

Annex 3-3

Operational Certification Procedures

For the purposes of implementing Chapter 3 (Rules of Origin) of this Agreement, the following operational procedures on the issuance, verification and other administrative matters relating to the Certificate of Origin (“CO”) shall apply:

Issuing Authorities

1. The CO shall be issued by authorities designated by the exporting Party (hereinafter referred to individually as “Issuing Authority” or collectively as “Issuing Authorities”). The specimen of the CO is as set out in Attachment 3-3-1.
2. Each Party shall provide, electronically or otherwise, original sets of specimen signatures and specimen of official seals used by their Issuing Authorities, including their names and addresses for dissemination to the other Party and any subsequent change in names, addresses, specimen signatures or official seals shall be promptly informed to the other Party in the same manner.
3. For the purpose of determining originating status, an Issuing Authority shall have the right to call for any supporting documentary evidence or to carry out any check considered appropriate.

Application for CO

4. The exporter or the producer of the goods satisfying the criteria of preferential tariff treatment under Chapter 3 (Rules of Origin) shall apply in writing to the relevant Issuing Authorities requesting for pre-exportation verification of the origin of the goods. The result of the verification, subject to review periodically or whenever appropriate, shall be accepted as the supporting evidence in verifying the origin of the said goods to be exported thereafter. The pre-exportation verification may not apply to the goods of which, by their nature, origin can be easily verified.
5. At the time of carrying out the formalities for exporting the goods under preferential tariff treatment, the exporter or producer or their authorised representative shall submit a written application for the CO together with appropriate supporting documents proving that the goods to be exported qualify for the issuance of a CO.

Pre-Exportation Examination

6. The Issuing Authority shall, to the best of their competence and ability, carry out proper examination upon each application for the CO to ensure that:
 - (a) the application and the CO are duly completed and signed by the exporter or producer or their authorised signatory;
 - (b) the origin of the goods is in conformity with Chapter 3 (Rules of Origin) of this Agreement;

- (c) the other statements of the CO correspond to supporting documentary evidence submitted;
- (d) description, quantity and weight of goods, marks and number of packages, as specified, conform to the goods to be exported; and
- (e) multiple items declared on single invoice and single CO shall be allowed, provided that each item qualifies as an originating good separately in its own right in accordance with these rules.

Issuance of CO

- 7.
 - (a) The CO shall be in a printed format on an ISO size paper or on any other medium, including electronic format and shall be completed in English in conformity with the specimen and the instructions contained therein as set out in the Attachment 3-3-1. The CO shall comprise one original and one duplicate copy. Each CO shall bear a reference number given separately by each place or office of issuance.
 - (b) The Issuing Authorities shall retain the duplicate copy and shall provide the original to the exporter who shall forward it to the importer for submission to the customs authority at the port or place of importation.
 - (c) In cases where the CO is not accepted by the customs authority of the importing Party, the issuing authority of the exporting Party shall be duly notified, within a reasonable period but not exceeding two months from the date of filing of import declaration, of the grounds for the denial of preferential tariff treatment.
 - (d) In cases where a CO is not accepted, as stated in subparagraph (c), the Issuing Authority of the exporting party shall send detailed clarification addressing the grounds for non-acceptance of preferential tariff treatment raised by the importing Party, within two months from the receipt of notification of such denial of preferential tariff treatment. The customs authority of the importing Party shall reinstate the preferential tariff treatment if the clarification is found satisfactory.
- 8. To implement Article 3.2 (Origin Criteria), the CO issued by the exporting Party shall indicate in Box 8 the relevant Article under Chapter 3 (Rules of Origin) under which the good qualifies as originating.
- 9. Neither erasures nor superimpositions shall be allowed on the CO. Any alteration shall be made by striking out the error and making any addition required. Such alterations shall be approved and certified by an official authorised to sign the CO on behalf of the relevant Issuing Authority. Unused spaces shall be crossed out to prevent any subsequent addition.
- 10.
 - (a) The CO shall be issued by the relevant Issuing Authority of the exporting Party at the time of exportation, or within three working days from the date of shipment whenever the goods to be exported can be

considered originating in that Party within the meaning of Chapter 3 (Rules of Origin) of this Agreement.

- (b) In exceptional cases where a CO has not been issued at the time of exportation or within three working days from the date of shipment due to involuntary errors or omissions or other valid reasons, the CO may be issued retroactively but not later than nine months from the date of shipment.

11. In the event of theft, loss or destruction of a CO, the exporter or producer or their authorised representative may apply in writing to the Issuing Authority which issued it, for the certified true copy of the original on the basis of the export documents in their possession. The copy so issued shall bear the endorsement "CERTIFIED TRUE COPY" in Box 12 and bear the date of the original CO. The certified true copy of a CO shall be issued within the validity period of the original CO.

