Certificate of Origin must be completed as follows:

**Box 1**

157. The Exporter must be a natural or legal person ordinarily resident in a State Party or a person whose place of business is in a State Party.
158. In addition, the Exporter's registration number should be inserted, where applicable.

**Box 2**

159. Insert the name and office address of the consignee in the State Party of destination.

**Box 3**

160. To be completed by the issuing authority inserting one or more of the following endorsements where necessary:
  - a. "Duplicate" (where application is made for a Duplicate AfCFTA Certificate of Origin)
  - b. "Issued Retrospectively" (where the Goods have been exported before application is made for a certificate and application is made for the retrospective issue thereof)
  - c. "Replacement" where application is made for a Replacement AfCFTA Certificate of Origin)
  - d. "Cumulation"

**Box 4**

161. Insert particulars of transport details for the vehicle, train, ship, aircraft or other vessel used in removing Goods from the last port in the exporting State Party.

**Box 5**

162. Enter identifying marks and numbers on the packages against each Good being exported.
163. If the packages are not marked, state "No Marks and Numbers" or "As Addressed".
164. For Goods in bulk that are not packed, insert "In Bulk".

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165. The quantity stated must agree with the quantities on the invoice.
166. Where both originating and non-originating Goods are packed together, describe only the originating Goods and add at the end "Part Contents Only".

**Box 6**

167. Insert serial numbers of invoices, their dates, values and Incoterms, issued for the Goods.

**Box 7**

168. State the number of the type of packaging containing the Goods.

**Box 8**

169. The Goods must be identified by giving a reasonably full commercial description in order for the appropriate HS Code to be determined.

**Box 9**

170. Insert the gross weight of the Goods that should correspond with the transporters' documents.

**Box 10**

171. State an additional statistical measure as may be applicable under the chosen HS Code.

**Box 11**

172. Enter the six-digit HS Code in respect of each line of Goods described in Box 8.

**Box 12**

173. Insert the appropriate Origin Criteria Code applicable to the Goods being exported.

Origin Criteria Code	Origin Criteria Description
WP	Wholly obtained (Article 5)
SV	Substantial transformation – Value Added Content (Article 6.1(a))
SM	Substantial transformation – Material Content (Article 6.1(b))
SX	Substantial transformation – Change of Tariff Heading (Article 6.1(c))
ST	[Substantial transformation – Change of Tariff Sub-Heading]
SP	Substantial transformation – Process Rule (Article 6.1(d))
SC	Substantial transformation – Cumulation; and state the States Parties with which Cumulation was used. (Article 8)

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**Box 13**

174. The Exporter, or the authorized representative, must complete all details required for a complete declaration of the correctness of the application for a Certificate of Origin.
175. The signature must not be mechanically reproduced or made with a rubber stamp but can be electronically inserted or replaced with an electronic identifying code in accordance with the national laws of each State Party.

**Box 14**

176. This must be filled by the Designated Competent Authority in the State Party of export.
177. An officer of the authority must print all the details required and date-stamp the Certificate of Origin in the space provided by imprinting thereon the special stamp issued for this purpose and has been circulated to the Customs Administrations in all State Parties except where the Certificate of Origin is being validated electronically.

**Box 15**

178. The Customs Officer at the port of clearance or exit must insert the export document number, date and office of clearance as provided.
179. **General**
  - a. The AfCFTA Certificate of Origin shall be rendered invalid if:
    - i. (any entered particulars are incorrect and not in accordance with the provisions of this Annex;
    - ii. it contains any erasures or words written over one another;
    - iii. altered, unless any alterations are made by deleting the incorrect particulars, by adding any necessary corrections and such alterations are initialled by the person who completed the certificate and endorsed by the officer who signs the certificate.
  - b. Where applicable quote the Designated Competent Authority's file registration / reference number at the top of the Certificate of Origin.
  - c. Draw a horizontal line under the only or final item in Boxes 5 – 12 and rule through the unused space with a Z-shaped line or otherwise cross it through.
  - d. Where the space provided is inadequate please attach an additional page to provide the required details.

