



**Creating One African Market**

# **AfCFTA DRAFT RULES OF ORIGIN MANUAL**

**Version 1**

**July 2020**

## FOREWORD

1. The Manual on the application of the African Continental Free Trade Area (AfCFTA) Rules of Origin is a publication which 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. 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.
2. This Manual was developed with the technical inputs of the Technical Cooperation and Enhanced Integrated Framework Section of UNCTAD ALDC Division to enable uniform interpretation and application of the AfCFTA Rules of Origin in the State Parties. It is designed 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.
3. The Manual can be used both as an operational instrument and in training of Customs officers, Clearing Agents 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.
4. This Manual does not in any way override the AfCFTA Agreement, its Protocols, Annexes and Appendices. As such the AfCFTA legal instruments take precedence over this Manual.
5. The Manual is available on-line at the following website: [www.au.XXXXXX](http://www.au.XXXXXX) (to be inserted).

6. 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, XXXXXXXXXXXXX (to be inserted).

**Terms and Abbreviations used in this Manual**

<b>“AfCFTA ”</b>	means the African Continental Free Trade Area
<b>“Agreement”</b>	Means the Agreement establishing the African Continental Free Trade Area
ALDC	African Least Developed Countries
<b>“Approved Exporter”</b>	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
<b>“Certificate of Origin”</b>	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
<b>“Chapter”</b>	means the two-digit Chapter code used in the nomenclature which makes up the Harmonized System
<b>“FOB”</b>	
<b>“Classified”</b>	refers to the classification of a Product or Material under a particular Heading or Sub-heading of the Harmonized System;

<b>“Consignment”</b>	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;
<b>“Country of Origin”</b>	means the State Party in which the Goods have been Produced or manufactured, according to the criteria laid down in the Annex 2
<b>“Customs Authority”</b>	means the administrative authority responsible for administering Customs Laws in a State Party
<b>“Customs Value”</b>	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)
<b>“Designated Competent Authority”</b>	means a body or organisation designated by a State Party to issue Certificates of Origin
<b>“CTH”</b>	means Change in Tariff Heading
<b>“Exporter”</b>	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;
<b>“Ex-Works Price”</b>	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

<b>“Free Trade Area”</b>	means the territories of the State Parties of the African Continental Free Trade Area
<b>“Generally Accepted Accounting Principles (GAAPs)”</b>	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 <sup>1</sup>
<b>“Goods”</b>	means both Materials and Products
<b>“Heading”</b>	means the four-digit Headings used in the nomenclature which makes up the Harmonized System (Harmonised System)
<b>“HS”</b>	means the Harmonized Commodity Description and Coding System of the World Customs Organization;
<b>“Importer”</b>	means a person located in the territory of a State Party where Goods are imported by such a person;
<b>“Manufacture”</b>	means any kind of working or processing including assembly or specific operations
<b>“Materials”</b>	means any ingredient, raw material, component or part used in the Manufacture of a Product
<b>“MFN”</b>	means Most Favoured Nation
<b>“Non-originating Materials”</b>	means Materials the origin of which is unknown or Materials originating and imported from a country other than a State Party

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

<b>“Origin Declaration”</b>	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
<b>“Originating Materials”</b>	means Materials which have been produced in a State Party and meet the requirements of the AfCFTA Rules of Origin
<b>“Producer”</b>	includes a mining, manufacturing or agricultural enterprise or any other individual grower or craftsman who supplies Goods for export
<b>“Product”</b>	means the output of a manufacturing process, even if it is intended for later use in another manufacturing operation
<b>“Special Economic Arrangements/Zones”</b>	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
<b>State Parties</b>	‘ means a Member States that have ratified or acceded to this Agreement and for which the Agreement is in force
<b>“Sub-heading”</b>	means the six-digit code used in the nomenclature which makes up the Harmonized System
<b>“Proof of Origin”</b>	means the AfCFTA Certificate of Origin or Origin Declaration
<b>“Territory”</b>	means the State Party’s Territory including the territorial sea as defined under the UN Convention on the Law of the Sea 1982 (UNCLOS)
<b>UNCTAD</b>	United Nations Conference for Trade and Development

<p><b>“Value Added”</b></p>	<p>means the difference between the Ex-Works price of a finished Product and the Customs Value of the Material imported from outside the State Parties and used in the production<sup>2</sup></p>
<p><b>“Value of Materials”</b></p>	<p>means the Customs Value at the time of importation of the non-originating Materials used, or if this is not known and cannot be ascertained, the first ascertainable price paid for the Materials in any State Party.</p>
<p><b>“Third Party”</b></p>	<p>means any country other than a State Party</p>

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<sup>2</sup>This definition in an outstanding provision.

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## CHAPTER 1 - INTRODUCTION

### 1.1 Background

7. The 25<sup>th</sup> 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.
8. 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).
9. The AU Heads of State and Government at an Extra Ordinary Summit on 21<sup>st</sup> 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 1<sup>st</sup> – 2<sup>nd</sup> July 2018. Annex 2 to the Protocol on Trade in Goods is on the AfCFTA Rules of Origin.
10. **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 of General and Product Specific Rules assigned to HS Chapters, Headings and Sub-headings.
11. Article 13 of the AfCFTA Agreement 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”. 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. 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.

12. 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.

## **1.2 Scope**

13. 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 Manual**

14. The Manual is based on official texts of the Agreement establishing the AfCFTA, Protocol on Trade in Goods and Annex 2 on Rules of Origin and its Appendices but cannot be regarded as a substitute for these texts. It will therefore have to be used in conjunction with the above legal instruments. The Manual also contains examples which are meant to illustrate how the AfCFTA Rules of Origin system works in practice.
15. The purpose of this Manual is to:
  - Translate the AfCFTA Rules of Origin for practical application by State Parties;
  - Explain the basic origin criteria under the AfCFTA preferential trade regime;
  - Provide guidance on the procedures for the approval and registration of Exporters;
  - Provide guidance on the issuance of Proof of Origin;
  - Provide guidance on origin verification;
  - Give guidance on the organizational requirements for the effective implementation of the AfCFTA Rules of Origin

## **1.5 Product Coverage**

16. Goods 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.

## **1.6 Users**

17. 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.

# **CHAPTER 2 - AFRICAN CONTINENTAL FREE TRADE AREA RULES OF ORIGIN**

## **2.1 Purpose**

18. 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.

19. Goods that are not originating from the State Parties attract MFN tariff rates.

20. AfCFTA Rules of Origin are a set of criteria that is used to distinguish between Products that are produced within the AfCFTA and are eligible to preferential tariff treatment and those produced outside the AfCFTA that attract MFN tariff rates.

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

21. Article 13 of the Agreement establishing the AfCFTA provides that Products shall be accepted as eligible for preferential tariff treatment if they originate in State Parties. Such Products have to meet the criteria set out in Annex 2 on Rules of Origin.

22. The AfCFTA Rules of Origin provide under Article 4 the basic origin criteria to enable the Designated Competent Authorities in State Parties to determine which Products qualify as

originating in the AfCFTA. 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.

23. In terms of Article 6, Products which are not wholly obtained are considered to be sufficiently worked or processed when they fulfil one of the following criteria:

- (a) Value Added;
- (b) non-originating Material content;
- (c) change in tariff Heading; or
- (d) specific processes.

Products listed in Appendix IV of Annex 2 shall qualify as originating Products if they satisfy the General and Product Specific rules set out therein.

### **2.3 Steps to follow to find the origin criteria for Products traded under the AfCFTA**

24. To find the rules for a particular Product, the following steps should be followed:

#### **Step 1:**

25. Check whether the Product meets the AfCFTA requirements for a '*Wholly Obtained Product*' as set out in Article 5 of Annex 2 on Rules of Origin (refer to paragraph 2.4 below). If the Product does not meet these requirements, proceed to Step 2.

#### **Step 2:**

26. The Product should have undergone '*Sufficient Working or Processing*' by the criteria set out and satisfy the General or Product Specific rules set out in Appendix IV of Annex 2 on Rules of Origin. Details on the application of the Appendix IV are provided in paragraph 2.5 below.

