

Annex 3
Operational Certification Procedures

Rule 1
Definitions

For the purposes of this Annex, the term "competent governmental authority" means the authority that, according to the laws and regulations of each Party, is responsible for the issuing of a certificate of origin (hereinafter referred to as "CO") or for the designation of entities or bodies issuing a CO.

Rule 2
Issuance of Certificate of Origin

1. The competent governmental authority of the exporting Party shall, upon request made in writing by the exporter or its authorized agent, issue a CO or, under the authorization given in accordance with the applicable laws and regulations of the exporting Party, may designate other entities or bodies (hereinafter referred to in this Annex as "designees") to issue a CO.

2. Each Party shall provide the other Party with a list of names and addresses, and a list of specimen signatures and specimen of official seals or impressions of stamps for the issuance of a CO, of its competent governmental authority and, if any, its designees.

3. Any CO bearing a signature not included in the list referred to in paragraph 2 shall not be valid.

4. Where the exporter of a good is not the producer of the good in the exporting Party, the exporter may request a CO on the basis of:

(a) a declaration provided by the exporter to the competent governmental authority or its designees based on the information provided by the producer of the good to that exporter; or

(b) a declaration voluntarily provided by the producer of the good directly to the competent governmental authority or its designees by the request of the exporter.

5. A CO shall be issued only after the exporter who requests for its issuance, or the producer of the good in the exporting Party referred to in subparagraph 4(b), proves to the competent governmental authority or its designees that the good to be exported qualifies as an originating good of the exporting Party.

6. If, after the issuance of the CO, the exporter or producer referred to in paragraph 5 knows that such a good does not qualify as an originating good of the exporting Party, they shall notify the competent governmental authority or its designees in writing and without delay, subject to the applicable laws and regulations of the exporting Party.

7. The competent governmental authority of the exporting Party or its designees shall, if they receive notification in accordance with paragraph 6, or if they have knowledge after the issuance of the CO that the good does not qualify as an originating good of the exporting Party, cancel the CO and promptly notify the cancellation to the exporter to whom the CO has been issued, and to the customs authority of the importing Party, except in the case where the exporter has returned the CO to the competent governmental authority of the exporting Party.

8. The format of the CO and its contents shall be in the English language and shall include minimum data specified in the Attachment to this Annex.

Rule 3

Presentation of Certificate of Origin

1. For the purposes of claiming preferential tariff treatment, the following shall be submitted to the customs authority of the importing Party by the importer:

- (a) a valid CO; and
- (b) other documents as required in accordance with the laws and regulations of the importing Party (e.g. invoices, including third country invoices, and a through bill of lading issued in the exporting Party).

2. A CO shall not be required for an importation of a consignment of originating goods of the exporting Party whose aggregate customs value does not exceed two hundred United States dollars (USD200) or its equivalent amount in the Party's currency, or such higher amount as the importing Party may establish.

3. The importing Party may waive the requirement for a CO in accordance with its laws and regulations.

4. Where an originating good of the exporting Party is imported through one or more non-Parties, the importing Party may require importers who claim preferential tariff treatment for the good to submit:

- (a) a copy of through bill of lading; or

- (b) a certificate or any other information given by the customs authorities of such non-Parties, or other relevant entities, which proves that the good has not undergone operations other than unloading, reloading, and any other operation to preserve it in good condition in those non-Parties.

Rule 4
Validity of Certificate of Origin

1. A CO shall be submitted to the customs authority of the importing Party within one year from the date of issuance by the competent governmental authority of the exporting Party or its designees.
2. Where the CO is submitted to the customs authority of the importing Party after the expiration of the period for its submission provided for in paragraph 1, that CO shall be accepted when the failure to observe such a requirement results from force majeure or other valid causes beyond the control of the exporter or importer.
3. An issued CO shall be applicable to a single importation of an originating good of the exporting Party into the importing Party.

Rule 5
Record Keeping

1. Each Party shall, in accordance with its laws and regulations, ensure that the exporter to whom a CO has been issued or the producer of a good in the exporting Party referred to in subparagraph 4(b) of Rule 2 keeps records relating to the origin of the good. For the purposes of this Agreement, the exporter or producer shall keep these records for three years after the date on which the CO was issued.
2. Each Party shall ensure that its competent governmental authority or its designees shall keep a record of the issued CO for a period of three years after the date on which the CO was issued. Such record includes all supporting documents presented to prove the qualification as an originating good of the exporting Party.

Rule 6
Verification

1. For the purposes of determining whether a good imported from the exporting Party and claimed for preferential tariff treatment qualifies as an originating good of that exporting Party under this Agreement, the customs authority of the importing Party may request information relating to the origin of the good, provided that such a request is made to the competent governmental authority of the exporting Party on the basis of the CO.

2. For the purposes of paragraph 1, the competent governmental authority of the exporting Party shall, in accordance with its laws and regulations, provide the information requested in a period not exceeding 90 days after the date of receipt of the request. If the customs authority of the importing Party considers necessary, it may request additional information relating to the origin of the good. If additional information is requested by the customs authority of the importing Party, the competent governmental authority of the exporting Party shall, in accordance with its laws and regulations, provide the information requested in a period not exceeding 90 days after the date of receipt of the request for additional information.

3. For the purposes of paragraph 2, the competent governmental authority of the exporting Party may request the exporter to whom the CO has been issued, or the producer of the good in the exporting Party referred to in subparagraph 4(b) of Rule 2, to provide the former with the information requested.