## **CHAPTER 4- ADMINISTRATIVE, ENFORCEMENT AND INSTITUTIONAL ARRANGEMENT**

180. The effective implementation of the AfCFTA Rules of Origin by the States Parties requires that the issuing of Certificates of Origin and the verification of these Certificates be recognized as two distinct functions.
181. These functions should be carried out in the State Parties by designated competent authority/ authorities.
182. The claim of AfCFTA originating status for any goods can be considered as beginning with the production of the goods, either from materials that are wholly produced from within the Member States or wholly or partially from materials obtained from non-State Parties.
183. The verification that are implemented under the AfCFTA must, therefore extend from the very early stage of the importation of inputs going into production in States Parties, through the production process(es) carried out and the actual exportation and importation of the finished goods.
184. The efficiency and effectiveness of the national system responsible for the administration of the AfCFTA Rules of Origin is important, hence the following organizational and core competencies may be recommended:
  - a) Designated Competent Authority
  - b) Customs

### **4.1. Designated Competent Authority**

185. The designated competent authority is responsible of issuing of the certificate of origin in State Parties.
186. It is desirable, for the effective implementation of the AfCFTA Rules of Origin in State Parties, that the designated competent authority be organized in such a way that there is the Head Office as well as regional or local offices responsible for the administration of the Rules of Origin.

#### **4.1.1.1 Head Office and its functions**

187. The Head Office of the designated competent authority/authorities assumes overall responsibility for all AfCFTA matters, in particular the proper implementation of the Rules of Origin in a State Party.
188. The size of the unit in Head Office will vary from one State Party to another, depending on national requirements and the degree of centralization.
189. The functions of the Head Office include:

- a. Implementation of national laws, regulations and administrative guidelines related to the AfCFTA Rules of Origin in accordance with the decision of AfCFTA Council of Ministers on Rules of Origin.
- b. Head Office personnel should actively participate in AfCFTA meetings, especially, meetings of the Sub-Committee on Rules of Origin. This ensures that national positions and requirements are taken into account.
- c. Handling appeals, where necessary, against decisions taken by regional or local officials and any difficult cases regarding the Annex 2 of AfCFTA Protocol on Trade in Goods.
- d. Registration of exporters and issuing origin rulings, where applicable.
- e. Maintaining the national database of all approved exporters.
- f. Sending to other State Parties through the AfCFTA Secretariat, the names and signatures of the officials authorized to sign the AfCFTA Certificates of Origin including the details of the official Origin Verification stamps (used in certification) on behalf of the designated competent authority. Ensuring that the details of stamps and signatures of authorized signatories are maintained up to date. Any changes made should also be notified accordingly.
- g. Conducting origin verification as requested by importing State Parties.
- h. Communication with designated authorities in other Member States and the Secretariat on matters relating to the AfCFTA Protocol on Trade in Goods especially on Rules of Origin.
- i. Coordinating and conducting national stakeholder capacity building programs on the AfCFTA rules of origin.

#### **4.1.2 Designated Regional / Local offices and their functions**

- 190. To facilitate the issuance and verification of certificates of origin, the designated competent authority/ authorities should establish offices in the main regions and towns within the State Parties. This will ensure that exporters wishing to register with the designated competent authority/authorities or those seeking authentication and verification of the Certificates of Origin do not have to travel long distances for the service. This will assist in reducing compliance cost of doing business in AfCFTA State Parties.
- 191. The functions of the Regional/Local offices include:

- a. Maintaining regional data bases of exporters and approved exporters;
- b. Conducting inspections and verification exercises of applicants and submitting recommendations to the Head Office;
- c. Handling regional enquiries;
- d. Carrying out assignments as directed by Head Office;
- e. Giving guidance and advice to stakeholders.
- f. Conducting investigations following origin verification requests from other State Parties. The results of such investigations should be forwarded to Head Office for onward transmission to the requesting State Party.

#### **4.1.3. Core Competences of the Designated Competent Authority**

- 192. The issuance and verification of the AfCFTA Certificates of Origin by designated competent authority's demand that their officials are competent to implement all the provisions of Annex 2 of the AfCFTA Protocol on Trade in Goods with special emphasis on Rules of Origin.
- 193. For purposes of determining the origin of goods according to Annex 2 of the AfCFTA Protocol on Trade in Goods, designated competent authorities should be competent in the use of the HS and the WTO Agreement on Customs Valuation. Officials of such designated authorities should therefore have the requisite expertise.

#### **4.1.4. Co-operation with other agencies**

- 194. The designated competent authority shall co-operate with stakeholders that may render assistance in the implementation of the AfCFTA Protocol on Trade in Goods and its Annex 2 on Rules of Origin in particular.