### **2.4 Wholly Obtained Products (Article 5 of Annex 2)**

27. Products are regarded as wholly obtained in a 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<sup>3</sup> and any use of such Materials disqualifies the Products from being "wholly

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<sup>3</sup>Refer to the Tolerance Rule (Article XXX in Annex 2 on Rules of Origin) and similar tolerance

obtained". This criterion generally applies to the natural resources of a State Party and to Products made entirely from Materials obtained in a State Party. Article 5(1) contains a comprehensive list of such ~~goods~~ Products that are deemed to be wholly obtained in the State Parties:

- (a) mineral Products and other non-living natural resources extracted from the ground, sea bed, below sea bed and in the Territory of a State Party in accordance with the provisions of UNCLOS;
- (b) plants, including aquatic plants and plant Products, vegetables and fruits, grown or harvested therein;
- (c) live animals born and raised therein;
- (d) Products obtained from live animals raised therein;
- (e) Products from slaughtered animals born and raised therein;
- (f) Products obtained by hunting and fishing conducted therein;
- (g) Products of aquaculture including mariculture, where the fish, crustaceans, molluscs and other aquatic invertebrates are born and or raised therein from eggs, larvae, fry or fingerlings born or raised therein;
- (h) Products of sea fishing and other Products taken from the sea outside the Territory of a State Party by their Vessels;
  - (i) Products made aboard their Factory Ships exclusively from Products referred to in subparagraph (h);
  - (j) used articles fit only for the recovery of Materials, provided that such articles have been collected therein;
  - (k) scrap and waste resulting from manufacturing operations therein;
  - (l) Products extracted from marine soil or sub-soil outside their territorial waters provided that it has sole rights to work that soil or sub-soil;

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provisions in some Chapters of the HS that allows incorporation of non-originating Materials not exceeding a specified level. See also paragraph 2.5.3.2.

Goods produced therein exclusively from the Products specified in subparagraphs (a) to (l); and

(m) electric energy produced therein.

**28. 2.4.2** Rules of origin qualifying conditions for fish and other Products taken from the high seas (paragraphs 1 (h) and (i) of Article 5).

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):

**Proposal 1**

29. *[The terms "their vessels" and "their factory ships" in paragraph 1(h) and 1(i) shall apply only to vessels, leased vessels, bare boat and factory ships which are registered in a State Party in accordance with the national laws of a State Party and carry the flag of the State Party and, in addition, meet one of the following conditions:*

- a) at least, 50 per centum of the officers of the vessel or factory ship are nationals of the State Party or State Parties; or*
- b) at least, 40 per centum of the crew of the vessel or factory ship are nationals of the State Party or State Parties; or*
- c) at least, 50 per centum of the equity holding in respect of the vessel or factory ship are held by nationals of the State Party or State Parties or institutions, agency, enterprise or corporation of the government of the State Party or State Parties.*

30. *New Proposal 2: [The terms "their vessels" and "their factory ships" in paragraph 1(h) and 1(i) shall apply only to vessels, leased vessels, bare boat and factory ships which are registered in a State Party in accordance with the national laws of a State Party and meet one of the following conditions:*

- (a) the vessel sails under the flag of a State Party; or*
- (b) at least, 50 per centum of the officers of the vessel or factory ship are nationals of the States Party or State Parties; or*



- (c) at least, 50 per centum of the crew of the vessel or factory ship are nationals of the State Party or States Parties; or
- (d) at least, [50/51] per centum of the equity holding in respect of the vessel or factory ship are held by nationals of the State Party or State Parties or institutions, agency, enterprise or corporation of the government of the State Party or State Parties]<sup>4</sup>.

#### **Box 1: Examples of Products wholly obtained in State Parties**

- i. Gold mined in South Africa is wholly obtained because it is extracted in the soils of South Africa.
- ii. Maize harvested in Kenya is wholly obtained even if the maize seed planted was originally imported from, say, Argentina.
- iii. Hides obtained from cattle that are born and raised and slaughtered in Chad are regarded as wholly obtained in Chad.
- iv. Fish caught in the Exclusive Economic Zone (EEZ) of Senegal are regarded as wholly obtained in Senegal.
- v. Copper recovered in Guinea from scrap electrical wire is wholly obtained in Guinea, 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.

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

31. According to paragraph 1 of Article 6(1), Products which are not wholly obtained are considered to be sufficiently worked or processed when they fulfil one of the following criteria:
- (a) Value Added;
  - (b) Non-originating Material content;
  - (c) Change in tariff Heading; or
  - (d) Specific processes.

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<sup>4</sup>This Sub-Article is an outstanding provision.

(e) Change in Tariff Sub-heading.

Change in Tariff Sub-heading will be used as a criterion since its inclusion has been adopted by AMOT.

Paragraph 2 of Article 6 states that: *"Notwithstanding Article 6(1), Goods listed in Appendix IV shall qualify as originating Goods if they satisfy the specific rules set out therein."*

32. 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.

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.

33. 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.

### 2.5.3 Examples to illustrate the concept of sufficient working or processing:

NOTE: These examples should be updated.

#### 34. Working or processing of certain wholly obtained Materials:

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

Chapter 2	Meat and edible meat offal	Manufacture in which all the Materials of Chapter 1 and 2 used must be wholly obtained
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**Explanation:**

35. This example shows that meat and meat offal of Chapter 2 of the HS can qualify as originating in a State Party only if it is wholly obtained. That is, it must be obtained from slaughtered animals that are born and raised in a State Party. The rule also allows for the use of any other non-originating materials of other Headings other than Chapter 1 and 2.
36. **Working or processing where the value of all the Non-originating Materials used in manufacture does not exceed a certain maximum threshold (Import Material content):**

*It is necessary in this case for the value of the non-originating Materials not to exceed a particular percentage of the Ex-Works price 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
87.08  Example to be replaced	Parts and accessories of the motor vehicles of headings 87.01 to 87.05:	Manufacture in which the value of all the Materials used does not exceed X % of the Ex-Works price of the product

**Explanation:**

37. In this example, Parts and accessories of the motor vehicles of headings 8708 can qualify as originating in a State Party if the value of the materials imported from outside the AFTA (defined as Third Parties in the AFTA Agreement) and used in producing these parts and accessories of motor vehicles does not exceed X% of the *Ex-Works price* of the final Products. This means that the value of originating materials and the working or processing carried out in a State Party, including the production costs and profit, must account for at least X% of the *Ex-Works price* of the finished Product. In other words the Value Added in a State Party is not less than X% of the finished Product.

**Points to note when applying the material content criterion:**

- (a) 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.
- (b) 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.
- (c) Materials whose origin is unknown are considered as “non-originating” for purposes of calculating the value of non-originating Materials.
- (d) Wages paid to operatives responsible for the Manufacture of Goods include wage-related benefits incurred in connection with the process of Manufacture.
- (e) In terms of Article XXX 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.
- (f) Formula for determining the value of non-originating Materials shall be expressed in percentage (%):

$$\text{Value of non-originating Materials} = \frac{(\text{VNOM} + \text{VMUO}) \times 100}{\text{Ex-Works Price}}$$

Ex-Works Price

**Where:**

VNOM - value of non-originating Materials;

VMUO- value of Materials of unknown origin; and

The Ex-Works price shall be calculated as provided below.

**Calculation of the Ex-Works price:**

38. 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:

(a) 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:

(i) 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:

(ii) duties, taxes and customs brokerage fees on the Material paid in the territory of a State Party; and

(iii) the cost of originating Materials used in the production of the non-originating Material in the territory of a State Party.

(b) 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.

1. 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
- (c) The cost of factory overhead as represented by:
- (i) rent, rates and insurances charges directly attributed to the factory;
  - (ii) indirect labour charges, including salaries paid to the factory managers, wages paid to foremen, examiners and testers of the goods.
  - (iii) power, light, water and other service charges directly attributed to the cost of manufacture of the goods;
  - (iv) consumable stores, including minor tools, grease, oil and other incidental items and Materials used in the manufacture of the goods; and
  - (v) depreciation and maintenance of factory buildings, plant machinery, tools and other items used in the Manufacture of the Goods; and others.

