

SOUTH AFRICAN REVENUE SERVICE

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**CUSTOMS AND EXCISE ACT, 1964
AMENDMENT OF RULES (NO. DAR/85)**

Under sections 46, 46A and 120 of the Customs and Excise Act, 1964, the rules published in Government Notice R 1874 of 8 December 1995 are amended to the extent set out in the Schedule hereto with effect from 1 January 2004

**P J GORDHAN
COMMISSIONER FOR THE SOUTH AFRICAN REVENUE SERVICE**

SCHEDULE

(a) By the insertion after rule 46A1 14 of the following:

"Part 2

Non-reciprocal preferential tariff treatment under the Generalised System of Preferences (GSP) granted to developing countries by the Community, Norway and Switzerland

46A2 01 (a) The rules numbered 46A2 are rules contemplated in sections 46 (4) (d) and 46A (4) (b) in respect of the enactments of the Community, Norway and Switzerland relating to the Generalized System of Preferences (GSP) wherein is prescribed the origin and other requirements in terms of which goods exported from a developing country (which includes the Republic) will qualify for preferential tariff treatment on importation into the Community, Norway or Switzerland

(b) The enactments to which these rules relate are the following:

Enactments of the Community –

The European Community's Rules of Origin for the Generalized System of Preferences:

A Guide for Traders

Appendix I	List of beneficiary countries and territories
Appendix II	Articles 66 to 97 of Regulation No 2454/93 as amended by regulation EC Nos 12/97 and 1602/2000,
Annex 14	Introductory Notes to the List in Annex 15
Annex 15	List of working or processing required to be carried out on non-originating materials in order that the product manufactured can obtain originating status
Annex 16	Working excluded from GSP regional cumulation
Annex 17	Certificate of origin Form A
Annex 18	Invoice declaration
Annex 21	Movement Certificate EUR 1 and relevant applications

(A consolidated version of the complete Regulation No. 2454/93 is available on the internet (http://europa.eu.int/eur-lex/en/consleg/pdf/1993/en_1993R2454_do_001.pdf)
Official Journal of the European Communities L346 Volume 44, 31 December 2001)
Council Regulation (EC) No. 2501/2001 of 10 December 2001 applying a scheme of generalised tariff preferences for the period from 1 January 2002 to 31 December 2004

- Title I – General Provisions
- Title II – Tariff Preferences
- Title III – Special Incentive Arrangements
- Title IV – Special Arrangements to Combat Drug Production and Trafficking
- Title V – Temporary Withdrawal and Safeguard Provisions
- Title VI – Procedural Provisions
- Title VII – Final Provisions
- Annex I – Beneficiary countries and territories of the Community's scheme of generalised tariff preferences
- Annex II – Development index; Specialisation index; Thresholds; Statistical sources
- Annex III – Sectors referred to in point (b) of Article 6
- Annex IV – List of products included in the arrangements referred to in Article 1(2)

Statements on a Council Regulation applying a scheme of generalised tariff preferences for the period from 1 January 2002 to 31 December 2004

Enactments of Norway -

Publication entitled: Generalized System of Preferences for import of goods from Developing Countries GSP consisting of:

Table of contents:

Part I - General information

1. Background information
2. Conditions for GSP preferential tariff treatment
3. Developing countries for which the system is valid
4. Rules of origin
 - 4.1 Origin criteria
 - 4.2 Insufficient working or processing
 - 4.3 Cumulation of origin
 - 4.4 Qualifying units
5. Consignment rule
6. Documentation of originating status – Proofs of origin
7. Requests for GSP-treatment at importation
8. Products covered by the Norwegian GSP-system
9. Other provisions (verifications and surveillance)

Part II - Rules of origin and provisions of origin

1. Regulation on rules of origin, general provisions
2. List of working and processing
3. Introductory notes to the list
4. List of processing rules
5. Appendix I - Certificate of origin Form A
6. Appendix II - Invoice declaration
7. Appendix III - Movement certificate EUR 1