#### **4.1.5. Mutual Administrative Assistance and Customs Co-operation**

- 195. Designated competent authorities in State Parties are expected to regularly exchange information on fraudulent or improper claims of AfCFTA origin status by traders. Such information, which may be detected by any Customs Administration, should be circulated on a confidential basis and compliance with national laws through the AfCFTA Secretariat for the information of the other AfCFTA State Parties Administrations.
- 196. Where the Designated competent authority responsible for certifying AfCFTA Certificates of Origin is an agency other than the Customs Authorities, an effective

collaborative relationship between the two bodies should be developed for the effective performance of the certification and verification function.

197. The Designated competent authority shall also co-operate with other agencies which can provide information and assist it to effectively carry out its mandate.

## **4.2. Customs Authorities**

198. Customs Authorities are responsible for verification of the AfCFTA proof of origin.

### **4.2.1 Reason for Verification**

#### **4.2.2 Procedure for Verification Request**

199. Where the Customs authorities of the importing State Party desire to verify the correctness of the evidence furnished to them by the importer, they may request the submission of further supporting evidence from the importer in that State Party.
200. When requesting for further supporting evidence from the exporting State Party, the Customs authorities of the importing State Party will write a letter to the Customs authority in the exporting State Party and attach the AfCFTA Protocol on Trade in Goods Verification of Origin Questionnaire.
201. Any documents and information obtained suggesting that the information given in the Certificate of Origin, origin declaration and supplier's or producer's declaration is incorrect will be attached to the letter and forwarded to the designated competent authority of the exporting State Party in support of the request for verification.
202. Requests for verification will be sent to the designated competent authority of the exporting State Party following national legislation of the importing State Party as regards verification of Rules of Origin without any contradiction with Annex 2. A copy of the "query" form should at the same time be given to the importer.
203. Where additional information will be required, the Customs authority shall clearly specify the nature of the additional information required to resolve the query.

#### **4.2.3 Procedure for the importer if the verification process is delayed**

204. Where the Customs authority in an importing State Party declines to accord preferential treatment on goods claiming origin status in a State Party without activating a verification procedure , the importer of the goods may approach a designated authority, or lead agency within government that co-ordinates AfCFTA matters for intervention. At the same time the importer shall advise the AfCFTA Secretariat of the complaint.
205. The importer shall provide full details of the complaint including:

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- i. The nature of goods;
  - ii. The number and kind of packages;
  - iii. The value;
  - iv. The country of origin and country of exportation;
  - v. The name and address of exporter;
  - vi. The transport details
  - vii. The proof of origin; and
  - viii. The declaration of importation and the declaration of exportation if available
206. The importer shall also indicate the reason given for refusal to release the goods under preferential treatment on goods claiming origin status in a State Party.

#### **4.2.4 Action by designated competent authority upon receipt of verification request**

##### ***i. Where no additional information is requested:***

- 207. Upon receipt of the letter requesting Verification of Origin, the designated competent authority in the exporting State Party shall carry out investigations and communicate its findings to the Customs authority of the importing State Party within six months of receipt of the request.
- 208. Where the importing State Party has not received response from the exporting State Party within six months, or if the reply does not contain sufficient information to determine the authenticity of the document in question or the real origin of the products the importing State Party may deny preferential treatment to the goods. The Customs authority or the Designated Competent Authority shall complete Part B, "RESULTS OF VERIFICATION", at the back of the AfCFTA Certificate of Origin and fill in the appropriate Box as to the originating status of the goods under consideration, stamp, sign and return the form.
- 209. For verification notifications related to origin declaration and producers or suppliers declaration, Customs Authority or the Designated Competent Authority may provide results of verification through formal letter.

##### ***ii. Where additional information is requested***

- 210. Where additional information is required, the Customs Authority or the Designated Competent Authority should clearly specify the nature of the additional information required to resolve the query. Requests for additional information should be made through formal letter.

#### **4.2.5 Procedure where doubts on the originating status of goods persists**

- 211. Normally, the raising of a query by the Customs authority of the importing State Party and the provision of a response by the Customs authority of the exporting State Party

verifying the evidence of origin should dispose of the query. This will either be by confirming or rejecting the claim of originating status in the exporting State Party. However, where doubts persist the following may be undertaken:

