COMMON MARKET FOR EASTERN AND SOUTHERN AFRICA

PROCEDURES MANUAL ON THE IMPLEMENTATION OF THE PROTOCOL ON THE RULES OF ORIGIN FOR PRODUCTS TO BE TRADED BETWEEN THE MEMBER STATES OF THE COMMON MARKET FOR EASTERN AND SOUTHERN AFRICA

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Foreword

This manual provides guidance in a consolidated and concise form the practical application of the provisions of the Protocol on Rules of Origin of the Common Market for Eastern and Southern Africa (COMESA). It covers in particular, matters relating to the administration and policing of the rules of origin under the COMESA trade regime. It is intended to ensure the uniform interpretation and application of the provisions of the Protocol by the COMESA member States. It replaces the manual, which was prepared in November, 1999.

The manual has been prepared by the COMESA Secretariat primarily to ensure that the principles and rules of the Protocol on Rules of Origin are uniformly applied by the COMESA member States.

Although the manual is based on official texts of the COMESA Treaty and Protocol, it cannot be regarded as a substitute for these texts. It will therefore have to be used in conjunction with Treaty and the Protocol on Rules of Origin.

The manual is arranged in a 4-Chapter format:

Chapter 1 provides an introduction to the COMESA trade regime

Chapter 2 covers the technical issues relating to COMESA Rules of Origin

Chapter 3 covers the administrative aspects of the Protocol on Rules of Origin

Chapter 4 provides the organizational requirements for the implementation of the

Protocol on Rules of Origin.

This manual shall be revised from time to time based on the decisions made by the Council of Ministers.

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CHAPTER 1

INTRODUCTION

1.1 Background

The concept of Rules of Origin has become increasingly important for international trade. In fact, the implementation of preferential trade regimes and the application of trade measures, such as, import bans and prohibitions, discriminatory restrictions, tariff quotas, among others, depend on the application of rules of origin.

The Treaty Establishing the Common Market for Eastern and Southern Africa (COMESA) provides, in Article 48, that goods shall be accepted as eligible for Common Market treatment if they originate in the member States, and the definition of such products shall be as provided in a Protocol on Rules of Origin to be concluded by the member States. The Protocol on COMESA rules of origin is provided at Annex IX.

In 1994, COMESA members agreed on the rules of origin for products to be traded between themselves, as provided for under Article 4(1)(e) of the Treaty. The COMESA Rules of Origin are the cornerstone of the COMESA trade regime and serve to prevent non-COMESA members from benefiting from preferential tariffs for them to access the COMESA market. The determination of the eligibility of products to COMESA origin and the granting of preferential tariffs to goods originating in the member States are important processes in the implementation of the COMESA trade regime. The effective and uniform implementation of the provisions of the Protocol on Rules of Origin by the member States is important as it helps in strengthening the COMESA trade regime.

1.2 Scope

This manual outlines the procedures to be followed in the administration of the Protocol on Rules of Origin by the member States. It provides guidance to Designated Issuing Authorities and Customs Administrations in COMESA member States, and is also useful for training purposes.

The manual does not contain any provisions on the classification or customs valuation of goods. These are contained in various WCO and WTO publications.

1.3 Aim of guidance

The aim of this manual is to:

- Translate the Protocol on Rules of Origin for practical application
- Explain the basic origin criteria under the COMESA preferential trade regime
- Provide guidance on the procedures for the approval and registration of exporters
- Provide guidance on the issuing of COMESA Certificates of Origin

- Provide guidance on origin verification
- Explain the Dispute Settlement procedure under the COMESA trade regime
- Give guidance on the organizational requirements for the effective implementation of the Protocol on Rules of Origin.

1.4 COMESA member States

The following countries are members of the Common Market for Eastern and Southern Africa:

The Republic of Angola;

The Republic of Burundi;

Union des Comores;

The Republic of Djibouti;

The Democratic Republic of Congo;

The Arab Republic of Egypt;

The Republic of Eritrea;

The Republic of Ethiopia;

The Republic of Kenya;

The Republic of Madagascar;

The Republic of Malawi;

The Republic of Mauritius;

The Republic of Namibia;

The Republic of Rwanda;

The Republic of Seychelles;

The Republic of Sudan;

The Kingdom of Swaziland;

The Republic of Uganda;

The Republic of Zambia; and

The Republic of Zimbabwe.

1.5 Product coverage

Under the COMESA trade regime, goods qualify for preferential tariff treatment if they originate in the member States. This means that all goods that meet the requirements of the COMESA Rules of Origin qualify for preferential tariff treatment when they are traded within COMESA.

CHAPTER 2

COMESA RULES OF ORIGIN

2.1 Definition

COMESA Rules of Origin are a set of criteria that is used to distinguish between goods that are produced within the COMESA member States and are entitled to preferential tariff treatment and those that are considered to have been produced outside the COMESA region that attract full import duties when traded.

Since COMESA Rules of Origin are used for granting tariff preferences, they are referred to as preferential rules of origin.

2.2 Determination of origin [Rule 2 of the Protocol on Rules of Origin]

2.2.1 Article 48 of the Treaty Establishing the Common Market for Eastern and Southern Africa (hereinafter referred to as the "Treaty") provides that goods shall be accepted as eligible for Common Market tariff treatment if they originate in the member States, and the definition of products originating in the member States shall be as provided for in a Protocol on Rules of Origin referred to in Annex IX.

2.2.2 Under the COMESA trade regime, a product shall be considered as originating in a member State if it is **consigned directly** from a member State to a consignee in another member State and has either been **wholly produced** or **undergone substantial transformation** in that member State.

2.2.3 The COMESA Rules of Origin have five independent criteria, and goods are considered as originating in a member State if they meet **any** of the five. The criteria are as follows:

(i) The goods should be wholly produced in a member State; or

(ii) The goods should be produced in the member States and the c.i.f. value of any foreign materials should not exceed 60% of the total cost of all materials used in their production; or

(iii) The goods should be produced in the member States and attain a value added of at least 35% of the ex-factory cost of the goods; or

(iv) The goods should be produced in the member States and should be classifiable under a tariff heading other than the tariff heading of the non-originating materials used in their production;

(v) The goods should be designated by the Council of Ministers as "goods of particular importance to the economic development of the member States" and should contain not less than 25% value added, notwithstanding the provisions of paragraph (iii) above.

These rules are discussed in detail in paragraphs that follow.

2.3 Direct consignment rule

The goods should be consigned directly from one member State to a consignee in another member State. This implies that goods should be transported directly from a consignor in another member State.

However, goods consigned from and to land locked member States may for purposes of transportation, transit through other countries.

2.4. Wholly produced goods - [Rule 2(1)(a) of the Protocol]

They have been wholly produced in a member State as defined in Rule 3 of the Protocol.

Explanation:

Rule 3 provides a list of products that are considered as "wholly produced" in the member States.

Such products contain no materials imported from outside the COMESA region.

Goods Wholly produced in the member States:

(a) mineral products extracted from the ground or sea-bed of the member States;

(b) vegetable products harvested within the member States;

(c) live animals born and raised within the member States;

(d) products obtained from live animals within the member States;

(e) products obtained by hunting or fishing conducted within the member States;

(f) products obtained from the sea and from rivers and lakes within the member States by a vessel of a member State;

(g) products manufactured in a factory of a member State exclusively from the products referred to in sub-paragraph (f) of paragraph 1 of this Rule;

(h) used articles fit only for the recovery of materials, provided that such articles have been collected from users within the member States;

(i) scrap and waste resulting from manufacturing operations within the member State;

(j) goods produced within the member States exclusively or mainly from one or both of the following:

(i) products referred to in sub-paragraphs (a) to (i), above
(ii) materials containing no element imported from outside the member states or of undetermined origin

Note:

Electrical power, fuel, plant, machinery and tools used in the production of goods shall always be regarded as wholly produced within the Common Market when determining the origin of the goods.

2.5 Material content criterion - [Rule 2(1)(b)(i) of the Protocol]

The goods have been produced in a member State wholly or partially from imported materials (or from materials of unknown origin) and the c.i.f. value of materials imported from outside the region does not exceed 60% of the total cost of materials used in production.

Explanation:

Under this criterion, only the cost of the materials (domestic and imported) used in production is considered for purposes of determining origin.

Materials whose origin is unknown are considered as "imported" for purposes of this rule, and their price shall be the earliest ascertainable price paid for them in the member State where they are used in a process of production.

The value of the imported materials is the c.i.f. value accepted by Customs at the time of clearance for home consumption or under temporary admission procedures.

Formula for calculation of material content (%):

- **Import material content:**

$$\text{Import material content} = \frac{\text{c.i.f. value of imported materials}}{\text{cost of local materials} + \text{c.i.f. value of imported materials}}$$

- **Local material content:**

This rule can also be expressed in terms of domestic materials, where a minimum of 40% local content should be achieved for the finished goods to qualify as originating in a member State.

$$\text{Local material content} = \frac{\text{cost of local materials}}{\text{cost of local materials} + \text{c.i.f. value of imported materials}}$$

2.6 Value-added criterion - [Rule 2(1)(b)(ii) of the Protocol]

The goods have been produced in a member state wholly or partially from imported materials (or materials of unknown origin) and the value added resulting from the process of production accounts for at least 35% of the ex-factory cost of the finished product.

Explanation:

The value added is the difference between the ex-factory cost of the finished product and the c.i.f. value of imported materials used in production.

Ex-factory cost means the value of the total inputs required to produce a given product.

In applying this criterion, domestic material content may be either low or non-existent in the composition of the products to be exported.

Materials whose origin cannot be determined shall be deemed to have been imported from outside the region.

Calculation of ex-factory cost:

The following costs, charges and expenses should be **included:**

(a) The cost of imported materials, as represented by their c.i.f. value accepted by the Customs authorities on clearance for home consumption, or on temporary admission at the time of last importation into the member State where they were used in a process of production, less the amount of any transport costs incurred in transit through other member States.

Provided that the cost of imported materials not imported by the manufacturer will be the delivery cost at the factory but excluding customs duties and other charges of equivalent effect thereon;

(b) The cost of local materials, as represented by their delivery price at the factory;

(c) The cost of direct labour as represented by the wages paid to the operatives responsible for the manufacture of the goods;

(d) The Cost of direct factory expenses, as represented by:

- the operating cost of the machine being used to manufacture the goods;
- the expenses incurred in the cleaning, drying, polishing, pressing or any other process, as may be necessary for the finishing of the goods;
- the cost of putting up the goods in their retail packages and the cost of such packages but excluding any extra cost of packing the goods for transportation or export and the cost of any extra packages;
- the cost of special designs, drawings or layout; and the hire of tools, or equipment for the production of the goods.

(e) The cost of factory overheads as represented by:

- rent, rates and insurance charges directly attributed to the factory;

- indirect labour charges, including salaries paid to factory managers, wages paid to foremen, examiners and testers of the goods;

- power, light, water and other service charges directly attributed to the cost of manufacture of the goods;

- consumable stores, including minor tools, grease, oil and other incidental items and materials used in the manufacture of the goods;

- depreciation and maintenance of factory buildings, plant and machinery, tools and other items used in the manufacture of the goods

The following costs, charges and expenses should be **excluded:**

(a) Administration expenses as represented by:

- office expenses, office rent and salaries paid to accountants, clerks, managers and other executive personnel;

- directors' fees, other than salaries paid to directors who act in the capacity of factory managers;

- statistical and costing expenses in respect of the manufactured goods;

- investigation and experimental expenses.

