

**OPERATIONAL CERTIFICATION PROCEDURES
FOR THE RULES OF ORIGIN FOR
THE ASEAN-INDIA FREE TRADE AREA (AIFTA)**

For the purposes of implementing the Rules of Origin for the AIFTA, the following Operational Certification Procedures on the issuance and verification of the AIFTA Certificate of Origin and the other related administrative matters shall be followed:

AUTHORITIES

Article 1

The AIFTA Certificate of Origin shall be issued by the Government authorities (Issuing Authority) of the exporting Party.

Article 2

Each Party shall provide 11 original sets of, or through electronic means, specimen signatures and specimen of official seals used by their Issuing Authorities, including their names and addresses, through the ASEAN Secretariat for dissemination to the other Parties. Any change in names, addresses, specimen signatures or official seals shall be promptly informed in the same manner or electronically.

Article 3

For the purposes of determining originating status, the Issuing Authority shall have the right to call for any supporting documentary evidence or carry out any checks considered appropriate.

APPLICATIONS

Article 4

The exporter and/or the manufacturer of the products qualified for preferential tariff treatment shall apply in writing to the Issuing Authority of

the exporting Party requesting for the pre-exportation verification of the origin of the products. The result of the verification, subject to review periodically or whenever appropriate, shall be accepted as the supporting evidence in verifying the origin of the said products to be exported thereafter. The pre-exportation verification may not apply to products, the origin of which by their nature can be easily verified.

Article 5

At the time of carrying out the formalities for exporting the products under preferential tariff treatment, the exporter or his authorised representative shall submit a written application for the AIFTA Certificate of Origin together with appropriate supporting documents proving that the products to be exported qualify for the issuance of an AIFTA Certificate of Origin.

PRE-EXPORTATION EXAMINATION

Article 6

- (a) The Issuing Authority shall, to the best of their competence and ability, carry out proper examination upon each application for the AIFTA Certificate of Origin to ensure that:
- (i) the application and the AIFTA Certificate of Origin are duly completed and signed by the authorised signatory;
 - (ii) the origin of the product is in conformity with the AIFTA Rules of Origin;
 - (iii) other statements of the AIFTA Certificate of Origin correspond to supporting documentary evidence submitted; and
 - (iv) description, quantity and weight of goods, marks and numbers on packages, and number and type of packages, as specified, conform to the products to be exported.
- (b) Multiple items declared on a single invoice and single AIFTA Certificate of Origin shall be allowed, provided that each item qualifies separately in its own right.

ISSUANCE OF AIFTA CERTIFICATE OF ORIGIN

Article 7

- (a) The AIFTA Certificate of Origin shall be in International Organization for Standardization (ISO) A4 size, and white paper in conformity with the specimen as in the Attachment. It shall be made in English. The AIFTA Certificate of Origin shall comprise one (1) original and three (3) copies. Each AIFTA Certificate of Origin shall bear a reference number as given separately by each place or office of issuance.
- (b) The original copy shall be forwarded, together with the triplicate, by the exporter to the importer. Only the original copy will be submitted by the importer to the Customs Authority at the port or place of importation. The duplicate shall be retained by the Issuing Authority in the exporting Party. The triplicate shall be retained by the importer. The quadruplicate shall be retained by the exporter.
- (c) In cases where an AIFTA Certificate of Origin is not accepted by the Customs Authority of the importing Party, such AIFTA Certificate of Origin shall be marked accordingly in Box 4 and the original AIFTA Certificate of Origin shall be returned to the Issuing Authority within a reasonable period but not to exceed two (2) months. The Issuing Authority shall be duly notified of the grounds for the denial of preferential tariff treatment.
- (d) In cases where an AIFTA Certificate of Origin is not accepted, as stated in paragraph (c), the Issuing Authority shall provide detailed, exhaustive clarification addressing the grounds for the denial of preferential tariff treatment raised by the importing Party. The Customs Authority of the importing Party shall accept the AIFTA Certificate of Origin and grant the preferential tariff treatment if the clarification is found satisfactory.

Article 8

To implement the provisions of Rules 4, 5 and 6 of the AIFTA Rules of Origin, the AIFTA Certificate of Origin issued by the exporting Party shall indicate the relevant rules and applicable percentage of AIFTA content in Box 8.