Part III - Scope of products

1. List 1: 30% reduction for "least developed" GSP-countries
2. List 2: 100% reduction for "ordinary" GSP-countries
3. List 3: 100% reduction of the industrial element for "ordinary" GSP-countries
4. List 4: 15% reduction for "ordinary" GSP-countries
5. List 5: 10% reduction for "ordinary" GSP-countries
6. List 6: 50% reduction for "ordinary" GSP-countries
7. List 7: List of exceptions for "ordinary" GSP-countries

(Contents of publication obtained from Norwegian Customs website www.tol.no – updated to 9 August 2002)

Enactments of Switzerland (in English)

Publication entitled: Generalized System of Preferences, The Swiss Scheme published by the Federal Office for Foreign Economic Affairs 3003 Bern, Switzerland consisting of:

Table of contents:

The Swiss Generalized System of Preferences (Introduction)

Rules of Origin of the Swiss GSP scheme

Originating products

Cumulative origin

Cumulation with Switzerland: donor country content

Cumulation with the European Union and Norway

Cumulation inside regional economic groupings: ASEAN

General tolerance rule

Minimal or insufficient processes

Definition of "Customs value" and "Ex-works price"

Unit of qualification

Direct consignment

Documentary evidence

Certificate of origin, Form A

Invoice declaration

Certificate issued retrospectively

Duplicate certificates

Replacement certificates

Rules for small packages and travellers' personal luggage

Administrative co-operation

Annex 1 Beneficiaries of the Swiss Scheme of Preferences

Annex 2 Product Coverage – Agricultural Products (Chapters 1-24)

Annex 3 Product Coverage – Industrial Products (Chapters 25 – 97)

Annex 4 Rules of origin - List of working or processing required

Annex 5 Rules of origin - Documentary evidence

Annex 6 Rules of origin - Examples

- (c) Any expression used in the rules with reference to any enactment of the Community, Norway or Switzerland shall, unless the context otherwise indicates, have the meaning assigned thereto in the said enactments, or relevant provisions of the Act or as defined in these rules

- (d) (i) Where any rule reflects an alphabetical prefix or alphabetical prefixes and a number or numbers in brackets in any heading to the rule, such a reference refers to enactments and their numbers of the Community, Norway or Switzerland, for example:

"CA 66	CA followed by a number refers to the relevant article of the Community enactment (Articles 66 to 97 of Community Regulation 2454/93 as amended);
Ns 1 or NGI 4 3 2 / s 2	In the case of Norway references may include: <ul style="list-style-type: none"> • Part I – General Information (quoted in these rules as GI followed by the item number); or • Part II – Rules of origin and proof of origin, which contain the Regulations concerning the origin of goods etc , under the Generalized System of Preferences (GSP) for the import of goods from Developing Countries (the sections of which are quoted in the rules as s followed by the section number; a reference may therefore consist of both, for example NGI 4 3 2 / s2; <p>(Part I is included because of its explanatory content with regard to the regulations)</p>
SS 1	S followed by S and a number refers to the section number of the Switzerland enactment "

- (ii) The arrangement of enactments (chapters and headings) by Norway is followed in these rules

- (iii) These references are merely quoted to facilitate tracing relevant provisions in the enactments, but exporters are cautioned to study each enactment as a whole and in context to verify requirements in each case and not to rely solely on such references

- (iv) (aa) In Chapter 1 of the Switzerland publication it is stated on page 5 under the heading: Rules of Origin (Chapter 2 and Annex 4), "The origin rules in the Swiss scheme are similar to the rules for the European Union (EU) and of Norway".

- (bb) The introduction also states "The information attached though not legally binding reflects legislation as of March 1st, 1997".