(b) Selling expenses, as represented by:

- the cost of soliciting and securing orders, including such expenses as advertising charges and agents' or salesmen' commission or salaries;

- expenses incurred in the making of designs, estimates and tenders.

(c) Distribution expenses, represented by all the expenditure incurred after goods have left the factory, including;

- the cost of any materials and payments of wages incurred in the packaging of the goods for export;

- warehousing expenses incurred in the storage of the finished goods;

- the cost of transporting the goods to their destination.

(d) Charges not directly attributed to the manufacture of the goods:

- any customs duty and other charges of equivalent effect paid on the imported raw materials;

- any excise duty paid on raw materials produced in the country where the finished goods are manufactured;

- any other indirect taxes paid on the manufactured products;
- any royalties paid in respect of patents, special machinery or designs; and
- finance charges related to working capital.

Example:

A producer in member State X makes wooden tables for sale to a buyer in member State Y. The producer uses local timber and timber imported from member State Z and Malaysia, respectively. The producer incurs the following costs per table, but he is not sure whether the tables qualify for preferential tariff treatment or not:

Materials	Cost (currency unit)
Timber:	
Local timber	200
From member State Z	100
Malaysian origin	900
Other costs:	
Glue (imported from Brazil)	5
Varnish (imported from Germany)	8
Factory overheads:	
Rent and rates	100
Depreciation of machinery	80
Direct labour	300
Ex-factory cost	1693

Calculations:

(a)(i) Import material content $= \frac{900+5+8}{200+100+900+5+8} = \frac{913}{1213} = 75\%$

OR

(ii) Local material content $= \frac{200+100}{200+100+900+5+8} = \frac{300}{1213} = 25\%$

(b) Value added $= \frac{1693-913}{1693} = \frac{780}{1693} = 46\%$

The material content and value added should be calculated to the nearest whole number.

Example:

74,9% = 75%
74.5% = 75%
74.4% = 74%

Explanation:

It is clear from the above that the table largely satisfies the value added criterion. However, the same table would not satisfy the material content criterion, since imported materials exceed 60% of the total cost of materials used in producing the table.

2.7 Change in Tariff Heading (CTH) Rule - [Rule 2(1)(b)(iii) of the Protocol]

The goods have been produced in a member State wholly or partially from imported materials and are classified or become classifiable under a heading other than the tariff heading of the imported materials.

Explanation:

Under this criterion, origin is conferred if the manufacturing or processing carried out in the member States is substantial and results in a product which falls under a heading of the Harmonized Commodity Description and Coding System (HS) which is different from that under which the non-originating materials used in its manufacture fall.

In applying the CTH Rule particular attention should be given to **exclusions.**

Example I

Margarine of tariff heading 15.07 manufactured in a COMESA member State can only qualify as a COMESA originating product if it is manufactured from imported materials classified in headings other than 15.07, 15.12 and 15.15.

Example II

Men’s or boys' shirts, knitted or crotcheted of tariff heading 61.05.

Rule: CTH except from cotton fabrics and goods of heading 61.17.

Explanation:

These products will qualify as originating in COMESA if they are made from imported fabrics other than cotton, and also if they have not been made from parts and accessories of heading 61.17.

2.8 Goods of particular importance to economic development – [Rule 2(1) (c) of the Protocol]

The goods have been produced in the member States and should be designated by Council as “goods of particular importance to the economic development of the member States” and should contain not less than 25% value-added, notwithstanding the provisions of Rule 2(1)(b)(ii) above.

Examples:

Tariff Heading	Commodity description
HS 25.23	Portland cement;
HS 84.53	Machinery for preparing hides; etc.

2.9 Cumulation of origin [Rule 2(3) of the Protocol]

For the purposes of implementing the Protocol on Rules of Origin, the member States shall be considered as one territory.

Raw materials or semi-finished goods originating in any of the member States and undergoing working or processing either in one or more States shall, for the purpose of determining the origin of a finished product, be deemed to have originated in the member State where the final processing or manufacturing takes place, provided they have undergone working or processing going beyond that referred to in Rule 5 of the Protocol.

In applying this rule, the evidence of originating status of raw materials or semi-finished goods imported from another member State is given by a Certificate of Origin issued by the Designated Issuing Authority in the exporting member State.

2.10 Processes not conferring origin [Rule 5 of the Protocol]

The Protocol contains a list of operations and processes, which shall be considered as insufficient to support a claim that goods originate from a member State.

The list is as follows:

(a) packaging, bottling, placing in flasks, bags, cases and boxes, fixing on cards or boards and all other simple packaging operations;

(b) (i) simple mixing of ingredients imported from outside member States

(ii) simple assembly of components and parts imported from outside the member States to constitute a complete product;

(iii) simple mixing and assembly where the costs of the ingredients, parts and components imported from outside member States and used in any of such processes exceed 60 per cent of the total costs of the ingredients, parts and components used.

(c) operations to ensure the preservation of merchandise in good condition during transportation and storage such as ventilation, spreading out, drying, freezing, placing in brine, sulphur dioxide or other aqueous solutions, removal of damaged parts and similar operations;

(d) changes of packing and breaking up of or assembly of consignments;

(e) marking, labelling or affixing other like distinguishing signs on products or their packages;

(f) simple operations consisting of removal of dust, sifting or screening, sorting, classifying and matching, including the making up of sets of goods, washing, painting and cutting up;

(g) a combination of two or more operations specified in sub-paragraph (a) to (f) of this Rule;

(h) slaughter of animals.

Explanation:

Products resulting from these operations and processes retain their foreign origin and are thus not entitled to preferential tariff treatment.

2.11 Split consignments [Rule 6(3) of the Protocol]

Unassembled or disassembled articles, which for transport or production reasons may have to be exported at different times shall for purposes of granting preference be treated as one article.

This means that upon importation of the first consignment the importer should agree with the Customs authorities for the goods to be treated as one article and hence a single proof of origin (certificate) should be produced.

2.12 Goods produced in Export Processing Zones (EPZs)

Goods produced in Export Processing Zones within member States shall be granted preferential tariff treatment if they meet the requirements of the COMESA Rules of Origin.

2.13 Goods produced under licence

Goods produced under licence shall be granted preferential tariff treatment if they meet the requirements of the COMESA Rules of Origin. Companies manufacturing goods under licence of international firms should ensure that the outer package of the product shows the name and address of the company producing the products in the member State. This will enable the goods in question to be considered as goods of COMESA origin.

CHAPTER 3

ADMINISTRATIVE PROCEDURES

3.1 Introduction

The implementation of the Protocol on Rules of Origin requires member States to apply common procedures in determining the eligibility of products to COMESA origin and the granting of preferential tariffs as provided under the COMESA trade regime.

The application of common administrative procedures by the member States will give confidence to fellow member States that the COMESA preferential trade regime is being effectively administered as intended. This will ensure that only goods originating in the COMESA region benefit from preferential tariff treatment.

3.2 Registration of exporters

Companies wishing to export under the COMESA preference regime should be registered with the relevant designated issuing authority in the member State in accordance with the national legislation. The review of the registration of these companies shall be made periodically.

Minimum Requirements:

(a) Companies wishing to be registered as exporters should submit a written application to the relevant Designated Issuing Authority (Customs/Revenue Authority, Ministry of Trade and Chambers of Commerce).

(b) Applications should be submitted in advance of any intended export.

(c) The following information should be included in the application letter:

Name of company;
Physical address of the company;
Contact details: contact person, telephone number, fax number, e-mail address, etc;
Supporting evidence;
List of products intended for export

(d) A registration number is issued to the exporter

3.3 Procedures for the issuance of COMESA Certificates of Origin

3.3.1 The issuing of certificates of origin at the time of export of the goods from one member State to another should not be so burdensome on exporters to the extent that the process of issuing becomes a non-tariff barrier. It is important that the process of issuing the certificates be reliable and predictable at this will assist exporters in planning for their exports.

3.3.2 Proof of Origin

Goods that have been accepted as meeting all the requirements of the Rules of Origin are entitled to a COMESA Certificate of Origin, a specimen of which appears at Annex I.

The Certificate is issued by the Designated Issuing Authority in the exporting member State. [A list of member States' Designated Authorities is provided at Annex II]

The certificate of origin should be attached to the import goods declaration to enable the Customs authorities of the importing member State to grant preferential tariff treatment to the shipment.

3.4 What an exporter should do to obtain a certificate of origin

3.4.1. An exporter in a COMESA member State intending to export goods to another member State and desiring to have such goods granted preferential tariff treatment in the importing member State must obtain a certificate of origin from the authority in his State who has been designated to issue such certificates.

The certificate, when presented by the importer to the Customs Authorities in the importing member State will serve as evidence of their originating status and hence enable them to be accorded preferential tariff treatment that is being sought.

3.4.2 An exporter who has been registered by the Designated Issuing Authority of a member State should do the following:

(i) Ensure that the product(s) for which he is seeking a certificate 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 Issuing Authority.

(iii) Quote his registration number in the appropriate box of the certificate.

(iv) Attach the certificate of origin to the export bill of entry.

(v) The export declaration, together with the certificate of origin and other supporting documents should be submitted to the Designated Issuing Authority for authorisation of the export.

3.5 The COMESA Certificate of Origin

3.5. 1 Who can fill it in?

The exporter should complete the Certificate, as he is the person who has the facts about the originating status of the goods to be exported.

3.5.2 Completion of the Certificate of Origin form

The exporter must enter all the information required in boxes 1 to 11 on the form of the certificate, except Box 5, which is reserved for official use.

The form may be prepared by any process, provided 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 initialed by the person who completed the form and endorsed by the authority designated to issue the certificate.

Any unused spaces on the form should be crossed out in such a manner as to prevent any subsequent addition.

Box 1: Exporter

Details of the registered exporter, who is a registered company operating in the member State must be entered in this box.

Box 2: Consignee

Details of the consignee in the importing member State must be entered in this box.

Box 3: Country, Group of countries in which the products are considered as originating

The member State(s) where the goods acquired their originating status must be entered in this box.

Box 4: Particulars of Transport

Details of transport used to ferry the goods from the exporting member State to the importing member State must be entered in this box. E.g. Truck reg. no. 721 – 505 P.

Box 5: For Official use

The Designated Issuing Authority can use this box to enter any pertinent information regarding the export shipment. E.g. where COMESA originating goods are re-shipped from one member State to another, the reference number of the Certificate of origin issued by the first exporting member State can be entered in this box.

Box 6: Marks and numbers; number and kind of package; description of goods.

Marks and numbers:

Any identifying marks and numbers of the packages should be entered in this box.

If the goods are not numbered in any way, the words “No marks and numbers” should be entered.

Number and kind of package:

This refers to, for example, boxes, drums, bags, e.t.c.

For goods in bulk, the words “in bulk” should be entered.

Description of goods:

Goods must be described in accordance with commercial practice and with sufficient detail to enable them to be identified.

Box 7: Customs Tariff

The tariff code as per the member State's national tariff schedule must be entered in this box.