Article 9

No erasures or superimpositions shall be allowed on the AIFTA Certificate of Origin. Any alteration shall be made by striking out the errors and making any required corrections. Such alterations and corrections shall be approved and certified by an official of the Issuing Authority authorised to sign the AIFTA Certificate of Origin. Unused spaces shall be crossed out to prevent any subsequent addition.

Article 10

- (a) The AIFTA Certificate of Origin shall be issued by the Issuing Authority of the exporting Party at the time of exportation, or within three (3) working days from the date of shipment whenever the products to be exported can be considered originating in that Party within the meaning of the AIFTA Rules of Origin.
- (b) In exceptional cases where a AIFTA Certificate of Origin has not been issued at the time of exportation or within three (3) working days from the date of shipment due to inadvertent errors or omissions or other valid causes, the AIFTA Certificate of Origin may be issued retroactively but no longer than 12 months from the date of shipment, bearing the words "ISSUED RETROACTIVELY".

Article 11

- (a) Notwithstanding paragraph (b) of Article 7, Articles 13 and 14(b), the Issuing Authority of the intermediate Party may issue a back-to-back AIFTA Certificate of Origin if an application is made by the exporter of that Party while the product is passing through that Party's territory, provided that:
 - (i) a valid AIFTA Certificate of Origin from the original exporting Party is presented only to the Issuing Authority of the intermediate Party;
 - (ii) the importer of the intermediate Party and the exporter who applies for the back-to-back AIFTA Certificate of Origin in the intermediate Party are the same;

- (iii) validity of the back-to-back AIFTA Certificate of Origin shall have the same end-date as the original AIFTA Certificate of Origin;
 - (iv) the originating products re-exported could either be full or part of the original consignment;
 - (v) the consignment which is to be re-exported using the back-to-back AIFTA Certificate of Origin must not undergo any further processing in the intermediate Party, except for repacking and logistics activities consistent with Rule 8 of the ROO;
 - (vi) the product shall remain in the intermediate Party's customs territory, including its free trade zones and bonded areas approved by the customs. The product shall not enter into trade or consumption in the intermediate Party;
 - (vii) information on the back-to-back AIFTA Certificate of Origin includes the name of the Party which issued the original AIFTA Certificate of Origin, date of issuance and reference number; and
 - (viii) verification procedures as set out in Articles 16 and 17 are applied.
- (b) The original exporting Party, the intermediate Party and the importing Party shall cooperate in the process of verification. The copy of the AIFTA Certificate of Origin issued by the original exporting Party shall be given to the Customs Authority of the importing Party if it requests for the same during the process of verification.
- (c) Upon request of a Party, the Parties shall review the provisions of this Article and the implementation thereof, and revise it as may be mutually agreed upon by the Parties.

Article 12

In the event of theft, loss or destruction of an AIFTA Certificate of Origin, the exporter may apply in writing to the Issuing Authority which issued it for

the certified true copy of the original and the triplicate to be made on the basis of the export documents in their possession bearing the endorsement of the words "CERTIFIED TRUE COPY" (in lieu of the original certificate) in Box 12. This copy shall bear the date of the original AIFTA Certificate of Origin. The certified true copy of an AIFTA Certificate of Origin shall be issued within the validity period of the original AIFTA Certificate of Origin and on condition that the exporter provides to the relevant Issuing Authority the quadruplicate copy.

PRESENTATION

Article 13

Except for the AIFTA Certificate of Origin referred to in Article 11(a), the original AIFTA Certificate of Origin shall be submitted to the Customs Authority at the time of lodging the import entry for the products concerned.

Article 14

The following time limit for the presentation of the AIFTA Certificate of Origin shall be observed:

- (a) the AIFTA Certificate of Origin shall be valid for 12 months from the date of its issuance;
- (b) the AIFTA Certificate of Origin shall be submitted to the Customs Authority of the importing Party within its validity period;
- (c) where the AIFTA Certificate of Origin is submitted to the relevant Customs Authority of the importing Party after the expiration of its validity period, such AIFTA Certificate of Origin shall be accepted, if failure to observe the time limit was as a result of *force majeure* or any other cause beyond the control of the exporter; and
- (d) in all cases, the relevant Customs Authority in the importing Party may accept such AIFTA Certificate of Origin provided that the products have been imported before the expiry of the validity of that AIFTA Certificate of Origin.