39. 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:

- (a) Administration expenses represented by:
  - (i) office expenses, office rent and salaries paid to accountants, clerk's manager and other executive personnel.
  - (ii) directors fees other than salaries paid to directors who act in the capacity of factory managers;
  - (iii) statistical and costing expenses in respect of manufactured goods; and
  - (iv) investigation and experimental expenses;

- (b) Selling expenses represented by:
  - (i) the cost of soliciting and securing of orders, including expenses such as advertising charges and agents or salespersons' commissions or salaries; and
  - (ii) expenses incurred in the making of design, estimates and tenders;
- (c) Distribution expenses, represented by all the expenditure incurred after the Goods have left the factory, including:
  - (i) The cost of any Material and payments of wages incurred in the packaging of the Goods for export;
  - (ii) warehousing expenses incurred in the storage of the finished Goods; and
  - (iii) the cost of transporting the Goods to their destination;
- (d) Charges not directly attributed to the Manufacturer of the Goods represented by:
  - (i) any customs duty and other duties and charges of equivalent effect paid on the imported raw materials;
  - (ii) any excise duty paid on raw Materials produced in the State Party where the finished Goods are manufactured;
  - (iii) any other indirect taxes paid on the manufactured Products;
  - (iv) any royalties paid in respect of patents, special machinery or designs; and
  - (v) finance charges related to working capital.

Example:

40. 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	<b>48</b>

**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”.*

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	10 48 = 21%

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

Explanation:

41. 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 5%**, therefore enabling the vacuum cleaner to qualify as originating in AIF/FTA 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.

**3. Working or processing where there is a change in tariff Heading (CTH) or Sub-heading (CTSH)**

**42. 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:

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

**44. Working or processing where there is a change in tariff Sub-heading (CTSH)**

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:

45. 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.

**46. A specific working or processing operation is carried out**

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

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

47. 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.

**48. Application of alternative rules:**

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

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

Explanation:

First option:

49. 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.

Second option:

50. 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.

Third option:

51. 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:

- (a) dissolution in water or in other solvents;
- (b) the elimination of solvents including solvent water; or
- (c) the addition or elimination of water of crystallization

52. *Cases where there are more than one criterion is indicated in Column 3 for a Product (Combination of criteria).*

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:		
<b>HS Heading</b>	<b>Description of the product</b>	<b>Origin Criteria (Working or processing carried out on non-originating materials that confers originating status)</b>
<b>1</b>	<b>2</b>	<b>3</b>
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:

53. 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.

### 2.5.2.1 Absorption Principle

54. 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:

- the value of the non-originating Materials contained in intermediate products which acquire originating status is disregarded in the calculation of the value added;
- the non-originating parts contained in intermediate products are not considered for the determination of origin under a change of tariff Heading rule; or
- 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.

#### 55. Box 2: Example of application of absorption principle:

Under the Tolerance Rule, Goods that do not completely satisfy the origin criteria in Appendix IV of Annex 2 on Rules of Origin can qualify as originating if they meet the following conditions

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.

### 2.5.2.2 Tolerance Rule

56. for most Goods, the tolerance is [15%] of the Ex-Works price of the finished Product; and for Products falling within Chapters 50 to 63 and 87 of the HS, the value tolerance levels vary and these have been provided in the Introductory Notes in Appendix IV of Annex 2 on Rules of Origin.

#### 57. Example:

HS Heading	Description of the product	Working or processing carried out on non-originating Materials that confers originating status)
1	2	3
Chapter 12	Oil seeds and oleaginous fruits; miscellaneous grains, seeds and fruit; industrial or medical plants; straw and fodder.	Manufacture in which all Materials of this Chapter used must be wholly obtained

#### Example:

Product: Lucerne pellets of HS heading: 12.14

Applicable General Chapter Rule: Manufacture in which all materials of this Chapter (Chapter 12) used must be wholly obtained.

#### Explanation:

58. However, in this case, a Producer can use non-originating lucerne up to X% of the Ex-Works price of the finished Product and process it together with lucerne that is wholly obtained in a State Party as well as other Materials to make the Lucerne pellets. The finished Product (lucerne pellets) will be regarded as originating in a State Party. This is despite the rule stating

that the Materials of Chapter 12 used must be wholly obtained. The use of the non-originating lucerne (up to X% of the Ex-Works price of the finished Product) does not disqualify the lucerne pellets from being regarded as originating Products in the AfCFTA.

**NOTE:**

*This part will be completed once there is consensus on the tolerance to be granted on textiles and textile products (Chapters 50 to 63) and Chapter 87 once these are negotiated and agreed upon.*

**2.6 How to apply Appendix IV of Annex 2 on Rules of Origin**

59. 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.

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

**Step 1:**



60. 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:**

61. 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:**

62. 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.

63. 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:**

<b>HS Heading</b>	<b>Description of the Product</b>	<b>Working or processing carried out on non-originating Materials that confers originating status</b>
<b>1</b>	<b>2</b>	<b>3</b>
Ex- CHAPTER 40	Rubber and Articles Thereof	Manufacture from Materials of any Heading other than that of the Product Or

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

64. 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.

65. 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:**

66. 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).

## 2.7 Working or Processing not Conferring Origin [Article 7 of Annex 2]

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 (k) 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:

- (a) operations exclusively intended to preserve Products in good condition during storage and transportation;
- (b) breaking-up or assembly of packages;
- (c) washing, cleaning or operations to remove dust, oxide, oil, paint or other coverings from a Product;
- (d) simple ironing or pressing operations;
- (e) simple painting or polishing operations;
- (f) husking, partial or total bleaching, polishing or glazing of cereals and rice;
- (g) operations to colour sugar or form sugar lumps, partial or total milling of crystal sugar;
- (h) peeling, stoning or shelling of vegetables of Chapter 7, fruits of Chapter 8, nuts of Heading 08.01 or 08.02 or groundnuts of Heading 12.02, fruits, nuts or vegetables;
- (i) sharpening, simple grinding or simple cutting;
- (j) simple sifting, screening, sorting, classifying, grading or matching;
- (k) simple packaging operations, such as placing in bottles, cans, flasks, bags, cases, boxes or fixing on cards or boards;

- (l) affixing or printing marks, labels, logos, and other like distinguishing signs on the Products or their packaging;
- (m) simple mixing of Materials, whether or not of different kinds; which does not include an operation that causes a chemical reaction;
- (n) simple assembling of parts of articles to constitute a complete article;
- (o) a combination of two or more operations specified in sub-paragraphs (a) to (n); and
- (p) slaughter of animals.

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:**

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 [Country of origin](#).

**2.8 Cumulation of Origin within the AfCFTA [Article 8 of Annex 2]**

71. Article 8(2) provides [diagonal 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 **full 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.

**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.

**commercial document accompanying the Goods.**

76. The evidence of originating status of semi-finished Products within a State Party is given by means of a Supplier /Producer's Declaration. *For example, Company A in State Party X imports Materials from a Third Party and makes an intermediate Product which is used by Company B in the same State Party X to make a final Product for export to another State Party Y. The movement of Products from Company A to Company B will be supported by a Supplier's /Producer's Declaration.*

**2.9 Unit of Qualification (Article 10 of Annex 2)**

77. 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 in the same way they are treated for purposes of determining their origin.

78. 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.

**79. 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.

80. 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.

**2.12 Treatment of Packing (Article 11 of Annex 2)**

81. 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.

82. 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.

83. 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.

84. 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.

### **2.13 Separation of Materials (Article 12 of Annex 2)**

85. 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)).

86. 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.

87. 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.

#### **88. Box 6: Example of application of Article 12**

Company X, a manufacturer of wooden furniture based in ESwatini imports 2,000 steel nails from China on 15 April 20xx. On 25 April 20xx Company X buys 1,000 originating nails of the same type from a company in ESwatini and these are intermingled at Company X's warehouse. If Company X elects FIFO method, the first 1,000 nails used to fill an order are considered of ESwatini origin, regardless of their actual origin.

### **2.14 Accessories, Spare Parts and Tools (Article 13 of Annex 2)**

89. 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.

90. 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.

#### 2.15 Sets (Article 14 of Annex 2)

91. 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 X% 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.

#### Box 7: Example of application of Article 14

#### 2.16 Neutral Elements [Article 15 of Annex 2]:

92. 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.

#### 93. 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



## **2.17 Principle of Territoriality [Article 16 of Annex 2]**

94. 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.
95. 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
- (a) 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
  - (b) remains under customs control while outside the territories of the State Parties.
96. 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.
97. 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:
- (a) is the same as that which was exported; and
  - (b) has not undergone any operation beyond that which was necessary to preserve it in good condition.