Presentation of CO

12. The original CO shall be submitted to the customs authority of the importing Party at the time of filing the import declaration for the goods concerned.

Validity of the CO

13. The following time limit for the presentation of the CO shall be observed:
- (a) the validity of the CO shall be twelve months from the date of its issuance;
 - (b) the CO shall be submitted to the customs authority of the importing Party within its validity period;
 - (c) where the CO is submitted to the relevant customs authority of the importing Party after the expiration of its validity period, such CO is still to be accepted when failure to observe the time limit results from *force majeure* or other valid reasons beyond the control of the exporter; and
 - (d) in all cases, the relevant customs authority in the importing Party may accept such CO provided that the goods have been imported before the expiry of the validity period of the said CO.

Discrepancies in the CO

14. (a) Where the origin of goods is not in doubt, the discovery of minor discrepancies between the statements made in the CO and those made in the documents submitted to the customs authority of the importing Party for the purpose of carrying out the formalities for importing the goods shall not *ipso facto* invalidate the CO, if it does in fact correspond to the said goods.

- (b) For multiple goods declared under the same CO, a problem encountered with one of the goods listed shall not affect or delay the granting of preferential tariff treatment and customs clearance of the remaining goods listed in that CO. Subparagraph (a)(iii) of paragraph 15 may be applied to the problematic items.

Origin Verification

- 15. (a) The importing Party may request a retroactive check at random or when it has reasonable doubt as to the authenticity of the CO or as to the accuracy of the information regarding the true origin of the good in question or of certain parts thereof. The Issuing Authority of the exporting Party shall conduct a retroactive check on producer's or exporter's cost statement based on the current cost and prices within a six-month timeframe, specified at the date of exportation subject to the following procedures:
 - (i) the request for a retroactive check shall be accompanied with the CO concerned and shall specify the reasons and any additional information suggesting that the particulars given on the said CO may be inaccurate, unless the retroactive check is requested on a random basis;
 - (ii) the Issuing Authority receiving a request for retroactive check shall respond to the request promptly and reply within three months after receipt of the request;
 - (iii) in case of reasonable doubt as to the authenticity or accuracy of the CO the customs authority of the importing Party may suspend provision of preferential tariff treatment while awaiting the result of verification. However, it may release the good to the importer subject to any administrative measures deemed necessary, provided that they are not held to be subject to import prohibition or restriction and there is no suspicion of fraud; and
 - (iv) the retroactive check process, including the actual process and the determination of whether the subject good is originating or not, should be completed and the result should be communicated to the importing Party within six months. While the process of the retroactive check is being undertaken, subparagraph (iii) shall be applied.
- (b) The customs authority of the importing Party may request an importer for information or documents relating to the origin of imported good in accordance with its domestic laws and regulations before requesting the retroactive check pursuant to paragraph (a).

16. (a) If the importing Party is not satisfied with the outcome of the retroactive check, it may, under exceptional circumstances, request verification visits to the premises of the exporter or producer in the territory of the exporting Party. Prior to conducting a verification visit:
- (i) an importing Party shall deliver a written notification of its intention to conduct the verification visit through a focal customs authority or any other appropriate authority simultaneously to the following:
 - (AA) the producer or the exporter whose premises are to be visited;
 - (BB) the Issuing Authority of the exporting Party;
 - (CC) the focal customs authority or any other appropriate authority of the exporting Party; and
 - (DD) the importer of the good subject to the verification visit;
 - (ii) the written notification mentioned in subparagraph (i) shall be as comprehensive as possible and shall include, among others:
 - (AA) the name of the focal customs authority or any other appropriate authority issuing the notification;
 - (BB) the name of the producer or the exporter whose premises are to be visited;
 - (CC) the proposed date of the verification visit;
 - (DD) the coverage, scope and purpose of the proposed verification visit, including reference to the good subject to the verification; and
 - (EE) the names and designation of the officials performing the verification visit;
 - (iii) the importing Party shall obtain the written consent of the producer or the exporter whose premises are to be visited;
 - (iv) when a written consent from the producer or the exporter is not obtained within thirty days from the date of receipt of the notification pursuant to subparagraph (i), the notifying Party may deny preferential tariff treatment to the good referred to in the said CO that would have been subject to the verification visit; and