4. The request for information in accordance with paragraph 1 shall not preclude the use of a verification visit provided for in Rule 7.

5. During the procedures provided for in this Rule and Rule 7, the customs authority of the importing Party may suspend the preferential tariff treatment while awaiting the result of verification, and shall not wait for the procedures to be completed before it releases the good to the importer unless subject to appropriate administrative measures.

Rule 7 Verification Visit

1. The customs authority of the importing Party may request the exporting Party:

- (a) to collect and provide information relating to the origin of the good and check, for that purpose, the facilities used in the production of the good, through a visit by the competent governmental authority of the exporting Party along with the customs authority of the importing Party to the premises of the exporter to whom the CO has been issued, or the producer of the good in the exporting Party referred to in subparagraph 4(b) of Rule 2; and
- (b) during the visit pursuant to subparagraph (a), to provide information relating to the origin of the good in the possession of the competent governmental authority of the exporting Party or its designees.

2. When requesting the exporting Party to conduct a visit pursuant to paragraph 1, the customs authority of the importing Party shall deliver a written communication with such request to the exporting Party at least 60 days in advance of the proposed date of the visit, the receipt of which is to be confirmed by the exporting Party. The competent governmental authority of the exporting Party shall request the written consent of the exporter, or the producer of the good in the exporting Party whose premises are to be visited.

3. The communication referred to in paragraph 2 shall include:

- (a) the identity of the customs authority issuing the communication;
- (b) the name of the exporter, or the producer of the good in the exporting Party whose premises are requested to be visited;
- (c) the proposed date and places of the visit;
- (d) the object and scope of the proposed visit, including specific reference to the good subject of the verification referred to in the CO; and
- (e) the names and titles of the officials of the customs authority of the importing Party to be present during the visit.

4. The exporting Party shall respond in writing to the importing Party, within 30 days from the receipt of the communication referred to in paragraph 2, whether it accepts or refuses to conduct the visit requested pursuant to paragraph 1.

5. The competent governmental authority of the exporting Party shall, in accordance with the laws and regulations of the Party, provide within 45 days or any other mutually agreed period from the last day of the visit, to the customs authority of the importing Party any additional information obtained pursuant to paragraph 1.

Rule 8

Determination of Origin and Preferential Tariff Treatment

1. The customs authority of the importing Party may deny preferential tariff treatment to a good for which an importer claims preferential tariff treatment where the good does not qualify as an originating good of the exporting Party or where the importer fails to comply with any of the relevant requirements of this Annex.

2. In cases where the verification procedures outlined in Rule 6 or 7 are undertaken, the customs authority of the importing Party may determine that a good does not qualify as an originating good of the exporting Party and may deny preferential tariff treatment, under any of the following conditions:

- (a) the competent governmental authority of the exporting Party fails to respond to the request within the period referred to in paragraph 2 of Rule 6 or paragraph 5 of Rule 7;
- (b) the exporting Party refuses to conduct the verification visit as requested by the customs authority of the importing Party, or that Party fails to respond to the communication referred to in paragraph 2 of Rule 7 within the period referred to in paragraph 4 of Rule 7; or
- (c) the information provided to the customs authority of the importing Party pursuant to Rule 6 or 7 is not sufficient to prove that the good qualifies as an originating good of the exporting Party.

3. In cases where the verification procedures outlined in Rule 6 or 7 are undertaken, the customs authority of the importing Party shall provide the competent governmental authority of the exporting Party with a written determination of whether or not the good qualifies as an originating good of the exporting Party, including findings of fact and the legal basis for the determination, in a period, unless otherwise agreed upon by the Parties, not exceeding 30 days after the date of the receipt of the information last provided by the competent governmental authority of the exporting Party in accordance with Rule 6, or 60 days after the last day of the visit referred to in Rule 7.

4. The competent governmental authority of the exporting Party shall notify the determination by the customs authority of the importing Party referred to in paragraph 3, to the exporter, or the producer of the good in the exporting Party whose premises were subject to the visit referred to in Rule 7. In the event that a determination is made that the good qualifies as an originating good of the exporting Party, any suspended preferential tariff treatment shall be reinstated.

Rule 9
Confidentiality

1. Where a Party provides information to the other Party pursuant to this Annex and designates the information as confidential, that other Party shall maintain the confidentiality of the information, protect that information from disclosure that could prejudice the competitive position of the persons providing the information, use the information only for the purposes specified by the former Party, and not disclose the information without the specific written permission of the former Party.

2. Information obtained by the customs authority of the importing Party pursuant to this Annex:

- (a) shall only be used by such authority for the purposes of the verification of a CO under this Annex; and
- (b) shall not be used by the importing Party in any criminal proceedings carried out by a court or a judge, in the absence of a specific written permission of the exporting Party.

Rule 10
Appropriate Penalties or Other Measures against
Fraudulent Acts

Each Party shall establish or maintain, in accordance with its laws and regulations, appropriate penalties or other measures against its exporters or producers who have committed fraudulent acts in connection with a CO, including submission of false declarations or documents to its competent governmental authority or its designees.

Rule 11
Implementing Regulations

The Joint Committee shall, upon the date of entry into force of this Agreement pursuant to Article 128, adopt the Implementing Regulations that provide detailed regulations pursuant to which the customs authorities, competent governmental authorities and other authorities concerned of the Parties shall implement their functions under this Annex.