Box 8: Origin Criterion

The specific qualifying criterion under Rule 2 of the Protocol on Rules of Origin must be entered in this box. For this purpose, the following letters should be used against each item entered in the certificate, as appropriate.

"P" – for goods wholly produced;

"M" – for goods to which material content criterion applies;

"V" – for goods to which the value added criterion applies;

"X" – for goods which are classified or become classifiable under a heading other than that under which the imported materials used in its manufacture fall; and

"Y" – for goods of particular economic importance to the member State.

Box 9: Gross weight or other quantity

It is recommended that exporters give weights and other measures in metric system.

Box 10: Invoice no.

State the number(s) and date(s) of the invoice(s) relating to the goods described in box 6.

Box 11: Declaration by Exporter/Producer/Supplier

Before signing the Declaration, the Exporter should ensure that all the particulars entered by him in the form are correct.

While the exporter is free to decide who will sign declarations on his behalf, it is recommended that the person so authorized be a member of the exporting firm.

Declarations signed by shipping or forwarding agents and the like are not acceptable.

The signature must not be mechanically reproduced or made with a rubber stamp, as by signing the form, the exporter declares that the goods described in Box 6 qualify as COMESA originating products. If this declaration is incorrect, the exporter would have committed can offence under Customs law.

Box 12: Certificate of Origin

This box should be filled in by the Designated Issuing Authority of the exporting member State.

The Authority should endorse its origin verification stamp in this box in the appropriate space. The impression of the stamp should be very clear to avoid raising doubt by authorities of the importing member State as to its authenticity.

3.6 Procedures for processing the COMESA Certificates of Origin

3.6.1 The declaration furnished by an exporter claiming that the goods being exported by him are eligible for preferential tariff treatment must be authenticated by the authority designated by the exporting member State, if the goods are to be accepted by the importing member State as originating in a COMESA member State.

Before such authentication (by stamping and signing the certificate) the authority should satisfy itself that the requirements of the Rules of Origin applicable to the goods for which preferential tariff treatment is being claimed have been complied with.

3.6.2 The Designated Issuing Authority will process the certificate as follows:

(i) Ensure that the Certificate of Origin form has been completed in triplicate;

(ii) Ensure that the form is completely and correctly filled out;

(iii) Confirm that product meets the requirements of the COMESA Rules of Origin;

(iv) Confirm that the exporter's registration number has been entered in the appropriate box, i.e. on the top right hand corner of the certificate in the space "Ref. No…"

(v) Compare the particulars entered in the certificate with those in the commercial invoice;

(vi) If everything is in order, enter country of origin, stamp and sign the certificate in box 12.

(vii) The stamp to be used is the one whose impression has been circulated to other COMESA member States. Similarly, the official signing the certificate should have had his name and signature circulated to other member States.

NOTE: **After the Designated Issuing Authority has signed and issued the certificate, no other body should endorse it.**

3.6 3 Distribution of the Certificate of Origin

Once the certificate of origin has been certified, it should be distributed as follows:

Original copy

This copy should be returned to the exporter for onward transmission to the importer in the importing member State to which the goods are consigned to enable the importer to complete the necessary documents for entry of the goods.

Duplicate copy

This copy should be retained by the Designated Issuing Authority.

Triplicate copy

This copy should be returned to the exporter for his records.

3.7 Retention of documents

3.7.1 Registered exporters should be under legal obligation to keep adequate records of their activities. Such records may include the following, among others:

(i) Copies of import bills of entry and supporting documents, in respect of imported materials used in production;

(ii) Orders received and fulfilled for delivery to customers within COMESA;

(iii) Records of purchases of local materials

(iv) Accounting records to support application of material content and value added origin criteria;

(v) Copies of COMESA Certificates

3.7.2 The records must be kept for a minimum period of five years (or such other time as stipulated in a member State's national legislation), from the date of the transaction indicated on the certificate of origin to which they relate.

3.8 Collaboration with Customs and other Authorities

Where the responsibility for certifying COMESA certificates of origin is vested in an agency other than the Customs Authorities, an effective collaborative relationship between the two bodies should be developed for the effective performance of the certification and verification function.

The certifying authority should also co-operate with other agencies, which can provide information, which may assist the authority to effectively carry out its mandate.

3.9 Re-exportation of COMESA originating goods and issue of new certificate(s) of origin

Re-exportation of either whole or partial consignments of originating goods from a COMESA country to another COMESA country will be facilitated with the issue of a new Certificate of Origin by the second exporting country provided the goods remained

at all times under customs control. The new certificate would be attached to a photocopy of the original Certificate of Origin issued by the first exporting country. The second exporting country when issuing the new certificate of origin should indicate in box 5 of the new certificate of origin the reference number of the original certificate of origin issued by the first exporting country.

The new certificate of origin shall be regarded as the definitive certificate of origin for the products to which it refers. The new certificate shall be made out on the basis of a written request by the re-exporter.

Box 5 of the new certificate shall contain the words "EX" before the reference number of the original certificate of origin as well as the country of origin.

The name of the re-exporter shall be entered in Box 1 of the new certificate of origin form.

The name of the final consignee shall be entered in Box 2 of the new certificate of origin form.

All particulars of the re-exported products appearing on the original certificate must be transferred to Boxes 4 to 9 of the new certificate.

References to the re-exporter's invoice must be given in Box 10 of the new certificate.

The designated authority, which issues the new certificate, shall endorse Box 12.

The responsibility of the designated issuing authority is confined to the issue of the new certificate. The particulars in Boxes 11 and 12 concerning the country of origin shall be taken from the original certificate.

The re-exporter shall sign Box 11. A re-exporter who signs this box in good faith shall not be held responsible for the accuracy of the particulars entered on the original certificate.

The authority shall keep the original certificate for at least five years.

This procedure should be followed irrespective of whether the goods in question will be used in further working or processing or not.

3.10 Documentary check

3.10.1 What the Customs authorities in the importing member State should do

For goods to be admitted in a COMESA member State as originating in another member State, the importer of the goods concerned must present to the customs authorities, along with the requisite import entry, a certificate of origin issued by the designated issuing authority of that member State.

The customs authorities of the importing member State will do the following:

(i) Compare the impression of the stamp and signature of the certifying authority appearing in box 12 of the certificate of origin presented by the importer with those notified by the exporting member State.

(ii) Confirm that the particulars of goods given in the certificate of origin correspond with those shown on the invoice and the customs import entry.

(iii) If the authorities are satisfied that the goods to which the documents relate are eligible for preferential tariff treatment as claimed, they will be so admitted.

3.10.2 What makes a valid COMESA Certificate of Origin at time of importation?

A valid certificate of origin should satisfy the following conditions**:**

(i) The certificate should measure 210 by 297mm on a light green paper with a COMESA watermark on paper sized for writing weighing not less than 25g/square metre with a guilloche pattern background to make falsification by chemical or mechanical means apparent to the eye.

(ii) It should have been issued by a governmental agency designated for that purpose by a member State.

(iii) It should contain all the particulars necessary for identifying the product(s) to which it relates.

(iv) It should have been completed in type or legibly handwritten in ink.

(v) It contains no errors. An authorised signatory of the designated issuing authority of a Member State should initial any alterations.

(vi) It shall certify unambiguously that the product(s) to which it relates originated in a specific COMESA member State.

(vii) It should bear the official stamp and an original signature of a signatory of the designated issuing authority.

(viii) It should bear an original signature of the exporter.

(ix) It should bear a serial number in the top right hand corner.

3.11 Dispute Settlement procedures

3.11.1 Documentary Check:

3.11.1.1 Minor queries

The customs authorities of the importing member State may refuse a claim of COMESA tariff treatment if there is reason to doubt the correctness of the particulars declared to them.

Minor inaccuracies or omissions of a clerical nature or similar nature detected on a certificate of origin (e.g. the omission of the weight or other quantity or insertion of an incorrect customs tariff number) may be allowed to be corrected by the importer without rejection of the claim to COMESA tariff treatment.

In some cases, it may be necessary for the goods to be physically examined to dispel any doubt arising in the course of processing the import entry as regards the origin of the goods, without at that stage making a formal query or eligibility for COMESA tariff treatment. Foreign markings on the goods or other physical evidence (e.g. operating instructions in a foreign language) should not be overlooked in the customs examination as this may point to the need for further enquiry into the claim to COMESA tariff treatment.

3.11.1.2 More serious queries

Where serious doubts arise about the eligibility of any consignment of goods for COMESA tariff treatment (e.g. claim of "wholly produced" for certain kinds of machinery, description of goods on the invoice different from that appearing in the certificate of origin, indication of dubious transport route, etc), a formal query of the evidence of origin presented may be communicated to the designated issuing authority of the exporting member State.

The procedures governing the raising of queries and the subsequent verification of the evidence of origin is discussed in the next section of this manual.

3.11.2 Verification Procedures

3.11.2.1 Need for verification

Subsequent verifications of COMESA Certificate of Origin should be carried out at random or whenever the customs authorities of the importing member State have reasonable doubts as to the authenticity of the document or as to the accuracy of the information regarding the originating status of the goods concerned.

A separate form, a specimen of which is provided at Annex V shall be used for this purpose.

3.11.2.2 What the customs authorities of the importing member State should do when requesting for further supporting evidence

(i) Where the customs authorities of the importing member State are in doubt about the correctness of the evidence furnished to them by the importer, they may request the submission of further supporting evidence.

(ii) When requesting for further supporting evidence, the customs authorities of the importing member State should complete the Form for Verification of Origin, provided at Annex V.

(iii) Any documents and information obtained suggesting that the information given in the certificate of origin is incorrect should be attached to the form and

forwarded to the designated authority of the exporting member State in support of the request for verification.

(iv) Requests for verification should be sent to the Designated Authority of the exporting member State within 48 hours of the raising of the query of COMESA origin status. A copy of the "query" form should at the same time be given to the importer.

(v) Where additional information is required, the customs authorities should clearly specify the nature of the additional information required to resolve the query.

(vi) Requests for additional information should be made using the form provided at Annex VI, which is in four parts, A to D.

(vii) The customs authorities requesting additional information should complete Part A of the form

3.11.2.3 Release of goods which are subject to origin verification

Where the customs authorities of the importing member State decide to suspend the granting of preferential tariff treatment to the goods concerned while awaiting the results of the verification, the importer should be allowed delivery of the goods, provided adequate security has been given for any duty that might be found payable. The security given should be enough to cover the duty at stake only.

However, delivery may be withheld, where goods are subject to any prohibitions.

3.11.2.4 What an importer should do if the customs authorities fail to activate the verification process

Where the customs authorities in an importing member State refuse clearance of any consignment of goods but fail to activate the query/verification procedure, the importer of the goods should contact the Ministry or agency within his government responsible for COMESA matters, and at the same time advising the COMESA Secretariat.

The importer should provide full details of the consignment:

- nature of the goods;
- number and kind of packages;
- value;
- country of origin and exportation;
- name and address of exporter; and
- transport details.

The importer should also indicate the reason for refusal of release of the goods.

3.11.2.5 What the Designated Issuing Authority in the exporting member State should do upon receipt of origin verification requests

3.11.2.5.1 Where no additional information is requested

Upon receipt of the Form for Verification of Origin, the authority should immediately carry out investigations and communicate its findings to the importing member State.