#### **4.2.5.1 Joint on-the-spot verification and subsequent enquiries**

212. Where despite the response to a query by an exporting State Party affirming the original claim of AfCFTA origin, doubts persist in the minds of the Customs Authorities in the importing State Party about the validity of the claim, prompt steps should be taken to resolve the matter. At the initiative of either the importing or the exporting State Party, arrangements should be made with the minimum of delay for representatives from both sides and the representatives of the AfCFTA Secretariat to meet in the State Party where production is carried out to examine together "on the spot," evidence on which the claim of AfCFTA originating status is based.
213. The two parties should do the following, among others, before carrying out the joint verification:
  - Agree on the dates on which to carry out the joint verification.
  - The authorities of the importing country and the AfCFTA Secretariat should meet their own costs. The two parties may agree on special logistical courtesies bilaterally.
  - The Designated Competent Authority should also ensure that the importing delegation has access to its records pertaining to the approved exporter who is to be verified.
  - Depending on the origin criterion that is applicable to the Goods under verification and the nature of the production process involved, the two Customs Authorities may agree to co-opt independent technical experts to assist in the verifications.
214. The two Authorities will share any costs incurred in co-opting the experts.
215. In addition, the two Customs Authorities may also agree to co-opt officials from the AfCFTA Secretariat for technical support during the verifications.

#### **(A) Preparing for the visit to an Exporter's premises**

216. It is advisable for the Exporter to be informed of the intended visit. Mutual co-operation and consultation between the Customs Authorities /Designated Competent Authority and Exporter is important for successful verification to be carried out.
217. Before leaving for the visit, the investigating officials should:
  - i. note any specific points requiring verification;
  - ii. study the bills of entry and supporting documents carefully, noting any features that may require further enquiry;
  - iii. Obtain the following information regarding the Exporter:
    - past history of exportation;
    - previous visit reports (if any) concerning the approved exporter;
    - information from other sources, e.g. Customs Verifications; and

- any other relevant information.

### **(B) Report of visit**

218. The investigating officials of the two Customs Authorities should jointly write a report after concluding the verification.

219.. The report of visit may include the following items:

- date(s) of visit;
- name and position in company of person(s) seen;
- approved exporter's function, e.g. distributor;
- confirmation that the signature in Box 12 of the AfCFTA Certificate of Origin or on the invoice or other commercial document, in the case of an Origin Declaration, was made by an official or authorized representative of the company investigated, and that the signatory was in full possession of the facts and entitled to sign the AfCFTA Certificate of Origin or Origin Declaration;
- principal State Parties to which the Goods are exported;
- main types of Goods imported by the approved exporter, e.g. raw materials, finished Goods, etc.;
- purposes for which the Goods are imported, e.g. own use, further manufacture, resale as imported;
- details of procedures undertaken in auditing records and documents, whether held in computer or not;
- details of any irregularities found in the course of the verification;
- any specific action taken against the approved exporter; and
- any other relevant information.

### **C) Results of the joint verification**

- At the conclusion of the verifications, the officials from the two Customs Authorities/Designated Competent Authority involved in the verifications should discuss and agree on the outcome of the verification.
- The Customs Authorities/Designated Competent Authority of the importing State Party should advise the AfCFTA Secretariat of the outcome of the verification.
- The AfCFTA Secretariat should, in turn, notify the other State Party and the subcommittee on Rules of origin of the results.
- Normally, such joint-on-the-spot verifications should help in resolving the origin query. However, where the two Customs Authorities fail to agree, State Parties should follow dispute settlement procedures covered in paragraph 3.6 below

### 4.3. Penalties (Article 37 of Annex 2 on Rules of Origin)

220. 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.

### 4.4. Dispute settlement procedure (Article 40 of Annex 2 on Rules of origin )

221. Any dispute between State Parties arising out of or relating to the interpretation of any provision of Annex 2 on Rules of Origin and its Guidelines shall be settled in accordance with the AfCFTA Protocol on Rules and Procedures on the Dispute Settlement.

### 4.5 Role of the AfCFTA Secretariat

222. The AfCFTA Secretariat provides technical support and advice regarding the interpretation of AfCFTA Protocol on Trade in Goods and the AfCFTA Rules of Origin.
223. State Parties are obliged to submit lists of their authorized signatories as well as date stamp impressions for certification of origin to the Secretariat. Once received from a State Party these will be circulated to other State Parties for use in confirming validity of AfCFTA Certificates of Origin accompanying goods into the importing State Party.
224. The Secretariat should be kept aware of the instances of the queries and subsequent results of verification initiatives among State Parties. This will be through the provision of copies of all query forms, investigation reports and final results thereof that are exchanged by the Customs authorities in the State Parties. This information will be circulated to other State Parties by the Secretariat.



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