Article 15

- (a) Where the origin of a product is not in doubt, the discovery of minor discrepancies between the statements made in the AIFTA Certificate of Origin and those made in the documents submitted to the Customs Authority of the importing Party for the purpose of carrying out the formalities for importing the products shall not invalidate the AIFTA Certificate of Origin, if it does in fact correspond to the said products.
- (b) For multiple items declared under the same AIFTA Certificate of Origin, a problem encountered with one of the items listed shall not affect or delay the granting of preferential tariff treatment and customs clearance of the remaining items listed in that AIFTA Certificate of Origin. Subparagraph a(iii) of Article 16 may be applied to the problematic items.

VERIFICATION

Article 16

- (a) The importing Party may request a retroactive check at random and/or when it has reasonable doubt as to the authenticity of the document or as to the accuracy of the information regarding the true origin of the good in question or of certain parts thereof. The Issuing Authority shall conduct a retroactive check on a producer/exporter's cost statement based on the current cost and prices within a six-month timeframe prior to the date of exportation subject to the following procedures:
 - (i) the request for a retroactive check shall be accompanied by the AIFTA Certificate of Origin concerned and specify the reasons and any additional information suggesting that the particulars given in the said AIFTA Certificate of Origin may be inaccurate, unless the retroactive check is requested on a random basis;
 - (ii) the Issuing Authority shall respond to the request promptly and reply within three (3) months after receipt of the request for retroactive check;

- (iii) In case of reasonable doubt as to the authenticity or accuracy of the document, the Customs Authority of the importing Party may suspend provision of preferential tariff treatment while awaiting the result of verification. However, it may release the good to the importer subject to any administrative measures deemed necessary, provided that they are not subject to import prohibition or restriction and there is no suspicion of fraud; and
 - (iv) the retroactive check process, including the actual process and the determination of whether the subject good is originating or not, should be completed and the result communicated to the Issuing Authority within six (6) months. While the process of the retroactive check is being undertaken, subparagraph (iii) shall be applied.
- (b) The Customs Authority of the importing Party may request an importer for information or documents relating to the origin of imported good in accordance with its domestic laws and regulations before requesting the retroactive check pursuant to paragraph (a).

Article 17

- (a) If the importing Party is not satisfied with the outcome of the retroactive check, it may, under exceptional circumstances, request verification visits to the exporting Party. Prior to conducting a verification visit:
- (i) the importing Party shall deliver a written notification of its intention to conduct the verification visit through a focal customs or any other appropriate authority simultaneously to:
 1. the producer/exporter whose premises are to be visited;
 2. the Issuing Authority of the Party in the territory of which the verification visit is to occur;
 3. the focal customs or any other appropriate authority of the Party in the territory of which the verification visit is to occur; and

4. the importer of the good subject to the verification visit;
- (ii) the written notification mentioned in subparagraph (i) shall be as comprehensive as possible and include:
1. the name of the focal customs or any other appropriate authority issuing the notification;
 2. the name of the producer/exporter whose premises are to be visited;
 3. the proposed date of the verification visit;
 4. the coverage scope/purpose of the proposed verification visit, including reference to the good subject to the verification; and
 5. the names and designation of the officials performing the verification visit;
- (iii) an importing Party shall obtain the written consent of the producer/exporter whose premises are to be visited;
- (iv) when a written consent from the producer/exporter is not obtained within 30 days from the date of receipt of the notification pursuant to subparagraph (i), the notifying Party may deny preferential tariff treatment to the good referred to in the said AIFTA Certificate of Origin that would have been subject to the verification visit; and
- (v) the Issuing Authority receiving the notification may postpone the proposed verification visit and notify the importing Party of such intention within 15 days from the date of receipt of the notification. Notwithstanding any postponement, any verification visit shall be carried out within 60 days from the date of such receipt, or for such longer period as the Parties may agree.
- (b) The importing Party conducting the verification visit shall provide the producer/exporter whose good is subject to the verification and the

relevant Issuing Authority with a written determination of whether that good qualifies as an originating good.