The designated authority should complete Part B, "RESULTS OF VERIFICATION", fill in the appropriate box as to the originating status of the goods under consideration, stamp and sign the form.

3.11.5.2 Where additional information is requested

Upon receipt of the request for additional information, the designated authority should:

(i) Call upon the exporter to furnish information required in Part B of the request form. Only the relevant sections of Part B need be completed depending on the particular origin criterion in Rule 2.1 under which COMESA origin status is claimed.

(ii) Ensure that the exporter has signed the Declaration in Part C of the form.

(iii) To facilitate the checking of the additional information provided in Part B against the particulars of the goods covered by the certificate of origin under query, the total quantity or the quantity of the goods to which the detailed manufacturing costs being supplied are related, and the period when the manufacture took place should be stated in the response to the query.

(iv) If the authority is satisfied that the form has been properly completed and signed by the exporter, the authority should stamp and sign the certificate in Part D, and return the completed form promptly to the customs authorities of the importing member State.

3.11.2.6 Verification results

Verification results should be forwarded to the authorities of the importing member State as soon as possible, but not later than twelve weeks. In the case of difficulties of verification, the exporting member State should notify authorities of the importing member State that the enquiry is on-going and the results will be forwarded to them in due course. However, if no response is received within the twelve weeks, the COMESA Secretariat should be notified.

If the further check in the exporting member State establishes that the goods do not meet the requirements of the COMESA Rules of Origin for them to be accepted as originating in a member State, the verification form should be returned to the importing member State under cover of a confidential note explaining the results of the further check and indicating what action, if any is proposed against the exporter. In such a case, preferential tariff treatment is denied by the importing member State.

3.11.2.7 What to do if doubts persist about the originating status of goods

Normally, the raising of a query by an importing member State and the provision of a response verifying the evidence of origin should dispose of the matter, either confirming or rejecting the claim of COMESA origin.

3.11.2.8 Joint-on-the-spot investigation

Where despite the response to a query by an exporting member State affirming the original claim of COMESA origin, doubts persist in the minds of the customs authorities in the importing member State 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 member State, arrangements should be made with the minimum of delay for representatives from both sides to meet in the member State where production is carried out to examine together "on-the-spot" evidence on which the claim of COMESA originating status is based.

3.11.2.9 What the customs authorities of the importing member State and the Designated Issuing Authority of the exporting member State should do.

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

(i) Agree on the dates on which to carry out the joint investigation.

(ii) The customs authorities of the importing member State should provide the Designated Issuing Authority in the exporting member State 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 member State. However, the visiting delegation should meet its accommodation expenses.

(iii) The Designated Issuing Authority should assist the visiting delegation with visas and any other travel requirements.

(iv) The Designated Issuing Authority should also ensure that the visiting delegation has access to its records pertaining to the registered exporter who is to be investigated.

(v) Depending on the origin criterion that is applicable to the goods under investigation and the nature of the production process involved, the two authorities may agree to co-opt independent technical experts to assist in the investigations. The two authorities will share any costs incurred in co-opting the experts.

3.11.2.10 Preparing for the visit to an exporter's premises

It is advisable for the registered exporter to be informed of the intended visit. Mutual co-operation and consultation between the Designated Issuing Authority and registered exporter is important for successful verification to be carried out.

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
- Origin Rulings related to the registered exporter and the goods
- previous visit reports (if any) concerning the registered exporter
- information from other sources, e.g. Customs Investigations
- any other relevant information.

3.11.2.11 Report of visit

The investigating officials should write a report after concluding the investigation.

The report of visit may include the following items:

(i) Date(s) of visit

(ii) Name and position in company of person(s) seen.

(ii) Registered exporter's function, e.g. distributor.

(iv) Confirmation that the signature in box 11 of the Certificate of Origin was made by an officer or authorized representative of the company investigated, and that the signatory was in full possession of the facts and entitled to sign the certificate.

(v) Principal countries to which the goods are exported.

(vi) Main types of goods imported by the registered exporter, e.g. raw materials, finished goods, etc.

(vii) Purposes for which the goods are imported, e.g. own use, further manufacture, resale as imported

(viii) Details of procedures undertaken in auditing records and documents, whether held in computer or not.

(ix) Details of any irregularities found in the course of the investigation.

(x) Any specific action taken against the registered exporter

(xi) Any other relevant information.

3.11.2.12 Results of the joint investigation

At the conclusion of the investigations, the officials from the two authorities involved in the investigations should discuss and agree on the outcome of the investigation.

The customs authorities of the importing member State should advise the COMESA Secretariat of the outcome of the investigation.

The COMESA secretariat should, in turn, notify the other COMESA member States of the results.

Normally, such joint-on-the-spot investigations should help in resolving the origin query, however, where the two parties fail to agree, member States should follow dispute settlement procedures covered in paragraphs that follow.

3.11.2.13 Arbitration

Any dispute between member States relating to the application of the provisions of the Protocol on Rules of Origin shall, in so far as is possible, be settled by negotiation between them and member States should desist from taking unilateral action on disputes regarding origin.

However, in all cases, the settlement of disputes between the importer and the customs authorities of the importing member State should be dealt with under the laws of that member State.

A dispute, which has not been settled by negotiation between the parties within three months, shall be referred to an Arbitration Panel comprising three members. Each party to the dispute shall appoint one member to the Panel while the parties to the dispute shall mutually agree upon the third member of the Panel.

The parties to the dispute shall supply all documents and/or information to the Arbitration Panel. The documents and/or information so supplied shall also be supplied, at the same time, to the other party to the dispute and the Secretary General.

The Arbitration Panel shall conduct the arbitration in such manner, as it considers appropriate provided that the parties to the dispute shall be treated with equality and that during the proceedings, each party shall be given a full opportunity of presenting its case.

Upon request by any party to the dispute during the arbitration proceedings, the Panel shall hear evidence, oral or written, from any witness including experts invited by any party to the dispute.

The general terms of reference of the Arbitration Panel shall be: -

“ to examine, in the light of the relevant provisions of the Treaty establishing the Common Market for Eastern and Southern Africa and the Protocol on the Rules of Origin, the matter presented to it and to establish findings and make such recommendation(s) as would resolve the dispute in a manner consistent with the overall development objectives of the region and to the satisfaction of the parties to the dispute.”

The Arbitration Panel shall consider the submissions from the parties to the dispute and any witness (es) and may request additional information or clarification from the parties to the dispute or the Secretary General, and make its recommendations.

In making its recommendations, the Panel shall, in addition refer to any relevant authorities and provisions whether or not cited by the parties to the dispute.

The Arbitration Panel shall hold its first sitting within a period of fourteen (14) days from the date of acceptance to serve on the Panel by the last panelist and shall, unless otherwise constrained, complete its task and submit its findings and recommendation(s) to the parties to the dispute and the Secretary General within a period of thirty (30) days from date of its first sitting.

If the Arbitration Panel is unable, through its findings and recommendation(s) to resolve the dispute in a manner which is consistent with the overall development objectives of the region and to the satisfaction of the parties to the dispute, it shall refer the matter, through the Secretary General, to the Court of Justice for a final ruling which shall be binding on all parties.

Each party to the dispute shall bear the costs attributable to the member it appointed to the Panel while the costs attributable to the third member of the Panel shall be borne in equal part by the parties to the dispute.

3.12 Special Regime for small-scale traders

3.12.1 Introduction

Small-scale traders play an important role to the economic and social development of member States. For a long time, this sector has not been benefiting from preferential tariffs offered under the COMESA trade regime and COMESA members have since put in place measures that will allow the sector to benefit from preferential tariff treatment. COMESA members agreed to facilitate small-scale border traders who import originating goods of a commercial nature valued at US$200 to benefit from preferential tariffs through the use of a simplified form of certificate of origin and a simplified Customs declaration form.

3.12.2 Common list of approved products

Member States with common borders should agree on a list of originating goods that are commonly traded by the small-scale border traders.

The goods can either be “wholly produced” or manufactured in the member States.

Originating goods manufactured in the member States should have been produced by a manufacturer who is a registered exporter. The registration number of the registered exporter should be shown against each manufactured product that is listed.

The common list of products should be distributed to all offices of the Designated Issuing Authorities of the concerned member States who will use this information to authenticate the simplified certificate of origin.

The list should also be distributed to the Customs Authorities of the concerned member States to facilitate the granting of preferential tariff treatment when goods appearing on the list are imported into the respective member States.

Sample of Common List

Product	Source
Fresh bananas	Banana Estates, Chirundu, Zimbabwe
Potatoes	Chirundu Estates, Chirundu, Zimbabwe

3.12.3 Issuance of the COMESA Simplified Certificate of Origin

A small-scale border trader whose consignment qualifies should complete the COMESA Simplified Certificate of Origin and the Simplified COMESA Customs Document, provided at Annex VII, attach his invoice and present these documents to the Designated Issuing Authority for authentication.

The Designated issuing Authority should confirm that the goods qualify for the simplified procedures. If satisfied, the Authority should endorse its reference number on the certificate, stamp and sign it.

The certified Simplified Certificate of Origin will entitle the goods to preferential tariff treatment in the importing member State.

3.12.4 What Customs Authorities in the importing member State should do

The Customs Authorities will:

(i) Check that the goods declared by the trader on the simplified Certificate of Origin appear on the common list of approved products.

(ii) Confirm that the signature and stamp appearing on the certificate are the same as those notified by the Designated Issuing Authority of the exporting member State.

(iii) If everything is in order, the goods will be entitled to preferential tariff treatment in the importing member State.

CHAPTER 4

ORGANISATIONAL REQUIREMENTS FOR IMPLEMENTING THE PROTOCOL ON RULES OF ORIGIN

4.1 Introduction

The effective implementation of the Protocol on Rules of Origin by the member States requires that the issuing of certificates of origin and the verification of the certificates be recognized as two distinct functions, which should be carried out in the member States by appropriate authorities.

There is therefore need for an efficient national system responsible for the administration of the Protocol on Rules of Origin to be adopted by member States. To achieve this, member States should at least meet the following organisational requirements:

4.2 Organisational structure

The differences in tradition, legal procedures, volume of trade, national priorities, geography, among others, make the prescription of a uniform organizational structure to be adopted by all member States undesirable.

However, it is desirable for the effective implementation of the Protocol on Rules of Origin for member States to ensure that they at least have the following units in the administrative structures of their Designated Issuing Authorities:

The designated authority should be organized in such a way that there is the Headquarters as well as regional/local offices responsible for the administration of the Protocol on Rules of Origin.

Headquarters

In all member States, the Headquarters of the designated issuing authority necessarily assumes overall responsibility for the proper implementation of the Protocol on Rules of Origin by a member State.

The size of the unit in Headquarters will vary from one member State to another, depending on national requirements and the degree of centralization.

Main functions of the Headquarters unit:

(i) Headquarters personnel should actively participate in COMESA meetings, especially, meetings of the Working Group of Experts on COMESA Rules of Origin, Customs and Trade and Council of Ministers meetings. This ensures that national points of view and requirements are taken into account.

(ii) It will prepare national administrative guidelines on the interpretation of the laws and regulations for use by officials of the issuing authority.

(iii) Another task of this unit is to prepare and issue instructions to ensure uniform application of the provisions of the Protocol by the member State.

(iv) The unit will also deal with appeals against decisions taken by regional/local officials and any difficult cases regarding the Protocol.