## **2.18 Direct Transportation (Article 30 of Annex 2)**

98. 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:

- (a) a single transport document covering the passage through the State Party or transit;  
or
- (b) a certificate issued by the Customs or Designated Competent Authorities of the State Party of transit:
  - (i) giving an exact description of the Products;
  - (ii) 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
  - (iii) certifying the conditions under which the Products remained in the transit State Party; or
- (c) failing these, any substantiating documents.

Originating Products may be transported by pipeline across Territories other than those of the State Parties acting as exporting and importing State Parties.

## **2.19 Treatment of Goods sent for Fairs or Exhibitions (Article 29 of Annex 2)**

99. Products that originate in a State Party which are sent for public exhibition at any trade, industrial, agricultural or crafts exhibition, fair or similar public show or display in a State Party and are sold may be granted preferential treatment when imported into another State Party, provided that there is a satisfactory proof to the Customs Authorities that:

- (a) an Exporter has shipped the Products from the State Party to another State Party of the fair or exhibition and has exhibited same therein;
- (b) the Products have been sold or otherwise disposed of by that Exporter to a person in the State Party;
- (c) the Products have been consigned during the fair or exhibition or immediately thereafter in the State Party in which they were sent for fairs and exhibitions; and

(d) that from the time they were shipped for fairs or exhibitions, the Products were not used for purposes other than for display at that fair or exhibition.

100. A/CFTA Certificates of Origin will normally be issued retrospectively and must be issued or made out in accordance with the provisions of Part III of the Annex 2 and submitted under normal conditions to the Customs Authorities of the importing State Party. The name and the address of the fair or exhibition must be indicated.

NOTE:

101. Products purchased at private exhibitions or business premises, and for the purpose of selling foreign Products, do not qualify for such preferential tariff treatment when imported into a State Party.

#### **2.20 Treatment of non-commercial Goods (Article 28)**

102. The following Goods, shall be admitted as originating Products and can benefit from preferential tariff treatment but are exempted from proof of origin.:

(i) Products sent as small packages from private persons to private persons within the A/CFTA region valued at USD500 or less or forming part of travellers' personal luggage, for personal use, valued at USD1,200 or less; 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.

This concession applies to movements within the A/CFTA region.

#### **2.21 Treatment of Goods produced in Special Economic Arrangements / Zones (Article 9 of Annex 2)**

103. 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.

104. 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:

105. 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>5</sup>.

## **CHAPTER 3 - ADMINISTRATION AND ENFORCEMENT OF THE AfCFTA RULES OF ORIGIN**

### **3.1 Introduction**

106. For the effective administration of the AfCFTA preferential trade regime, common administrative procedures shall apply in the State Parties. This will ensure that only Goods originating in the AfCFTA region benefit from preferential tariff treatment.

### **3.2 Procedures in the exporting State Party**

#### **3.2.1 Registration of Exporters**

107. Exporters wishing to export Goods under the AfCFTA preferential tariff regime should be registered with the relevant Designated Competent Authority in the State Party where they operate from. Registration of an Exporter of AfCFTA originating products is only an aid to the clearance of the Goods and does not entitle the Goods to the automatic granting of preferential tariff treatment in the importing State Party. Normal Customs procedures must be completed and all requirements satisfied. Potential Exporters under the AfCFTA trade regime are required to register by submitting a written application to the Designated Competent Authority. Such an application should be submitted well in advance before any intended export is undertaken.

Minimum Requirements:

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<sup>5</sup>This Article is an outstanding provision.

(a) Exporters wishing to be registered as Exporters should submit a written application together with supporting evidence to the Designated Competent Authority. Such supporting evidence may include, but not limited to the following:

- (i) direct evidence of the processes carried out by the Producer, of the Goods concerned, contained for example in his accounts or internal bookkeeping;
- (ii) documents proving the originating status of Materials used, issued or made out in a State Party;
- (iii) documents proving the working or processing of Materials in the State Party;
- (iv) Proof of Origin proving the originating status of Materials used, issued or made out in the State Party and in accordance with Appendix IV on AfCFTA Rules of origin; and
- (v) any other supporting documents as requested by the Designated Competent Authority.

(b) Upon registration an Exporter shall be issued with a letter of approval and a registration number.

### **3.2.2 What an Exporter should do to obtain an AfCFTA Certificate of Origin**

108. An Exporter intending to export Products to another State Party and desiring to have such Products granted AfCFTA preferential tariff treatment in the importing State Party must obtain a Certificate of Origin (specimen provided in Appendix I of Annex 2 on Rules of Origin) from the Designated Competent Authority in his State Party. The Certificate, when presented by the importer to the Customs Authorities in the importing State Party will serve as evidence of the originating status and enable the Products to be accorded the AfCFTA preferential tariff treatment that is being sought.
109. In order to obtain an AfCFTA Certificate of Origin, the Exporter or his authorized representative must fill out the Certificate of Origin as an application form (Appendix 1) and, at the request of the Designated Competent Authority, present evidence that the Goods

Products have been produced in conformity with the conditions specified in Article 4 of Annex 2 on Rules of Origin, as well as the fulfilment of the other requirements specified in Annex 2.

110. Supporting documents, to be submitted to the Designated Competent Authority as evidence that Products are originating may include documents relating to the following:

- (a) production processes carried out on the originating Product or on Materials used in the production of that Product;
  - (b) purchase, cost, value of and payment for the Product;
  - (c) origin, purchase, cost, value of and payment for all Materials, including neutral elements, used in the production of the Product;
  - (d) shipment of the Product; and
  - (e) any other documents that the Designated Competent Authority may consider necessary.
- (f) An Exporter who has been registered as Exporter by the Designated Competent Authority of a State Party should do the following:

- (i) Ensure that the Product(s) for which he is seeking a Certificate of Origin have been approved, as per his letter of approval.
- (ii) Complete a Certificate of Origin for each shipment based on his letter of approval issued by the Designated Competent Authority.
- (iii) Quote his registration number in the appropriate box of the Certificate of Origin.
- (iv) Attach the Certificate of Origin to the export declaration.
- (v) The export declaration, together with the Certificate of Origin and other supporting documents should be submitted to the Designated Competent Authority for authorisation of the export in accordance with the national laws or procedures of the exporting State Party.

### **3.2.3 Action to be taken if the Exporter is not the Producer of the Goods**

111. (a) Where the Goods have been produced by a company or enterprise that is not the Exporter who is seeking the Certificate of Origin, then the Exporter must obtain from the supplier or Producer a declaration in the form and containing the information indicated in Appendix III of Annex 2 on Rules of Origin concerning the specific origin rule laid down in

Appendix IV on AfCFTA Rules of Origin which has been complied with in respect of the Goods being exported.

112. (b) The Supplier's or Producer's Declaration is a formal document which should be printed on a company letterhead, where the name and address of the declaring company is clearly identifiable. A readable stamp stating the name and address of the company making the declaration may be used.
113. (c) The person signing the declaration should have sufficient knowledge on AfCFTA Rules of Origin and should be authorized to sign on behalf of the company.
114. (d) The Exporter should satisfy himself that the information furnished by the supplier or Producer is true and correct and that on the basis of that information he can properly request the issuance of an AfCFTA Certificate of Origin.

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

115. (a) 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.
116. (b) 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 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.
117. (c) Any unused spaces on the form should be crossed out in such a manner as to prevent any subsequent addition.
118. (d) The Certificate of Origin must be completed as follows:

#### *Box 1*

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.

In addition, the Exporter's registration number should be inserted, where applicable.

#### **Box 2**

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

121. *Box 3*

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"

122. *Box 4*

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.

123. *Box 5*

- a) Enter identifying marks and numbers on the packages against each Good being exported.
- b) If the packages are not marked, state "No Marks and Numbers" or "As Addressed".
- c) For Goods in bulk that are not packed, insert "In Bulk".
- d) The quantity stated must agree with the quantities on the invoice.
- e) Where both originating and non-originating Goods are packed together, describe only the originating Goods and add at the end "Part Contents Only".

124. **Box 6**

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

125. **Box 7**

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

126. *Box 8*



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

**127. Box 9**

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

**128. Box 10**

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

**129. Box 11**

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

**130. Box 12**

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))
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)

131. **Box 13**

- a) 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.
- b) 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.

132. *Box 14*

This must be filled by the Designated Competent Authority in the State Party of export.