- (c) The determination of whether the good qualifies as an originating good shall be notified to the producer/exporter, and the relevant Issuing Authority. Any suspended preferential tariff treatment shall be reinstated upon a determination that the good qualifies as an originating good.
- (d) If the good is determined to be non-originating, the producer/exporter shall be given 30 days from the date of receipt of the written determination to provide any written comments or additional information regarding the eligibility of the good for preferential tariff treatment. If the good is still found to be non-originating, the final written determination issued by the importing Party shall be communicated to the Issuing Authority within 30 days from the date of receipt of the comments/additional information from the producer/exporter.
- (e) The verification visit process, including the actual visit and the determination whether or not the good subject to verification is originating, shall be carried out and its results communicated to the Issuing Authority within a maximum period of six (6) months from the date when the verification visit was conducted. While the process of verification is being undertaken, subparagraph a(iii) of Article 16 shall be applied.

Article 18

- (a) The application for AIFTA Certificates of Origin and all documents related to such application shall be retained by the Issuing Authorities for not less than two (2) years from the date of issuance.
- (b) Information relating to the validity of the AIFTA Certificate of Origin shall be furnished upon request of the importing Party.
- (c) Any information communicated between the authorities concerned shall be treated as confidential and shall be used for the validation of AIFTA Certificates of Origin purposes only.

SPECIAL CASES

Article 19

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

- (a) If the products have already been submitted to the Customs Authority in the specified importing Party, the AIFTA Certificate of Origin shall, by a written application of the importer, be endorsed to this effect for all or parts of products by the said authorities and the original returned to the importer.
- (b) If the changing of destination occurs during transportation to the importing Party as specified in the AIFTA Certificate of Origin, the exporter shall apply in writing, accompanied with the issued AIFTA Certificate of Origin, for issuance of new AIFTA Certificate(s) of Origin for all or parts of products.

Article 20

For the purpose of implementing Rule 8(c) of the AIFTA Rules of Origin, where transportation is effected through the territory of one or more non-AIFTA Party, the following shall be produced to the Customs Authority of the importing Party:

- (a) a through Bill of Lading issued in the exporting Party;
- (b) a AIFTA Certificate of Origin issued by the relevant Issuing Authority of the exporting Party;
- (c) a copy of the original commercial invoice in respect of the product;
and
- (d) if any, other relevant supporting documents in evidence that the requirements of Rule 8(c) of the AIFTA Rules of Origin are being complied with.

Article 21

- (a) Products sent from a Party for exhibition in another Party, when sold during or after the exhibition, shall benefit from the preferential tariff treatment if the products meet the requirements of the AIFTA Rules of Origin, provided it is shown to the satisfaction of the relevant Customs Authority of the importing Party that:
 - (i) an exporter has dispatched those products from the exporting Party to the Party where the exhibition is held and has exhibited them there;
 - (ii) the exporter has sold the products or transferred them to a consignee in the importing Party; and
 - (iii) the products have been consigned during the exhibition or immediately thereafter to the importing Party in the state in which they were sent for exhibition.
- (b) For the purposes of implementing paragraph (a), the AIFTA Certificate of Origin must be produced to the relevant Customs Authority of the importing Party. The name and address of the exhibition must be indicated, a certificate issued by the relevant authority of the Party where the exhibition took place together with supporting documents prescribed in Article 20(d) may be required.
- (c) Paragraph (a) shall apply to any exhibition, fair or similar show or display in the venue where the products remain under customs control during these events.

Article 22

The Customs Authority in the importing Party shall accept an AIFTA Certificate of Origin where the sales invoice is issued either by a company located in a third country or an AIFTA exporter for the account of the said company, provided that the product meets the requirements of the AIFTA Rules of Origin.

ACTION AGAINST FRAUDULENT ACTS

Article 23

- (a) When it is suspected that fraudulent acts in connection with the AIFTA Certificate of Origin have been committed, the relevant Government Authorities concerned shall cooperate in any action taken against the persons involved.
- (b) Each Party shall be responsible for providing legal sanctions against fraudulent acts related to the AIFTA Certificate of Origin.

Article 24

- (a) In case of a dispute concerning origin determination, classification of products or other related matters, the Governmental authorities concerned in the importing and exporting Parties shall consult each other with a view to resolving the dispute, and the result communicated to the other Parties.
- (b) Where no mutually satisfactory solution to the dispute is reached through consultations, the Party concerned may invoke the dispute settlement procedures under the ASEAN-India DSM Agreement.