(v) The unit will also be responsible for the national database of all registered exporters

(vi) It will also be responsible for:

- Sending details of the official stamps (used in certification) to other member States through the Secretariat. Any changes made should also be notified accordingly. This is required in terms of Rule 10 of the Protocol on Rules of Origin.

- Sending the names and signatures of officials authorized to sign COMESA Certificates of Origin on behalf of the Designated Issuing Authority, as required by Rule 10 of the Protocol on Rules of Origin.

(vii) Another task of the unit is to carry out origin verification on requests for verification made by other member States.

(viii) It will also communicate with authorities in other member States and the Secretariat on matters relating to the Protocol on Rules of Origin.

(ix) The unit will also be responsible for providing training to other officials of the designated authority as well as the private sector.

Designated Regional/Local offices

To facilitate the issuance and verification of certificates of origin, Designated Issuing Authorities should establish offices in the main regions/towns within the member States. This will ensure that exporters wishing to register with the designated authority or those seeking authentication of their certificates of origin do not have to travel long distances for the service, and this assists in reducing the cost of doing business in COMESA.

Main functions of Regional/Local offices:

(i) These units will be responsible for approving and registering exporters.

(ii) These offices should also deal with enquiries of a simple nature and of purely regional/local character, and where necessary should be able to seek assistance from Headquarters.

(iii) Another task of this unit is to carry out origin verification on requests from other member States. This task is carried out with authority from Headquarters and the results of such investigations should be forwarded to Headquarters for onward transmission to the respective member State.

4.3 Competences of the Designated Issuing Authority:

The issuance of the COMESA Certificate of Origin by designated authorities demands that they are competent to implement all the provisions of the protocol on Rules of Origin. In particular, the designated authority must have competency in the following areas:

(i) The Harmonized Commodity Description and Coding System (Harmonised System or HS)

The HS has been designed to be the international standard commodity classification system for international trade. Developed as a multipurpose nomenclature, it is used by almost all COMESA countries as a basis for Customs tariffs and international trade statistics, areas of Customs controls and procedures, and rules of origin. The HS is also an important instrument in facilitating regional trade. This also means that, for origin determining purposes, designated authorities should be competent in the use of the HS for goods classification. This is an important condition of origin determination as the absence of common understanding of the classification rules of the HS can lead to problems in the determination of origin. In fact, all Member States should take necessary measures to ensure that the most recent version of the HS is applied in their Customs Administrations. The personnel of the designated authorities should therefore have adequate expertise in the HS classification rules and classification of goods.

(ii) Customs Valuation of Goods and the WTO Valuation Agreement

The WTO Valuation Agreement establishes a Customs valuation system that primarily bases the Customs value on the transaction value of the imported goods when sold for export to the country of importation. The Customs value of imported goods is determined mainly for the purposes of applying customs duties and constitutes the taxable basis for application of taxes levied at importation as well as internal taxes. Rule 2 (b) of the Protocol makes it necessary to understand Customs valuation of goods to determine the portion of imported materials used in the production of goods and the determination of value added. Similar to the expertise required for classification of goods along the HS, personnel of designated authorities should be adequately trained in Customs valuation of goods.

(iii) Technical Information on Manufacturing Processes

- A large amount of information is required for the implementation of the Protocol on Rules of Origin. Customs officials and other officials of designated authorities as well as economic operators need to know the principles and rules of the Protocol and how they work.
- They need to know where the information required for origin determination of goods can be found. Generally, the economic operator will provide the information but officials also need to have knowledge of materials used, of finished goods as well as the manufacturing processes. This information needs to be consolidated and used as a basis to effect controls in the manufacturing enterprises.

  The designated authority should also be empowered to call for any additional supporting evidence like the import declaration relating to the imported foreign materials utilised in the production process. This technical information so collected is

used to verify if manufacturers meet the requirements of the Protocol to be eligible exporters under the COMESA regime and is used for annual or other periodical checks of exporting companies.

(iv) Investigation and Control of Export Products

- Designated Authorities must have the legal authority to call for any document relating to the export of COMESA products. They should also have the legal power to carry out inspection of goods as well as the records and accounts of the exporter to verify the claim that goods shall be accepted as originating in accordance with the provisions of the Protocol. At time of export, they must check the contents and authenticity of supporting documents accompanying the Certificate of Origin.

- In cases of origin verification and other anomalies detected in the origin declared, the designated authorities must have the authority to request for information and exchange of information.

- The designated must also be empowered to establish offences of COMESA origin fraud and pursue legal action.

  National legal provisions relating to offences and penalties vary considerably from one member State to another. However, the law in all member States must have adequate penalties in case of serious irregularities or falsification of the originating status of goods in order to discourage such practices by traders.

(v) Accounting knowledge

Officials of the designated authority should have basic Accounting knowledge, which is necessary for the application of Rule 2.1(b)(i) and (ii) of the Protocol on Rules of Origin. Officials of the designated issuing authority will be required to verify the eligibility of products to COMESA origin. The application of both the material and value added criteria require the officials to be conversant with basic principles of Accounting so that they are able to distinguish those cost elements that should form part of the imported material content or value added. For example, as far as materials used in production are concerned, one is supposed to be able to distinguish between direct and indirect materials. In the determination of value added, one is required to know, for example, the way manufacturing overheads are allocated to different products.

It is therefore important for the officials of designated issuing authorities to have Accounting knowledge, as it is useful in determining the eligibility of manufactured products to COMESA origin.

(vi) Technical Knowledge of the Protocol on Rules of Origin

They should have adequate technical working knowledge of the principles and rules of the Protocol on Rules of Origin.

COMESA rules of origin are the cornerstone of the COMESA trade regime, and officials of designated issuing authority should have a good understanding of the application of the rules and principles of the Protocol. These officials will be required to, among other things, give advice to traders regarding the practical application of the various aspects of

the Protocol, and hence they can only do so if they have adequate knowledge of the Protocol.

(vii) Co-operation with other agencies

The designated authority should co-operate with other agencies that may render assistance in the implementation of the Protocol on Rules of Origin. Such agencies include, among others, Registrars of companies, Export Processing Zones Authorities, Trade Promotion Bodies, Clearing Agents Associations and Importers and Exporters Associations.

4.4 Customs Co-operation at common border crossings

Delays in the clearance of goods at borders increase the landed costs of imported goods, and the cost consequences of these delays to individual traders and to the economies of the member States are enormous.

Subject to approval at national level, Customs Administrations at common border crossings shall, wherever possible, operate joint controls. These operations can become a one-stop Customs control where Customs offices are located at common land or waterway borders and the Customs Administrations of the juxtaposed offices will arrange joint hours of business to assist both travellers and trade.

4.5 Post-clearance control

In view of the pressure of trade and to obviate delays, Customs administrations will authorize their local offices to clear a considerable part of all imports after a summary check only.

It is particularly in respect of such clearance that the need for post-clearance control arises. Post clearance control consists of carefully checking whether the information made available at the time of clearance was accurate as far as the originating status of goods is concerned, basing on the documents presented.

In exercising such controls, over the flow of trade between member States under the COMESA trade regime, Customs Administrations must strike a balance between promoting intra-COMESA trade, on one hand and, on the other, the need to guard against customs fraud.

Checks are to be carried out as follows:

After goods accepted as of COMESA origin have been cleared, the Customs authorities in the importing member States can select a small percentage of the COMESA documents processed by them and subject these to thorough checks (including going all the way through the normal query and verification process) to test the adequacy of their controls and the extent to which, in seeking to facilitate the flow of intra-COMESA trade, fraudulent or irregular transactions may escape detection.

In making these random post-verification checks, selection of the transactions to be investigated can be by the sensitivity of certain kinds of goods where there may be a

greater inducement to evade customs controls, or by the known past record of suspect traders.

4.6 Record maintenance

Authorities in the exporting and importing member States should retain copies of certificates of origin and other related documents issued and accepted in respect of goods traded under the COMESA trade regime for a minimum of five years or such time as stipulated in the national laws of a member State.

4.7 Exchange of information

Member States should regularly exchange information on fraudulent or improper claims of COMESA origin status. Such information, which is detected by any Customs Administration, should be circulated on a confidential basis through the COMESA Secretariat for the information of the other COMESA member Administrations.

4.8 Role of the COMESA Secretariat

The COMESA Secretariat should provide adequate technical support or advice regarding the interpretation and implementation of the Protocol on Rules of Origin where this is required by a member State.

The Secretariat should also be kept aware of the instances of the query and subsequent verification of evidence of COMESA origin by being provided with copies of all query forms that are sent by the authorities in the member States, as well as copies of the verification responses by the exporting member States. This information will be circulated to other member States by the Secretariat.

Annex 1: DECLARATION BY THE PRODUCER

(referred to in Rule 10 of the Protocol)

APPENDIX II - DECLARATION BY THE PRODUCER

TO WHOM IT MAY CONCERN

For the purpose of claiming preferential treatment under the provisions of Rule 2 of the Protocol on the Rules of Origin for products to be traded between member States of the Common Market for Eastern and Southern Africa;

I HEREBY DECLARE:

(a) that the goods listed here in quantities as specified below have been produced by this company/enterprise/workshop/supplier*;

(b) that evidence is available that the goods listed below comply with the origin criteria as specified by the Protocol on the Rules of Origin for the Common Market for Eastern and Southern Africa.

APPENDICE II - DECLARATION DU PRODUCTEUR

A QUI DE DROIT

En vue de beneficier du traitement preferentiel en vertu des dispositions de l'Article 2 du Protocole sur les regles d'origine des produits echanges entre les Etats members du Marche commun de l'Afrique de l'Est et de l'Afrique australe,

JE DECLARE PAR LA PRESENTE:

(a) que les marchandises enumerees dans la presente declaration et dont les quantites sont precises ci-dessous ont ete produites par le(la) present(e) societe/entreprise/atelier/fournisseur*

(b) qu'il est possible de prouver que les marchandises enumerees ci-dessous sont conformes aux critere d'origine indiques dans le Protocole sur les regles d'origine du Marche commun de l'Afrique de l'Est et de l'Afrique australe.

APENDICE II - DECLARACAO DO PRODUTOR

A TODOS OS INTERESSADOS

Para efeitos de pedido de aplicacao de um tratamento preferencial em virtue das disposicoes da Regra 2 do Protocolo relativo as regras de origem dos produtos objecto de comercio entre os Estados membros do Mercado Comum sa Africa Oriental et Austral;

DECLARO PELA PRESENTE:

(a) que os produtos enumerados na presente declaracao e cujas quantidades sao aqui especificadas foram produzidos por/pela este/a companhia/empresa/oficina/fornecedor*

(b) que e possivel provar que os produtos aqui enumerados sao conformes aos cruterios de origem indicados no Protocolo relativo as regras de origem sa Zona de Comercio Preferencial para os Estados da Africa Oriental e Austral.