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.

133. *Box 15*

The Customs Officer at the port of clearance or exit must insert the export document number, date and office of clearance as provided.

134. *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.

### **3.2.6 Procedures for processing the AfCFTA Certificate of Origin**

135. The Certificate of Origin furnished by an Exporter claiming that the Products being exported by him are eligible for preferential tariff treatment must be issued by the Designated Competent Authority of the exporting State Party, for the Products are to be accepted by the importing State Party as originating in a State Party.
136. The Designated Competent Authority shall verify the originating status of the Products and the fulfilment of the other requirements of the Annex 2. It shall have a right to call for any verification considered appropriate. The customs or Designated Competent Authority shall ensure the application form is duly completed.
137. A Certificate of Origin shall be issued and made available to the Exporter, to the best possible extent, before actual exportation had been effected.
138. The Designated Competent Authority will process the Certificate of Origin as follows:
- (i) Ensure that the Certificate of Origin form has been completed in triplicate and meets the specifications in paragraph 3.2.5;
  - (ii) Confirm that Product meets the requirements of the AfCFTA Rules of Origin;
  - (iii) Confirm that the Exporter's registration authorisation number has been entered in the appropriate box, i.e. on the top right hand corner of the Certificate in the space "Ref. No...."
  - (iv) Compare the particulars entered in the Certificate with those in the commercial invoice;
  - (v) If everything is in order, stamp and sign the Certificate in Box 14.
139. The stamp to be used is the one whose impression has been circulated to other State Parties. Similarly, the official signing the certificate should have had his name and signature circulated to other State Parties.
140. Distribution of the Certificate of Origin:

- (i) Original copy should be returned to the Exporter for onward transmission to the importer in the importing State Party to which the Goods are consigned to enable the importer to complete the necessary documents for entry of the Goods.
- (ii) Duplicate copy should be retained by the Designated Competent Authority.
- (iii) Triplicate copy should be returned to the Exporter for his records.

### **3.2.7 AfCFTA Certificate of Origin issued retrospectively**

141. A Certificates of Origin may, in exceptional circumstances be issued after exportation of the Products if it is demonstrated to the satisfaction of the Designated Competent Authority that the Certificate was not issued at the time of exportation because of errors or involuntary omissions or special circumstances. When such a certificate is issued retrospectively the inscription '**ISSUED RETROSPECTIVELY**' shall be inserted in Box 3 of the Certificate of Origin.
142. Goods which comply with the provisions of Annex 2 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 Annex 2 subject to submission, within six 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 Annex 2.

### **3.2.8 Duplicate AfCFTA Certificates of Origin**

143. A duplicate Certificate may be issued where the original has been lost, stolen or destroyed. The Certificate shall be made on the basis of the export documentation in possession of the Designated Competent Authority at the place where the Goods were entered for export. The inscription "**DUPLICATE**" shall be inserted in Box 3 of the Certificate when such Certificate is issued. The Exporter shall apply for a duplicate certificate in writing to the Designated Competent Authority where the original Certificate was issued and give reasons why a duplicate is required and also provide the number and date of the original Certificate, as may be available.

### **3.2.9 Replacement AfCFTA Certificate of Origin**

144. Where AfCFTA originating Goods are placed under the control of a Customs Authority in one of the State Parties, it shall be possible to replace the original Proof of Origin with one or more Certificates of Origin for the purpose of sending all or some of these Goods elsewhere within the AfCFTA. The replacement Certificate of Origin shall consequently be delivered to the Customs Authority under whose control the Goods are placed.
145. The replacement AfCFTA Certificate of Origin shall be regarded as the definitive Certificate of Origin for the products Goods to which it refers. The replacement certificate shall be made out on the basis of a written request by the re-exporter.
- The inscription "REPLACEMENT" shall be inserted in Box 3 of the Certificate when such Certificate is issued.
146. A photocopy of the original certificate should be attached to the replacement certificate.
147. The Original Certificate of Origin issued by the first exporting country and other relevant documentary evidence together with the office copy of the replacement AfCFTA Certificate of Origin shall be preserved, by the Designated Competent Authorities of the second exporting State Party for at least five years.
148. This procedure should be followed irrespective of whether the Goods in question will be used in further manufacture or not.

### 3.2.10 Approved Exporters

149. The AfCFTA Rules of Origin also provide for the use of simplified procedures for the issue of origin certification in the form of an **Origin Declaration** (worded as indicated in **Appendix II** of Annex 2 on Rules of Origin), made on an Exporter' commercial documents instead of using AfCFTA Certificate of Origin forms. Authorisation of an Approved Exporter of AfCFTA originating Products is only an aid to the clearance of the Products and does not entitle the Products to the automatic granting of preferential tariff rates in the importing State Party. Normal Customs procedures must be completed, and all requirements satisfied.
150. Designated Competent Authorities can extend use of the simplified procedure to Producers or traders who apply in writing for "Approved Exporter" status. What Designated Competent Authorities may consider when granting "**Approved Exporter**" status:
- (i) how frequently the Exporter exports originating goods Products to other State Parties; e.g. 10 times per week, etc.;

- (ii) applicant's knowledge of the AfCFTA Rules of origin;
- (iii) applicant's ability to provide evidence to support the origin status of ~~goods~~ Products exported and compliance with other requirements of Annex 2;
- (iv) applicant's compliance record with customs laws;
- (v) applicant's ability to meet his obligations placed upon him by the Customs Designated Competent Authority.

151. Obligations of an Approved Exporter:

The Exporter is expected to:

- (i) issue Origin Declarations only for ~~goods~~ Products that qualify as originating in the State Party
- (ii) be responsible for the way the authorisation is used and not to misuse the Approved Exporter status;
- (iii) ensure that the company representative responsible for completing Origin Declarations has knowledge of and understands the AfCFTA Rules of Origin;
- (iv) produce Proof of Origin to the Customs Designated Competent Authorities and allow them to carry out their inspections at any reasonable time.

152. Obligations and Rights of Designated Competent Authorities include:

- (i) to regularly monitor the Approved Exporter;
- (ii) may revoke and withdraw Approved Exporter status;
- (iii) may withdraw Approved Exporter status when the Approved Exporter no longer provides guarantees for verifying originating status of Products, no longer fulfils the given conditions or otherwise makes improper use of authorisation.
- (iv) Send the following details of Approved Exporters to the AfCFTA Secretariat for inclusion in the database of registered Approved Exporters:

- Name of Approved Exporter;
- Location: e.g. Niamey, Niger
- Authorisation number: e.g. SP/AE/XX/YYYY

Where:

SP - is the alpha code of the State Party (i.e. UG-Uganda)

AE – stands for Approved Exporter

XX – the registration number for the company granted

Approved Exporter status

YYYY – Year of registration e.g. 2019

- Approved originating Products: e.g. bicycles – HS heading 87.12
- Contact person representing the Approved Exporter: e.g. Mr Another Day (Exports Manager)

NOTE:

153. An Origin Declaration may be made out by any Exporter, besides an Approved Exporter, for any Consignment consisting of one or more packages containing originating Products whose total value does not exceed five thousand (\$5000) US Dollars.

### 3.2.11 Completion of the Origin Declaration

154. An Approved Exporter should always take note of the following points when completing the Origin Declaration:

- (a) An Origin Declaration may be made out if the Products concerned can be considered as originating and fulfil other requirements of Appendix IV of Annex 2 on Rules of Origin.
- (b) The Exporter must submit at any time, at the request of the Designated Competent Authority, all appropriate documents proving originating status of the Products and fulfilment of other requirements of Annex 2 on Rules of Origin.
- (c) That an Origin Declaration may be made out on any commercial document, e.g. invoice, delivery note, etc.
- (d) The declaration must be worded as indicated in **Appendix II** of Annex 2 on Rules of Origin.
- (e) The declaration must bear the original signature of the Approved Exporter or of the authorized representative.
- (f) 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.
- (g) An Origin Declaration may be made out on the reverse side of an invoice or on a separate page of the invoice provided that the page is part of the invoice.
  - (h) An Origin Declaration given on a delivery note or any other commercial document must clearly identify the Approved Exporter.