- (v) the Issuing Authority receiving the notification may postpone the proposed verification visit and notify the importing Party of such intention within fifteen days from the date of receipt of the notification. Notwithstanding any postponement, any verification visit shall be carried out within sixty days from the date of such receipt, or such longer period as the Parties may agree.
- (b) The importing Party conducting the verification visit shall provide the producer or the exporter whose good is subject to the verification and the relevant Issuing Authority with a written determination of whether or not the subject good qualifies as an originating good.
- (c) The determination of whether the good qualifies as an originating good shall be notified to the producer or the exporter, and the relevant Issuing Authority. Any suspended preferential tariff treatment shall be reinstated upon such determination.
- (d) The producer or the exporter shall be allowed thirty days from the date of receipt of the written determination to provide in writing, comments or additional information, regarding the eligibility of the good for preferential tariff treatment. If the good is still found to be non-originating, the final written determination issued by the importing Party shall be communicated to the Issuing Authority within thirty days from the date of receipt of the comments or additional information from the producer or the exporter.
- (e) The verification visit process, including the actual visit and the determination of whether the subject good is originating or not, shall be carried out and its results communicated to the Issuing Authority within a maximum period of six months from the date when the verification visit was conducted. While the process of verification is being undertaken, subparagraph (a)(iii) of paragraph 15 shall be applied.

Record Keeping Requirement

- 17. (a) The application for CO and all documents related to such application shall be retained by the Issuing Authorities for not less than five years from the date of issuance.
- (b) A copy of the CO and all relevant documents shall be retained by the exporter [or producer] for not less than five years from the date of issue.
- (c) An importer, exporter or producer may choose to maintain records specified in subparagraphs (a) and (b), in any medium that allows for prompt retrieval, including, but not limited to, digital, electronic, optical, magnetic or hard copy.
- (d) Information relating to the validity of the CO shall be furnished upon request of the importing Party.

- (e) An importer, exporter or producer required to maintain documents related to origin pursuant to subparagraphs (a) and (b) shall make the documents available for inspection by an officer of the customs authority or Issuing Authority of a Party conducting a verification visit and shall provide facilities for inspection thereof.

Special Cases

18. When destination of all or parts of the goods exported to a specified port of a Party is changed, before or after their arrival in the importing Party, the following rules shall be observed:

- (a) If the goods have already been submitted to the customs authority in the specified importing Party, the CO shall, by a written application of the importer, be endorsed to this effect for all or parts of goods by the said authority and the original returned to the importer.
- (b) If the changing of destination occurs during transportation to the importing Party as specified in the CO, the exporter [or producer] shall apply in writing, accompanied with the issued CO, for issuance of new CO for all or parts of goods.

19. For the purpose of implementing subparagraph (b) of Article 3.8 (Direct Consignment) of Chapter 3 (Rules of Origin), where transportation is effected through the territory of one or more non-Parties, the following shall be produced to the customs authority of the importing Party:

- (a) a through bill of lading issued in the exporting Party;
- (b) a CO issued by the relevant Issuing Authority of the exporting Party;
- (c) a copy of the original commercial invoice in respect of the good; and
- (d) other, if any, relevant supporting documents in evidence that the requirements of subparagraph (b) of Article 3.8 (Direct Consignment) of Chapter 3 (Rules of Origin) are being complied with.

20. (a) Goods sent from an exporting Party for exhibition in another Party and sold during or after the exhibition into a Party shall benefit from the preferential tariff treatment under this Agreement on the condition that the goods meet the requirements of Chapter 3 (Rules of Origin) provided it is shown to the satisfaction of the relevant customs authority of the importing Party that:

- (i) an exporter has dispatched those goods from the territory of the exporting Party to the country where the exhibition is held and has exhibited them there;

- (ii) the exporter has sold the goods or transferred them to a consignee in the importing Party; and
 - (iii) the goods have been consigned during the exhibition or immediately thereafter to the importing Party in the state in which they were sent for exhibition.
- (b) For purposes of implementing the subparagraph (a), the CO must be produced to the relevant customs authority of the importing Party. The name and address of the exhibition must be indicated in the CO issued by the relevant Issuing Authority.
- (c) Subparagraph (a) shall apply to any exhibition, fair or similar show or display in the venue where the goods remain under customs control during these events.

Third Party Invoicing

21. The customs authority in the importing Party shall accept CO where the sales invoice is issued either by a business entity located in a non-Party or by an exporter for the account of the said business entity, provided that the good meets the requirements of Chapter 3 (Rules of Origin).

Action against Fraudulent Acts

- 22. (a) When it is suspected that fraudulent acts in connection with the CO have been committed, the Parties shall cooperate in the action to be taken in the territory of the respective Party against the persons involved.
- (b) Each Party shall be responsible for providing legal sanctions for fraudulent acts related to the CO.

Consultation

23. In the case of a dispute concerning the determination of origin, the Parties shall consult each other with a view to resolving the dispute, and the result shall be notified to the Parties.