*Please delete the description not applicable
Biffer les mentions inutiles
Riscar o que nao interessar

List of goods
Liste des marchandises
Lista de mercadorias

Commercial description **Designation commerciale** **Designacao comercial**	**Quantity** **Quantite** **Quantidade**	**Criterion to be claimed** **Critere considere** **Criterio aplicavel**

STAMP - SCEAU - CARIMBO

……..
Signature of the PRODUCER
Signature de PRODUCTEUR
Assinatura do PRODUTOR

Annex II: COMESA CERTIFICATE OF ORIGIN

(referred to in Chapter 3, paragraph 3.3.2)

COMESA CERTIFICATE OF ORIGIN

<table>
<tr><td>1. Exporter (Name & office address)
Exportateur (nom et adresse commerciale)
Exportador (nome e endereco comercial)</td><td colspan="4">Ref. No……
No. de ref……
No. de ref……...

 

COMMON MARKET FOR EASTERN AND SOUTHERN AFRICA

MARCHE COMMUN DE L’AFRIQUE DE L’EST ET DE L’AFRIQUE AUSTRALE

MERCADO COMUM DA AFRICA ORIENTALE E AUSTRAL

CERTIFICATE OF ORIGIN
CERTIFICAT D’ORIGINE
CERTIFICADO DE ORIGEM</td></tr>
<tr><td>2. Consignee (Name & office address)
Destinataire (nom et adresse commerciale)
Destinatario (nome e endereco comercial)</td><td colspan="4"></td></tr>
<tr><td>3. Country, Group of countries in which the products are originating from

Pay ou groupe de pays dont les produits sont originaires

Pais, ou Grupo de paises origàrio do produto</td><td colspan="4"></td></tr>
<tr><td>4. Particulars of Transport
Renseignements concernant le transport
Informacoes relatives ao transporte</td><td colspan="4">5. For official use – Reserve a l’usage officiel – Reservado para uso oficial</td></tr>
<tr><td>6. Marks and Numbers; number and kind of package, description of goods; Marques et numero et types d’emballages; designation des marchandises;
Marcas e numeros; quantidas e natureza das Embalagens; designacao das mercadorias</td><td>7. Customs Tariff No.

Tariff douanier No.

Direito aduaneiro no.</td><td>8.Origin criterion (see overleaf);

Critere d’origine (voir au verso);

Criterio de origem (ver no verso)</td><td>9.Gross weight or other quantity;

Poids brut ou autre quantite;

Peso bruto ou outra medida</td><td>10. Invoice No.

No. de Facture;

Factura no.</td></tr>
<tr><td>11. DECLARATION BY EXPORTER/ PRODUCER/ SUPPLIER*

DECLARATION DE L’EXPORTATEUR/ PRODUCTEUR/ FOURNISSEUR*

DECLARACAO DO EXPORTADOR/ PRODUCTOR/ FORNECEDOR*

I, the undersigned, hereby declare that the above details and statements are correct, that all goods are produced in ……

Je soussigne, declare que les elements et declarations ci-dessus sont corrects, et que les marchandises sont produites ……..

Eu, abaixo assinado, declaro que as informacoes e declaracoes acima prestadas sao correctas e que todos os produtos sao produzidos em ……..

…….
Place, date, signature of declarant
Lieu, date et signature du declarant
Local, data e assinatura do declarante</td><td colspan="4">12.

CERTIFICATE OF ORIGIN
CERTIFICAT D’ORIGINE
CERTIFICADO DE ORIGEM

It is hereby certified that the above-mentioned goods are of ……origin.

Nous certifions que les marchandises susmentionees sont d’origine ……..…….……

Certica-se que os productos acima referidas sao originarios de ……..……..

……..……
Certificate of Customs or other Designated authority
Certificat des douanes ou autres autorites designees
Certificado da alfandega ou de outra autoridade designada

STAMP – SCEAU – CARIMBO</td></tr>
</table>

*Please delete the description not applicable – Rayer les mentions inutiles – Riscar o que nao interessar

INSTRUCTIONS FOR COMPLETING THE CERTIFICATE OF ORIGIN FORM

i) The forms may be completed by any process provided that the entities are legible and indelible.

ii) Erasures and super-impositions are not allowed on the certificate. Any alterations should be made by striking out the erroneous entry(ies) and making any additions required.

iii) Any unused spaces should be crossed out to prevent any subsequent addition.

iv) If warranted by export trade requirements, one or more copies may be drawn up in addition to the original.

v) The following letters should be used when completing a certificate in the appropriate place:
"P" for goods satisfying the wholly produced criterion [Rule 2.1 (a).].
"**M"** for goods satisfying the material content of the substantial transformation criterion [Rule 2.1 (b) (i)].
"**V"** for goods satisfying the value-added content of the substantial transformation criterion [Rule 2.1 (b) (ii)].
"**X"** for goods satisfying the change of tariff heading of the substantial transformation criterion [Rule 2.1 (b) (iii)].
"**Y"** for goods satisfying the criterion of particular economic importance to the member States [Rule 2.1(c)].

INSTRUCTIONS POUR REMPLIR LE FORMULAIRE DU CERTIFICAT D'ORIGINE

i) Les formules peuvent etre remplis par n'importe quel procede a condition que le mentions soient lisibles et indelebiles.

ii) Les ratures et les surcharges ne sont pas permises sur les certificats. Toute modification doit etre faite en rayant les mentions erronees et en ajoutant les corrections necessaires.

iii) Tout espace non utilise doit etre barre pour eviter des adjonctions ulterieurs.

iv) Si cela est justifie par les conditions d'exportation, une ou plusiers copies peuvent etre etablies en plus de l'original.

v) Les lettres suivantes doivent etre utilisees aux endroits appropries pour remplir un certificat:
"**P"** pour les marchandises entierement produites [Regle 2.1 (a)]
"**M"** pour les marchandises auxquelles s'applique le critere de la proportion de materiaux utilises [Regle 2.1 (b) (i)].
"**V"** pour les marchandises auxquelles s'applique le critere de la valeur ajoutee [Regle 2.1 (b) (ii)].
"**X**" pour les marchandises auxquelles s'applique le critere du changement du numero de tariff douanier [Regle 2.1 (b) (iii)].
"**Y"** pour les marchandises auxquelles sápplique le criterie de límportance economique particuliere aux Etats membres (Regle 2.1c).

INSTRUCOES PARA O PREENCHIMENTO DO FORMULARIO DO CERTIFICADO DE ORIGEM

i) O formulario pode ser preenchido por qualquer processo, desde que as entradas sejam indeleveis e legiveis.

ii) Nao sao permitidas emendas ou rasuras no certificado. As modificoes que lhe forem introduzidas devem ser efectuadas riscando as indicacoes erradas e acrescentando, se for caso disso, as indicacoes pretendidas.

iii) Todos os espacos nao utilizados devem ser trancados de forma a impossibiliter qualquer inscricao ulterior.

iv) Se tal se justificar, devido a necessidades do comercio de exportacao, podem ser feitas, para alem do original, uma ou mais copias.

v) As seguintes letras devem ser utilizadas no local apropriado, aquando do preenchimento do formulario:
"**P"** para os produtos inteiramente produzidos [Regra 2.1 (a)]
"**M"** para os produtos aos quais e applicavel o criterio da proporcao dos materiais utilizados [Regra 2.1 (b) (i)].
"**V"** para os produtos aos quais e applicavel o criterio do valor acrescentado [Regra 2.1 (b) (ii)].
"**X**" para os produtos aos quais e applicavel o criterio do transformacao substancial da posicao da tarifa [Regla 2.1 (b) (iii)].
"**Y"** para os produtos aos quais e aplicavel o criterio da importancia economica particular aos Estados membros (Regla 2.1 (b) (iii)].

N.B. Any person who knowingly furnishes or causes to be furnished a document which is untrue in any material particular for the purpose of obtaining a Certificate of Origin or during the course of any subsequent verification of such certificate, will be guilty of an offence and be liable to penalties.

Toute personne qui presente ou fait presenter sciemment un document sur lequel figure une quelconque information fausse dans le but d'obtenir un certificat d'origine ou au cours de verifications ulterieures d'un tel certificat se rend coupable d'une infraction et encourt des sanctions.

Qualquer pessoa que, com conhecimento de causa, apresentar ou faca apresentar um documento no qual figura qualquer informacao falsa com o objectivo de obter um certificado de origem ou no curso de uma verificacao ulterior desse certificado e culpavel de uma infraccao e incorre em sancoes.

Annex III: DESIGNATED ISSUING AUTHORITIES OF MEMBER STATES
(referred to in Chapter 3, paragraph 3.3.2)

Member State	Ministry of Trade	Customs/Revenue Authority	Chamber of Commerce and Industry
Angola			
Burundi	•		
Comoros			
Congo (DRC)	•		
Djibouti	•	•	
Egypt [1]	•		
Eritrea			•
Ethiopia			•
Kenya	•		
Madagascar		•	
Malawi			•
Mauritius	•		
Namibia		•	
Rwanda	•		
Seychelles		•	•
Sudan[2]	•		•
Swaziland	•		
Uganda	•		
Zambia		•	
Zimbabwe		•	

[1] with offices at all border posts

2 Certificate issued by the Chamber of Commerce and endorsed by the Ministry of Trade

Annex IV: FORM FOR VERIFICATION OF ORIGIN
(referred to in Chapter 3, paragraph 3.11.2.2)

FORM FOR VERIFICATION OF ORIGIN
FORMULAIRE DE VERIFICATION DE L'ORIGINE
FORMULARIO PARA A VERIFICAÇAO DA ORIGEM

A. REQUEST FOR VERIFICATION, to
DEMANDE DE VERIFICATION addressée à
PEDIDO DE VERIFICAÇAO, dirigico a

Verification of the authenticity and accuracy of this certificate is requested
La vérificaiton de l'authenticité et de l'exactitude du présent certificat a été demandee
Foi requerida a verificaçao da autenticidade e da exactidao do presente certificado

---

(Place and date)
(Lieu et date)
(Local e data)

STAMP
SCEAU
CARIMBO

(Signature)
(Assinatura)

B. RESULTS OF VERIFICATION
RESULTATS DE LA VERIFICATION
RESULTADO DA VERIFICAÇAO

Verification carried out shows that this certificate*
La verification effectuée montre que le présent certificat (*)
A verificaçao efectuada demonstra que a presente certificado*

☐ was issued by the Customs Office or designated authority indicated and that the information contained therein is accurate.
a été délivré par le bureau des douanes ou par les instances désignées indiqués et que les informations qu'il contient sont exactes.
foi emitido pelo posto aduaneiro ou pela autoridade designada indicada e as informaçoes que contem sao correctas.

☐ does not meet the requirements as to authenticity and accuracy
ne correspond pas aux critéres dáuthenticité et déxactitude.
nao corresponde aos criterios de autenticidade e de exactidao.

(Place and date)
(Lieu et date)
(Local e data)

STAMP
SCEAU
CARIMBO

(Signature)
(Assinatura)

_____

*Insert X in the appropriate box
Marquer dúne croix case appropriée
Assinalar com uma cruz

Annex V: REQUEST FOR ADDITIONAL INFORMATION
(referred to in Chapter 3, paragraph 3.11.2)

COMMON MARKET FOR EASTERN AND SOUTHERN AFRICA

REQUEST FOR ADDITIONAL INFORMATION IN VERIFICATION OF DOCUMENTARY EVIDENCE OF ORIGIN

PART A

Particulars of the Goods in respect of which additional evidence of origin is required

1. Marks and number(s) of package(s) ..……..

2. Number and kind of package(s)
Description of goods together with the
Customs Tariff heading …….

3. Consignee's name, address and
Country …….

…….