### **3.2.12 Procedures for processing exports made by “Approved Exporters”**

- 155. Ensure that the Origin Declaration has been completed in line with Appendix II of Annex 2 on Rules of Origin and it is on an original commercial document which should be submitted in triplicate.
- 156. Confirm that Product meets the requirements of the AfCFTA Rules of Origin as per Exporter’s authorisation.
- 157. Confirm that the Approved Exporter’s ~~registration~~ authorisation number is correct and has been entered in the appropriate space on the declaration.
- 158. Ensure that the declaration has been signed by an authorised signatory.
- 159. If everything is in order, stamp and sign the commercial document.
- 160. Retain a copy of the stamped and signed commercial document.

### **3. Information and Procedure for Cumulation Purposes**

- 161. For purposes of paragraph 2 of Article 8 of Annex 2, 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 Annex 2.
- 162. For purposes of paragraph 3 of Article 8 of Annex 2, 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 Annex 2.
- 163. A Certificate of Origin issued pursuant to Article 8 of Annex 2 shall be endorsed with the word: “CUMULATION.”
- 164. The endorsement referred to in paragraph 3 shall be inserted in Box 3 of the Certificate of Origin.

### **3.2.13 Validity of Proof of Origin**



165. The AfCFTA Certificate of Origin or Origin Declaration must be submitted to the Customs Authorities of the importing State Party within twelve (12 months) from the date of issue by the Designated Competent Authority of the exporting State Party.

166. The Customs Authorities in the importing State Party may accept the AfCFTA Certificate of Origin or Origin Declaration after the twelve months validity period has expired where the failure to observe the time limit is due to exceptional circumstances.

#### **3.2.14 Period of retention of documents**

167. Persons and firms engaged in intra- AfCFTA trade shall keep adequate records so that they can justify any statement or other information supplied in connection with any consignment of Goods for which AfCFTA preferential tariff treatment is being or, has been, claimed. Such persons are under legal obligation in terms of Article 32 of Annex 2 on Rules of Origin to keep and produce any records on imports or exports for a period of at least five (5) years.

(a) 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 (Article 22 of Annex 2) for at least five (5) years after the completion of the application.

(b) 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.

(c) The Designated Competent Authorities in the exporting State Party should also retain copies of Certificates of Origin and other related documentary evidence issued and accepted in respect of Goods traded under the AfCFTA Agreement for a minimum period of five (5) years.

(d) The Designated Competent Authorities in the importing State Party should also retain copies of Proof of Origin and other related documentary evidence accepted in respect of Goods traded under the AfCFTA Agreement for a minimum period of five (5) years.

#### **NOTE:**

168. A State Party may deny preferential tariff treatment to a Product that is the subject of an origin verification when the importer, Exporter, or Producer of the Product that is required to maintain records or documentation:

- (a) fails to maintain records or documentation relevant to determining the origin of the Product in accordance with the requirements of this Annex; or
- (b) denies access to those records or documentation.

### **3.2.15 Furnishing details of authorized signatories and Approved Exporters**

169. State Parties shall cooperate in the uniform administration and interpretation of Annex 2 on Rules of Origin and, through their Designated Competent Authorities, assist each other in verifying the origin of the Products on which a Certificate of Origin is based.
170. The Designated Competent Authorities of the State Parties shall, through the AfCFTA Secretariat, exchange their respective addresses lists of the names and specimens of the stamps and signatures of officials authorized to sign the Certificates of Origin. This information should be kept up-to-date by promptly notifying any changes to the original notifications, which had been made.
- ~~171.~~ In addition to the above, State Parties shall notify each other immediately, through the AfCFTA Secretariat, of the Approved Exporters.

## **3.3 Procedures in the Importing State Party**

### **3.3.1 Submission of Proofs of Origin in the Importing State Party**

172. For Goods to be admitted in any State Party as originating in another State Party, the importer of the Goods concerned must present to the Customs Authorities, along with the requisite import entry, a proof of origin duly completed and signed by the Exporter in the exporting State Party and certified by the Designated Competent Authority of that State Party.
173. If the Customs authorities in the importing State Party are satisfied that the Goods to which the documents relate are eligible for preferential tariff treatment as claimed, they will be so admitted.

### **3.3.2 What constitutes a valid AfCFTA Certificate of Origin at time of importation?**

174. A valid AfCFTA Certificate of Origin should satisfy the following conditions:
- (a) It should have been issued by a Designated Competent Authority in the exporting State Party.

- (b) It should contain all the particulars necessary for identifying the Product(s) to which it relates.
- (c) It should have been completed in print or legibly handwritten in ink.
- (d) It contains no errors.
- (e) An authorised signatory of the Designated Competent Authority of a State Party should counter initial any alterations and stamp.
- (f) It shall certify unambiguously that the Product(s) to which it relates originated in a specific State Party.
- (g) It should bear the official stamp and an original signature of a signatory of the Designated Competent Authority.
- (h) It should bear an original signature of the Exporter.
- (i) It should bear a serial number in the top right-hand corner.

### **3.3.3 Checks carried out by the Customs Authorities of the importing State Party**

175. The checks which the Customs Authorities in the importing State Party may carry out include:

- (i) Comparing the signature of the certifying official appearing on the AfCFTA Certificate of Origin with that notified by the exporting State Party;
- (ii) whether the particulars of the Goods given in the Proof of Origin correspond with the invoice and the Customs import entry.

176. The Customs Authorities may refuse a claim of AfCFTA preferential tariff treatment if there is reason to doubt the correctness of the particulars declared to them.

177. Preferential treatment may be refused for the following reasons, among others:

- (i) The Goods to which the Proof of Origin relates are not eligible for preferential treatment;
- (ii) The description of Goods on the Proof of Origin refers to Goods other than those presented;
- (iii) The Proof of Origin contains erasures or words written over one another showing that it may have been tampered with;
- (iv) If 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 proof of origin and endorsed by the official of the Designated Competent Authority who signs the Certificate.
- (v) The Proof of Origin has been submitted after expiry of its period of validity and there is no justification for its acceptance exceptionally, as provided in Article 18.

### **3.3.4 Treatment of minor queries**

178. Minor inaccuracies or omissions of a clerical or similar nature detected on a proof of origin (for example, the omission of the weight or other quantity, or insertion of an incorrect Customs tariff number), may be allowed to be put right by the importer without rejection of the claim to AfCFTA preferential tariff treatment. Similarly, it may become necessary in some cases to direct that the Goods be physically examined to dispel any doubt or uncertainty that may arise

in the course of processing the import entry as regards the origin of the Goods, without at that stage making a formal query or questioning eligibility for AfCFTA preferential tariff treatment. Foreign markings on the Goods or other physical evidence (e.g. instructions in a foreign language, packaging of an unrelated kind) should not be overlooked in the Customs examination as these may point to the need for further enquiry into the claim to AfCFTA preferential tariff treatment.

### **3.3.5 Treatment of queries of a more serious nature**

179. Where serious doubts arise about the eligibility of any consignment of goods for AfCFTA preferential tariff treatment a formal query of the evidence of origin may be communicated by the Customs Authority in the importing State Party to the Customs Authority in the exporting State Party where the Proof of Origin was issued. The procedure governing the raising of queries and the subsequent verification of the evidence of origin is discussed in paragraph 3.4 below.

180. Serious doubts may arise, where, for example:

- (i) A claim of “wholly produced” is made for certain kinds of machinery;
- (ii) The description of Goods on the invoice is different from that appearing in the Certificate of Origin;
- (iii) There is indication of dubious transport route used;
- (iv) The Proof of Origin has not been signed or dated by the Designated Competent issuing Authority;
- (v) The stamp used to endorse the Proof of Origin is different from the one that was notified to the State Parties; or
- (vi) The Proof of Origin has not been signed by the Exporter.

### **3.4 Origin verification procedures**

#### **3.4.1 Verification of Proof of Origin (Certificate of Origin or Origin Declaration)**

181. Subsequent verifications of Proof of origin should be carried out at random or whenever the Customs Authorities of the importing State Party have reasonable doubts as to the authenticity of the document or as to the accuracy of the information regarding the originating status of the Products concerned. A Request for Verification, a specimen of which is provided at Appendix I to Annex 2 on Rules of Origin shall be used for this purpose.

##### **3.4.1.1 Action by the importing State Party**

182. The Customs Authorities of the importing State Party shall return the Certificate of Origin and the invoices, if they have been submitted, or a copy of these documents, to the Customs Authorities of the exporting State Party giving, where appropriate, the reasons for the request for verification. Any documents and information obtained suggesting that the information given on the proof of origin is incorrect shall be forwarded in support of the request for verification.

##### **3.4.1.2 Provision of information in response to a query**

183. The verification shall be carried out by the Customs Authorities of the exporting State Party and the results of such verification shall be communicated to the requesting authority or State Party as soon as possible and in any case no later than six (6) months. These results must indicate clearly whether the documents are authentic and whether the Products concerned can be considered as Products originating in a State Party. For this purpose, the Customs Authorities of the exporting State Party shall have the right to call for any evidence and to carry out any inspection of the exporter's accounts or any other check the authorities may consider appropriate.

184. If the Customs Authorities of the importing State Party decide to suspend the granting of preferential treatment to the Products concerned while awaiting the results of the verification, release of the Products shall be offered to the importer subject to any precautionary measures considered necessary.

185. In the case of any reasonable doubt, or where there is no reply within six (6) months of the date of the verification request or if the reply does not contain sufficient information to

determine the authenticity of the document in question or the real origin of the products, the requesting authority or State Party may, except in exceptional circumstances, refuse entitlement to the preferences.

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

### **3.4.3 Joint on-the-spot investigation**

187. Where despite the response to a query by an exporting State Party affirming the original claim of A/CFTA 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 to meet in the State Party where production is carried out to examine together "on the spot," evidence on which the claim of A/CFTA originating status is based.

188. The two parties should do the following, among others, before carrying out the joint investigation:

- Agree on the dates on which to carry out the joint investigation.
- The Customs Authorities of the importing State Party should provide the customs/ Designated Competent Authority in the exporting State Party with the names of the officials who will participate in the investigation so that it can arrange for their transport and accommodation in the exporting State Party. However, the visiting delegation should meet all its accommodation, travel and other expenses.
- The Designated Competent Authority should also ensure that the visiting delegation has access to its records pertaining to the registered Exporter who is to be investigated.

- Depending on the origin criterion that is applicable to the Goods under investigation and the nature of the production process involved, the two Customs Authorities may agree to co-opt independent technical experts to assist in the investigations.
189. The two Authorities will share any costs incurred in co-opting the experts.
190. In addition, the two Customs Authorities may also agree to co-opt officials from the AfCFTA Secretariat for technical support during the investigations.
- (b) Preparing for the visit to an Exporter's premises
191. It is advisable for the registered Exporter to be informed of the intended visit. Mutual co-operation and consultation between the Customs Authorities /Designated Competent Authority and registered Exporter is important for successful verification to be carried out.
192. Before leaving for the visit, the investigating officials should:
- (i) note any specific points requiring investigation;
  - (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 registered Exporter:
    - past history of exportation;
    - previous visit reports (if any) concerning the registered Exporter;
    - information from other sources, e.g. Customs Investigations; and
    - any other relevant information.
- (c) Report of visit
193. The investigating officials of the two Customs Authorities should jointly write a report after concluding the investigation.
194. The report of visit may include the following items:
- date(s) of visit;
  - name and position in company of person(s) seen;
  - registered 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 registered 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 investigation;
- any specific action taken against the registered Exporter; and
- any other relevant information.

(d) Results of the joint investigation

- At the conclusion of the investigations, the officials from the two Customs Authorities involved in the investigations should discuss and agree on the outcome of the investigation.
- The Customs Authorities of the importing State Party should advise the AfCFTA Secretariat of the outcome of the investigation.
- The AfCFTA Secretariat should, in turn, notify the other State Party of the results.
- Normally, such joint-on-the-spot investigations 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.

### **3.5 Offences and Penalties**

195. 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.

### **3.6 Dispute settlement procedure**

196. Any dispute between the State Parties arising out of or relating to interpretation or application of any provision of Annex 2 and its Appendices, shall be settled in accordance with the Protocol on Rules and Procedures on the Settlement of Disputes as provided in Article 40 of Annex 2 on Rules of Origin.

## **CHAPTER 4 - ORGANIZATIONAL REQUIREMENTS FOR IMPLEMENTING THE AfCFTA RULES OF ORIGIN**

197. The Committee on Trade in Goods shall, in accordance with Article 31 of the Protocol on Trade in Goods, establish a Sub-Committee on Rules of Origin.

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

(NB: More details on Organisational Requirements to be added once the AfCFTA Institutional structure is in place).

### **4.1 Introduction**

198. The effective implementation of the AfCFTA Rules of Origin by the State Parties requires an efficient national system responsible for the administration and enforcement of the AfCFTA Rules of Origin. To achieve this, State Parties should meet the organizational requirements detailed in paragraphs that follow.

199. It is desirable for the effective implementation of the AfCFTA Rules of Origin for State Parties to ensure that they have the following units in the administrative structures of their Customs / Designated Competent Authorities.

200. The Customs / Designated Competent Authorities should be organized in such a way that there is Headquarters as well as Zonal/Regional and local offices responsible for the administration and enforcement of the AfCFTA Rules of Origin.

### **4.2 Organisational Structure**

#### **Head Office:**

201. In all State Parties, the Head Office of the Designated Competent Authority assumes overall responsibility for all AfCFTA matters, in particular the proper implementation of the AfCFTA Rules of Origin by a State Party.

202. 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.

203. The Functions of Head Office:

- (a) This unit will prepare the national laws and regulations in accordance with the decision on AfCFTA Rules of Origin.
- (b) The unit will also keep the laws and regulations up to date based on policy decisions made by the AfCFTA Council of Ministers and the AU Summit of Heads of State and Government. To achieve this objective, Head Office personnel should actively participate in AfCFTA meetings, especially, meetings of the Technical Working Group and Sub-Committee on Rules of Origin and AfCFTA Negotiating Institutions. This ensures that national positions and requirements are taken into account.
- (c) It will also prepare national administrative guidelines on the interpretation of the laws and regulations for use by officials of the Designated Competent Authority.
- (d) Another task of this unit is to prepare and issue instructions to ensure uniform application of the provisions of Annex 2 on Rules of Origin by the State Party.
- (e) The unit will also deal with appeals against decisions taken by regional or local officials and any difficult cases regarding Annex 2 on Rules of Origin and its Appendices.
- (f) The unit will also be responsible for registering Exporters and maintaining the national database of all registered Exporters.
- (g) It will also be responsible for:
  - (i) Sending details of the official Origin Verification stamps (used in certification) to other State Party through the AfCFTA Secretariat.
  - (ii) Sending the names and signatures of officials authorised to sign AfCFTA Certificates of Origin on behalf of the Designated Competent Authority.
  - (iii) Any changes made should also be notified timeously through the AfCFTA Secretariat.
- (h) The unit will carry out origin verification as requested by importing State Parties.
- (i) It will also communicate with authorities in other State Parties and the AfCFTA Secretariat on matters relating to Annex 2 on Rules of Origin.
- (j) The unit will also be responsible for providing training to other officials of the Customs / Designated Competent Authority as well as other stakeholders.

**Designated Regional/Local offices**

204. To facilitate the issuance and verification of proof of origin, Designated Competent Authorities should establish offices in the main regions/towns within the State Party. This will ensure that Exporters wishing to register with the Designated Competent Authority or those seeking authentication/verification of their proof of origin do not have to travel long distances for the service, and this assists in reducing compliance cost of doing business on traders.
205. The functions of the Regional/Local offices include:
- (a) maintaining regional/local data base of registered Exporters.
  - (b) carrying out inspections and verification exercises of applicants and make recommendations to Head Office
  - (c) handling regional enquiries, carryout assignments as directed by Head Office
  - (d) giving guidance and advise stakeholders (e.g. potential Exporters and registered Exporters) on AfCFTA Rules of Origin.
  - (e) carrying out origin verification requests from other State Parties. This task is carried out with authority from Head Office and the results of such investigations should be forwarded to Head Office for onward transmission to the respective State Party.

#### **4.3 Competences of the Designated Competent Authority**

206. The issuance and verification of proof of origin by Designated Competent Authority demands that they are competent to implement all the provisions of Annex 2 on Rules of Origin. For purposes of determining the origin of goods under Appendix IV to Annex 2 on Rules of Origin, officials of such Designated Competent Authority should have adequate expertise in:
- (a) Classification of Goods under the HS;
  - (b) Customs Valuation of imported Goods per the WTO Agreement on Customs Valuation;
  - (c) accounting knowledge;
  - (d) knowledge of Annex 2 on AfCFTA Rules of Origin
  - (e) technical information on manufacturing processes.
207. Officials of Designated Competent Authority should be able to collect all technical information from manufacturers, which they can use to verify if manufacturers meet the requirements of the AfCFTA Rules of Origin.