……

…….

4. Consignor's name, address and
Country ……..

5. Reference number and date of export
invoice …….…….

PART B

Production processes carried out, materials used, particulars of costing, etc

6. Production processes carried out in producing the goods …….

7. Materials imported from outside the member States used in the manufacture of the goods at 2 above, their respective c.i.f. values and their Customs tariff heading ……

8. Materials of COMESA origin used in the manufacture of the goods described at 2 above, their respective values and Customs tariff heading ..……..

9. Retail containers or other forms of interior packing ordinarily sold with the goods when they are sold by retail or the materials used in their manufacture, their origin, c.i.f. values and Customs tariff heading ……

10. Import duty, if any, paid on the importation of the items at 7 & 9 ..……

11. Direct labour costs, factory overheads …..……

12. Ex-factory cost of the goods produced ….……

13. The cost of exterior packing ……..

PART C

Declaration

I,……..
(State name and capacity in which signing)

of:……
(Name of company/enterprise/workshop and address)

declare that the above details and statements are correct, and, that they are furnished in cognisance of the requirements of Rule 2 of the Protocol on the Rules of Origin for products to be traded between the member States of the Common Market.

……
Signature

……..
Date

PART D

Certification

It is hereby certified, on the basis of control carried out, that the declaration by the exporter is correct.

…….

…….

…….

…….
(Place and Date)

……
Signature and stamp of Designated Authority

NOTES

Only the relevant sections of Part B need be completed.

The unit of quantity to which the manufacturing costs apply should be stated.

The period during which manufacture took place should be given.

If the value of any materials imported from outside the member States cannot be determined, then the value to be inserted in Part B (7) is the earliest ascertainable price paid for them in the member State where they were used in a process of production.

"Direct labour costs" refers to that portion of the production costs representing wages, salaries and emoluments allocated in respect of persons involved in the actual production of the goods.

"Factory overheads" covers costs attributable to energy, fuel, plant, machinery and tools used in the production, as well as materials used in the maintenance of such plant, machinery and tools.

Annex VI (a): COMESA Simplified Certificate of Origin
(referred to in Chapter 3, paragraph 3.12.3)

COMESA SIMPLIFIED CERTIFICATE OF ORIGIN/CERTIFICAT SIMPLIFIE D'ORIGINE DU COMESA

(For goods of a value not exceeding US$200/Pour les Marchandises dont la Valeur en Douane ne Dépasse pas US$200)

<table>
<tr><td>Exporter (name, full address, country
Exportateur (nom, adresse complète, pays)</td><td colspan="2">Reference Number
Numero de Référence</td></tr>
<tr><td>Importer (name, full addresse, country
Importateur (nom, address complète, pays)</td><td colspan="2">Country in which the products are originating
Pays d''origine de la marchandise
……..</td></tr>
<tr><td>Description of goods
Description des marchandises</td><td>No. and type of packages
Quantité et nombre de colis</td><td>Value
Valeur</td></tr>
<tr><td>Declaration by Exporter
Déclaration de l'exportateur

I, the undersigned Mr/Mrs/Ms
Je, soussigné, M/Mme/Mlle ……

Declare that the goods described above have been produced in accordance with the COMESA Rules of Origin in/Déclare que les marchandises décrites ci-haut sont produites en conformité avec les règles d'origine du COMESA
……..

Signature……..

Place/Lieu…….

Date……..

Official Stamp/Sceau Officiel</td><td colspan="2">Customs Endorsement
Approbation par les services de Douane

I, the undersigned, hereby endorse the exporter's declaration and certify that the goods qualify under the COMESA Rules of Origin/Je, soussigné, approuve par le présent la déclaration de l'exportateur et certifie que les marchandises se conforment aux règles d'origine du COMESA

……..

Signature ……

Name of Customs Officer/
Nom de l'officier de douane …….

Date ……

Customs Office and Official Stamp
Bureau de Douane et Sceau Officiel</td></tr>
</table>

Annex VI (b): COMESA Customs Document
(referred to in Chapter 3, paragraph 3.12.3)

COUNTRY…….

SIMPLIFIED COMESA CUSTOMS DOCUMENT

For goods of a value not exceeding US$ 200

<table>
<tr><td colspan="2" rowspan="2">Exporter/Consignor</td><td></td><td>Port of clearance</td><td>Regime Code</td><td>Frontier office code/Port of Exit</td><td rowspan="2">FOR OFFICIAL USE DECLARATION NO & DATE</td></tr>
<tr><td colspan="4">Identification of means of transport</td></tr>
<tr><td colspan="2">Importer</td><td></td><td></td><td colspan="2"></td><td></td></tr>
<tr><td colspan="2">Consignee</td><td colspan="4"></td><td></td></tr>
<tr><td colspan="2">Declarant/Agent</td><td colspan="2">Terms of Delivery</td><td></td><td></td><td></td></tr>
<tr><td colspan="2" rowspan="4">Goods Description</td><td colspan="2">CPC</td><td colspan="2">Commodity Code</td><td>Net weight Kg</td></tr>
<tr><td></td><td>1st suppl. Quantity</td><td colspan="2">2nd suppl. Quantity</td><td colspan="2">Customs value</td></tr>
<tr><td colspan="2"></td><td>Country of Origin</td><td></td><td>Gross weight Kg</td></tr>
<tr><td colspan="2">Freight</td><td>Insurance</td><td>Other Costs</td><td colspan="2"></td></tr>
<tr><td colspan="6">REVENUE INFORMATION</td><td></td></tr>
<tr><td>Duty/ Tax Type</td><td>duty/Tax base</td><td>Rate</td><td>value for Duty/Tax</td><td>Duty/Tax Due</td><td>Total Duty/tax due</td><td></td></tr>
<tr><td>i.</td><td></td><td></td><td></td><td></td><td></td><td></td></tr>
<tr><td>Ii.</td><td></td><td></td><td></td><td></td><td></td><td></td></tr>
<tr><td>Iii.</td><td></td><td></td><td></td><td></td><td></td><td></td></tr>
<tr><td>Iv.</td><td></td><td></td><td></td><td></td><td></td><td></td></tr>
<tr><td colspan="5">Totals</td><td></td><td></td></tr>
<tr><td colspan="6">DECLARATION

I/We……the undersigned of……. (company name) being the agent/principal of …….(importer/exporter) do hereby declare that the information and particulars declared herein are true and complete.

Signature…….. Date …… Place ……Tel/Fax:……...</td><td>FOR OFFICIAL USE</td></tr>
</table>

Annex VII: GLOSSARY

"Certificate of Origin" means the COMESA form identifying goods, in which the Designated Issuing Authority expressly certifies that the goods to which the certificate relates originate in a specific member State; the Certificate also includes a declaration by the exporter/producer/supplier;

"C.I.F"means cost, insurance and freight;

"Clearance"means the accomplishment of the Customs formalities necessary to allow goods to enter home use, to be exported or to be placed under another Customs procedure;

"COMESA"means the Common Market for Eastern and Southern Africa;

"Customs law"means the statutory and regulatory provisions relating to the importation, exportation, movement or storage of goods, the administration and enforcement of which

are specifically charged to the Customs Authorities of the member States, and any regulations made by such Authorities under their statutory powers;

"**Designated Issuing Authority"** means the governmental agency in a member State

authorised to issue COMESA Certificates of Origin;

"Designated Regional/Local office" means an office other than the Headquarters that is designated to issue COMESA Certificates of Origin within the territory of a member State;

"Member State" means a member State of the Common Market for Eastern and Southern Africa;

"Non-originating materials" means materials imported from outside COMESA;

"Originating materials" means materials which have been produced in a member State

and meet the requirements of the COMESA Rules of Origin;

"Security" means the deposit or guarantee of funds, e.g. cash, bond security etc., with Customs, which ensures to the satisfaction of Customs that an obligation will be fulfilled;

"Substantial transformation" means substantial manufacturing or processing of materials which is deemed sufficient to give the finished product its essential character.

The operations and processes listed in Rule 5 of the Protocol on Rules of Origin shall not be regarded as substantial transformation;

"Treaty" means the Treaty Establishing the Common Market for Eastern and Southern Africa;

"WCO" means the World Customs Organisation; and

"WTO" means the World Trade Organisation.

Annex VIII: Protocol on the Rules of Origin for Products to be traded between the member States of the Common Market for Eastern and Southern Africa

PROTOCOL ON THE RULES OF ORIGIN FOR PRODUCTS TO BE TRADED BETWEEN THE MEMBER STATES OF THE COMMON MARKET FOR EASTERN AND SOUTHERN AFRICA

PREAMBLE

THE HIGH CONTRACTING PARTIES

AWARE that the have undertaken to progressively establish a Common Market within which customs duties and other charges of equivalent effect imposed on imports shall be eliminated and non-tariff barriers to trade among member States shall be removed, a common external tariff shall be adopted and all trade documents and procedures shall be harmonised;

HAVING REGARD to the provisions of Article 46 of the Treaty which requires member States to reduce and ultimately eliminate, by the year 2000 in accordance with the programme adopted by the PTA Authority, customs duties and other charges of equivalent effect imposed on or in connection with the importation of goods which are eligible for Common Market tariff treatment;

CONSIDERING the provisions of Article 48 of the COMESA Treaty providing that only goods originating in the member States shall be eligible for Common Market tariff treatment; and

TAKING INTO ACCOUNT the provisions of paragraph 2 of Article 48 of the COMESA Treaty which requires that the rules of origin for products that shall be eligible for Common Market treatment shall be set out only in a Protocol to be annexed to the Treaty:

NOW THEREFORE

It is **HEREBY AGREED** as follows:

RULE 1

Interpretation

In this Protocol:

"Authority" means the Authority of the Common Market established by Article 7 of the Treaty;

"Bureau of Council" means the Chairman, Vice Chairman and Rapporteur elected in accordance with the Rules of Procedure of the Council;

"Committee" means the Committee on Trade and Customs established by Article 7 of the Treaty;

"Common Market" means the Common Market for Eastern and Southern Africa established by Article 1 of the Treaty;

"Council" means the Council of the Common Market established by Article 7 of the Treaty;

"Court" means the Common Market Court of Justice established by Article 7 of the Treaty;

"ex-factory cost" means the value of the total inputs required to produce a given product;

"IC" means the Intergovernmental Committee established by Article 7 of the Treaty;

"Member State" means a Member State of the Common Market;

"materials" means raw materials, semi-finished products, products, ingredients, parts and components used in the production of goods;

"produced" and "a process of production" include the application of any operation or process with the exception of any operation or process as set out in Rule 5 of this Protocol;

"producer" includes a mining manufacturing or agricultural enterprise or any other individual grower or craftsman who supplies goods for export;

"Protocol" means the Protocol on Rules of Origin for Products to be Traded between the Member States of the Common Market;

"Secretariat" means the Secretariat of the Common Market established by Article 7 of the Treaty;

"Treaty" means the Treaty Establishing the Common Market for Eastern and Southern Africa;

"value-added" means the difference between the ex-factory cost of the finished product and the c.i.f. value of the materials imported from outside the Member States and used in the production;

"Vessel of a Member State" means vessel of a Member State if it is registered in a Member State and satisfies one of the following conditions:

(a) at least 75 per cent of the officers of the vessel are nationals of a Member State; or

(b) at least 75 per cent of the crew of the vessel are nationals of a Member State; or

(c) at least the majority control and equity holding in respect of the vessel are held by nationals of a Member State or institution, agency, enterprise or corporation of the Government of such Member State.