- (f) investigation and control of export Products. A Designated Competent Authority:
  - (i) must have the legal authority to call for any document relating to the export of AfCFTA originating Products.
  - (ii) should also have the legal powers to inspect Goods as well as records and accounts kept by the Exporter to verify the originating status of Goods.
  - (iii) must have the authority to request for information and exchange information in origin verification cases.
  - (iv) must also be empowered to establish offences of AfCFTA origin fraud and prosecute offenders.
- (g) National legal provisions relating to offences and penalties vary considerably from one State Party to another. However, the laws in all State Parties must have adequate penalties in case of serious irregularities or falsification of the originating status of Goods in order to discourage malpractices by traders.

208. The Designated Competent Authority should co-operate with other agencies that may render assistance in the implementation of Annex 2 on Rules of Origin. For example, the Registrar of Companies, who may be contacted by the Designated Competent Authority to confirm that a company seeking registration as an approved Exporter is registered and operates within the Territory of a State Party.

#### **4.4 Mutual Assistance and Administrative Cooperation**

209. State Parties should regularly exchange information on fraudulent or improper claims of AfCFTA origin status. Such information, which is detected by any State Party's Customs Authorities or Designated Competent Authorities, should be circulated on a confidential basis through the AfCFTA Secretariat for the information of the other State Parties.

210. Where the responsibility for certifying proof of origin (Designated Competent Authorities) is vested in an agency other than a Customs Authority, an effective collaborative relationship between the two Authorities should be developed for the effective certification and verification of AfCFTA origin.

211. The Designated Competent Authorities should also co-operate with other agencies, which can provide information, which may assist the Authority to effectively carry out its mandate.

#### **4.5 Role of the AfCFTA Secretariat**

212. (To be elaborated once the AfCFTA Secretariat is established)

**APPENDIX I to Annex 2 on Rules of Origin**

**AFCFTA Certificate of Origin**

<b>AFCFTA Certificate of Origin</b>		<b>Competent Authority Ref</b>		<b>Country Code</b>		<b>Serial No.</b>		
1. Exporter (Name & Address)		2. Consignee (Name & Address)		3. For Official Use Only				
4. Particulars of Transport								
5. Marks & No.s		6. Invoice No. & Date	7. No. & Kind of Package	8. Description of Goods	9. Gross Weight	10. Suppl. Quantity	11. HS Code	12. Origin Criterion



<p><b>13. Declaration By The Exporter or Authorized Representative</b></p> <p>I, the undersigned, declare that the Goods described above meet the conditions required for the issue of this Certificate of Origin, and are originating in</p> <hr/> <p>(Country)</p> <p>Place and date:</p> <hr/> <p>(Full Names and Designation)</p>	<p><b>14. Certification of Origin</b></p> <p>Origin Stamp</p> <hr/> <p>(Designated Competent Authority)</p> <hr/> <p>(Full Names)</p> <hr/> <p>(Signature)</p>	<p><b>15. For Customs purposes</b></p> <p>Export Document No.:</p> <hr/> <p>Customs Office &amp; Date</p> <hr/> <p>(Full Names)</p> <hr/> <p>(Signature)</p>
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<hr/> <p>(Signature)</p>		
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**AICFTA CERTIFICATE OF ORIGIN (PAGE 2 – BACK PART)**

**A. REQUEST FOR VERIFICATION BY  
IMPORTING STATE PARTY**

Verification of the authenticity and accuracy of this  
Certificate is requested for the following reasons:

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(Place and Date)

(Signature and Stamp)

**B. RESULT OF VERIFICATION BY  
EXPORTING STATE PARTY**

Verification carried out shows that this  
Certificate was issued by the Designated  
Competent Authority indicated and that  
the information contained therein:

Is accurate

Does not meet the  
requirement as to the authenticity /  
accuracy in Box \_\_\_\_\_

(the appropriate box number)

(Place and Date)

(Signature and Stamp)

**AICFTA ORIGIN DECLARATION**

*The text of the Origin Declaration must be made as given below:*

I/ We, \_\_\_\_\_, being the Exporter of  
the

*(Approved Exporter's Name and Registration Number)*

Goods covered by this document declare(s) that, the Goods  
are of

\_\_\_\_\_ origin

*(Indicate the African Continental Free Trade Area State Party)*

and the origin criterion applicable to these Goods is

\_\_\_\_\_ *(insert wholly obtained or substantially transformed, as may be applicable.)*

\_\_\_\_\_ Place and Date of Declaration

\_\_\_\_\_ Authorised Exporter's Signature

APPENDIX III to Annex 2 on Rules of Origin

AFCFTA SUPPLIER OR PRODUCER'S DECLARATION

*A. SUPPLIER OR PRODUCER'S DECLARATION FOR PRODUCTS  
HAVING PREFERENTIAL ORIGIN STATUS*

I, the undersigned, declare that the Goods listed on invoice

\_\_\_\_\_ (1)

were produced in \_\_\_\_\_ (2)

and satisfy the rules of origin governing preferential trade between the African Continental Free Trade Area State Parties.

I undertake to make available to the Designated Competent Authority, if required, evidence in support of this declaration.

\_\_\_\_\_ (3)

\_\_\_\_\_ (4)

\_\_\_\_\_ (5) **Note**

The abovementioned text, suitably completed in conformity with the footnotes below, constitutes a supplier's declaration.

The footnotes do not have to be reproduced.

(1) - If only some of the Goods listed on the invoice are concerned they should be clearly indicated or marked and this marking entered on the declaration as follows:

" \_\_\_\_\_ listed on this invoice and marked  
\_\_\_\_\_ were produced in \_\_\_\_\_".

- If a document other than an invoice or an annex to the invoice is used, the name of the document concerned shall be mentioned instead of the word "invoice".

(2) African Continental Free Trade Area State Party.

(3) Place and Date.

(4) Name and Designation in the Company.

(5) Signature.

*B. SUPPLIER OR PRODUCER'S DECLARATION FOR PRODUCTS NOT HAVING PREFERENTIAL AFRICAN CONTINENTAL FREE TRADE AREA ORIGIN STATUS*

I, the undersigned, declare that the Goods listed on this invoice \_\_\_\_\_

(1)

were produced in

\_\_\_\_\_ (2) and

incorporate the following components or Materials which do not have an African Continental Free Trade Area origin for preferential trade:

\_\_\_\_\_ (3)

\_\_\_\_\_ (4)

\_\_\_\_\_ (5)

\_\_\_\_\_ (6)

I undertake to make available to the Designated Competent Authority, if required, evidence in support of this declaration.

\_\_\_\_\_ (7)

\_\_\_\_\_ (8)

\_\_\_\_\_ (9) **Note**

The abovementioned text, suitably completed in conformity with the footnotes below, constitutes a supplier's declaration.

The footnotes do not have to be reproduced.

(1) If only some of the Goods listed on the invoice are concerned they should be clearly indicated or marked and this marking entered on the declaration as follows:  
" \_\_\_\_\_ listed on this invoice and marked \_\_\_\_\_  
were \_\_\_\_\_ produced \_\_\_\_\_ in  
\_\_\_\_\_".

If a document other than an invoice or an annex to the invoice is used, the name of the document concerned shall be mentioned instead of the word "invoice".

- (2) African Continental Free Trade Area State Party.
- (3) Description is to be given in all cases. The description must be adequate and should be sufficiently detailed to allow the tariff classification of the Goods concerned to be determined.
- (4) Customs values to be given only if required.
- (5) Country of Origin to be given only if required. The origin to be given must be a preferential origin, all other origins to be given as "third country".
- (6) "and have undergone the following processing in African Continental Free Trade Area State Party \_\_\_\_\_, to be added with a description of the processing carried out if this information is required.
- (7) Place and Date
- (8) Name and Designation in the Company
- (9) Signature



**APPENDIX IV to Annex 2 on Rules of Origin**

**AICFTA RULES OF ORIGIN**

(To be inserted)