RULE 2

Rules of Origin of the Common Market for Eastern and Southern Africa

1. Goods shall be accepted as originating in a member State if they are consigned directly from a member State to a consignee in another member State and:

(a) they have been wholly produced as provided for in Rule 3 of this Protocol; or

(b) they have been produced in the member States wholly or partially from materials imported from outside the member States or of undetermined origin by a process of production which effects a substantial transformation of those materials such that:

(i) The c.i.f. value of those materials does not exceed 60 per cent of the total cost of the materials used in the production of the goods; or

(ii) The value added resulting from the process of production accounts for at least 35 per cent of the ex-factory cost of the goods; or

(iii) The goods are classified or become classifiable under a tariff heading other than the tariff heading under which they were imported; or

(c) produced in the member State and designated in a list by the Council upon the recommendation of the Committee through the IC to be goods of particular importance to the economic development of the member States, and containing not less than 25 per cent of value added notwithstanding the provisions of sub-paragraph (b) (ii) of paragraph 1 of this Rule.

2. The Council may:

(a) determine how long the goods contained in the list referred to in sub-paragraph (c) of paragraph 1 of this Rule shall remain on such list and may, from time to time, amend it as may be necessary; and

(b) amend any of the percentage values and value added specified in sub-paragraph (b) (i) and (ii) of paragraph 1 of the Rule, from time to time, as may be necessary.

3. Raw materials or semi-finished goods originating in accordance with the provisions of this Protocol in any of the member States and undergoing working or processing either in one or two or in more States shall, for the purpose of determining the origin of a finished product, be deemed to have originated in the member State where the final processing or manufacturing takes place.

4. In determining the place of production of marine, river or lake products and goods in relation to a member State, a vessel of a member State shall be regarded as part of the territory of that member State. In determining the place from which goods originated, marine, river or lake products taken from the sea, river or lake or goods produced therefrom at sea or on a river or lake shall be regarded as having their origin in the territory of a member State if they were taken by or produced in a vessel of that member State and have been brought directly to the territory of the member State.

RULE 3

Goods Wholly Produced in the Member States

1. For the purposes of subparagraph (a) paragraph 1 of Rule 2 of this Protocol, the following are among the products which shall be regarded as wholly produced in the member States.

(a) mineral products extracted from the ground or sea-bed of the member States;

(b) vegetable products harvested within the member States;

(c) live animals born and raised within the member States;

(d) products obtained from live animals within the member States;

(e) products obtained by hunting or fishing conducted within the member States;

(f) products obtained from the sea and from rivers and lakes within the member States by a vessel of a member State;

(g) products manufactured in a factory of a member State exclusively from the products referred to in sub-paragraph (f) of paragraph 1 of this Rule;

(h) used articles fit only for the recovery of materials, provided that such articles have been collected from users within the member States;

(i) scrap and waste resulting from manufacturing operations within the member State;

(j) goods produced within the member States exclusively or mainly from one or both of the following:

(i) products referred to in sub-paragraphs (a) to (i) of paragraph 1 of this Rule:

(ii) materials containing no element imported from outside the member states or of undetermined origin

2. Electrical power, fuel, plant, machinery and tools used in the production of goods shall always be regarded as wholly produced within the Common Market when determining the origin of the goods.

RULE 4

Application of Percentage of Imported Materials and Value Added Criteria

For the purpose of subparagraphs (b) and (c) of paragraph 1 of Rule 2 of this Protocol:

(a) any materials which meet the condition specified in sub-paragraph (a) of paragraph 1 of Rule 2 of this Protocol shall be regarded as containing no elements imported from outside the member States;

(b) The value of any materials which can be identified as having been imported from outside the member States shall be their c.i.f. value accepted by the customs authorities on clearance for home consumption, or on temporary admission at the time of last importation into the member State where they were used in a process of production, less the amount of any transport costs incurred in transit through other member States;

(c) If the value of any materials imported from outside the member States cannot be determined in accordance with paragraph (b) of this Rule, their value shall be the earliest ascertainable price paid for them in the member State where they were used in a process of production; and

(d) If the origin of any materials cannot be determined, such materials shall be deemed to have been imported from outside the member States and its value shall be the earliest ascertainable price paid for such material in the member State where they were used in a process of production.

RULE 5

Process not conferring Origin

Notwithstanding the provisions of sub-paragraphs (b) and (c) of paragraph 1 of Rule 2 of this Protocol, the following operations and processes shall be considered as insufficient to support a claim that goods originate from a member State:

(a) packaging, bottling, placing in flasks, bags, cases and boxes, fixing on cards or boards and all other simple packaging operations;

(b) (i)simple mixing of ingredients imported from outside member States

(ii) simple assembly of components and parts imported from outside the member States to constitute a complete product;

(iii) simple mixing and assembly where the costs of the ingredients, parts and components

imported from outside member States and used in any of such processes exceed 60 per cent of the total costs of the ingredients, parts and components used.

(c) operations to ensure the preservation of merchandise in good condition during transportation and storage such as ventilation, spreading out, drying, freezing, placing in brine, sulphur dioxide or other aqueous solutions, removal of damaged parts and similar

(d) operations;

(d) changes of packing and breaking up of or assembly of consignments;

(e) marking, labelling or affixing other like distinguishing signs on products or their packages;

(f) simple operations consisting of removal of dust, sifting or screening, sorting, classifying and matching, including the making up of sets of goods, washing, painting and cutting up;

(g) a combination of two or more operations specified in sub-paragraph (a) to (f) of this Rule;

(h) slaughter of animals.

RULE 6

Unit of Qualification

1. Each item in a consignment shall be considered separately.

2. Notwithstanding the provisions of paragraph 1 of this Rule:

(a) where the **Customs Co-operation Council's Nomenclature or the Harmonized Commodity Description and Coding System** specifies that a group, set or assembly of articles is to be classified within a single heading, such a group, set or assembly shall be treated as one article;

(b) tools, parts and accessories which are imported with an article, and the price of which is included in that of the article or for which no separate charge is made, shall be considered as forming a whole with the article:

Provided that they constitute the Standard equipment customarily included on the sale of articles of that kind; and

(c) in cases not within the provisions of sub-paragraphs (a) and (b) of this paragraph, goods shall be treated as a single article if they are so treated for purposes of assessing customs duties on like articles by the importing member State.

3. An unassembled or disassembled article which is imported in more than one consignment because it is not feasible for transport or production reasons to import it in a single consignment shall be treated as one article.

RULE 7

Separation of Materials

1. For those products or industries where it would be impracticable for the producer to separate physically materials of similar character but different origin used in the production of goods, such separation may be replaced by an appropriate accounting system which ensures that no more goods are deemed to originate in the member State than would have been the case if the producer had been able physically to separate the materials.

2. Any such accounting system shall conform to such conditions as may be agreed upon by the Council in order to ensure that adequate control measures shall be applied.

RULE 8

Treatment of Mixtures

1. In the case of mixtures, not being groups, sets or assemblies of goods dealt with under Rule 6 of this Protocol, a member State may refuse to accept as originating in the member States any product resulting from the mixing together of goods which would qualify as originating in the member States with goods which
would not qualify, if the characteristics of the product as a whole are not different from the characteristics of the goods which have been mixed.

2. In the case of particular products where it is recognised by the Council to be desirable to permit mixing of the kind described in paragraph 1 of this Rule, such products shall be accepted as originating in the member States in respect of such part thereof as may be shown to correspond to the quantity of goods originating in the member States used in the mixing, subject to such conditions as may be agreed by the Council, upon the recommendation of the Committee through IC.

RULE 9

Treatment of Packing

1. Where for purposes of assessing customs duties, a member State treats goods separately from their packing, it may also, in respect of its imports consigned from another member State, determine separately the origin of such packing.

2. Where paragraph 1 of this Rule is not applicable, packing shall be considered as forming a whole with the goods and no part of any packing required for their transport or

storage shall be considered as having been imported from outside the member States when determining the origin of the goods as a whole.

3. For the purpose of paragraph 2 of this Rule, packing with which goods are ordinarily sold at retail shall not be regarded as packing required for the transport or storage of goods.

4. Containers which are used purely for the transport 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.

RULE 10

Documentary Evidence

1. The claim that goods shall be accepted as originating from a member State in accordance with the provisions of this Protocol, shall be supported by a certificate given by the exporter or his authorised representative in the form prescribed in Appendix I of this Protocol. The certificate shall be authenticated by an authority designated for that purpose by each member State.

2. Every producer, where such producer is not the exporter, shall, in respect of goods intended for export, furnish the exporter with a written declaration in conformity with Appendix II of this Protocol to the effect that the goods qualify as originating in the member States under the provisions of Rule 2 of this Protocol.

3. The competent authority designated by an importing member State may in exceptional circumstances and notwithstanding the presentation of a certificate issued in accordance with the provisions of this Rule, require, in case of doubt, further verification of the statement contained in the certificate. Such further verification should be made within three months of the request being made by a competent authority designated by the importing member State. The form to be used for this purpose shall be that contained in Appendix III of this Protocol.

4. The importing member State shall not prevent the importer from taking delivery of goods solely on the grounds that it requires further evidence, but may require security for any duty other charge which may be payable:

> Provided that where the goods are subject to any prohibitions, the stipulations for delivery under security shall not apply.

5. Copies of certificates of origin and other relevant documentary evidence shall be preserved by the appropriate authorities of the member State for at least five years.

6. All member States shall deposit with the Secretariat the names of departments and agencies authorised to issue the certificate required under this Protocol, the specimen signatures of officials authorised to sign the certificates and the

impression of the official stamps to be used for that purpose, and these shall be circulated to the member States by the Secretariat.

RULE 11

Infringement and Penalties

1. The Member States undertake to introduce legislation where such legislation does not already exist, making such provision as may be necessary for penalties against persons who, in their territories, furnish or cause to be furnished documents which are untrue in material particular in support of a claim in another member State that goods be accepted as originating from that member State.

2. Any member State to which an untrue claim is made in respect of the origin of goods shall immediately bring the issue to the attention of the exporting member State from which the untrue claim is made so that appropriate action may be taken and a report made thereon within a reasonable time to the affected member State.

3. A member State which has, in pursuance of the provisions of paragraph 2 of this Rule, brought to the attention of an exporting member State of an untrue claim may, if it is of the opinion that no satisfactory action has been taken thereon by the exporting member State, refer the matter to the Bureau of Council which shall take such action as appropriate in accordance with the provisions of Article 25 of the Treaty.

4. Continued infringement by a member State of the provisions of this Protocol may be referred to the Bureau of Council which shall take such action as appropriate in accordance with the provisions of Article 25 of the Treaty.

RULE 12

Entry into Force

This Protocol shall enter into force upon its adoption by the Authority.

RULE 13

Regulations

The Council may make regulations for the better carrying out of the provisions of this Protocol.

RULE 14

Cessation of Force of the Protocol

The Authority shall, upon a recommendation from the Council verifying that the objectives of the Common Market have been fully achieved, declare that the provisions of this Protocol shall no longer apply.