- (cc) The Switzerland Administration has also furnished the South African Revenue Service electronically with the articles of the legislation in German governing the Switzerland GSP Scheme which is available as stated in rule 46A2.05 (a), but any reference in these rules to "enactment" does not include these Articles

- (dd) In the application of these rules for the GSP system, the procedures of the Community and Norway will accordingly be applied to the movement of goods to and from Switzerland where the Switzerland enactment in English does not specifically prescribe procedures for such movements

- (e) In the application of provisions of the Act to any enactment -

- (i) the following expressions in the definitions of an enactment shall have the meanings assigned thereto in this paragraph -

"chapters and headings" means the chapters and headings (four-digit codes) of Part 1 of Schedule No 1;

"customs value" means the value of imported goods calculated or determined in accordance with the provisions of sections 65, 66, 67 and 74A; and

"Harmonized System" or "HS" or "Harmonized Commodity Description and Coding System" means, for the purposes of any meaning ascribed to any expression in any provision of origin in any enactment or these rules, the provisions of Part 1 of Schedule No 1, except national subheadings or additional section or chapter notes and the rates of duty, applicable to the classification of any goods in any chapter or heading or subheading, and for the purposes of interpretation of Part 1 of Schedule No 1, includes application of the Explanatory Notes to the Harmonized System as required in terms of section 47 (8) (a);

- (ii) the following expressions in an enactment shall have the meanings assigned thereto in this paragraph -

(aa) "authority or authorities", "competent authorities", "customs authorities" or "governmental authorities" means, with effect from the date these rules come into operation, the Commissioner, or in accordance with any delegation in these rules, the Assistant General Manager in the Customs division of the South African Revenue Service, the Controller or any other officer;

"beneficiary country" or "GSP beneficiary country" (except when referring to benefits for a least developed country) or "developing country" includes the Republic;

"certificate of origin Form A" or "Form A" means the Generalized System of Preferences, Certificate of Origin (combined declaration and certificate) Form A included in the enactments of the Community, Norway and Switzerland specified in paragraph (d), which is issued in a beneficiary country as proof of origin and of which numbered sets are provided by the South African Revenue Service as stated in these rules and a specimen is published in the annex thereto;

"Community" means the European Economic Community and its member states:

The Republic of Austria;

The Kingdom of Belgium;

The Kingdom of Denmark, except the Faroe Islands and Greenland;

The Republic of Finland;

The French Republic, except the overseas territories and 'collectivités territoriales', but including the territory of the Principality of Monaco (as defined in the Customs Convention signed in Paris on 18 May 1963);

The Federal Republic of Germany, except the Island of Helgoland and the territory of Buesingen (Treaty of 23 November 1964 between the Federal Republic of Germany and the Swiss Confederation), but including the Austrian territories of Jungholz (Treaty of 3 May 1868) and Mittelberg (Treaty of 2 December 1890);

The Hellenic Republic (Greece);
The Republic of Ireland;
The Italian Republic, except the municipalities of Livigno and Campione d'Italia and the national waters of Lake Lugano which are between the bank and the political frontier of the area between Ponte Tresa and Porto Ceresio, but including the territory of the Republic of San Marino (as defined in the Convention of 31 March 1939);
The Grand Duchy of Luxembourg;
The Kingdom of the Netherlands in Europe;
The Portuguese Republic;
The Kingdom of Sweden;
The Kingdom of Spain, except Ceuta and Melilla;
The United Kingdom of Great Britain and Northern Ireland and of the Channel Islands and the Isle of Man;

"GSP" means the Generalized System of Preferences as in operation in the Community, Norway and Switzerland in terms of which non-reciprocal preferential tariff treatment is granted to goods originating in beneficiary countries which include the Republic;

"GSP goods" means goods exported or in the case of a producer, goods produced for export from the Republic for the purposes of obtaining the benefits of preferential tariff treatment on importation into the Community, Norway and Switzerland;

"Member State" means a State which is a member of the European Community;

"Movement Certificate EUR 1" in respect of GSP goods, the form of which a specimen is published in the enactments of the Community, Norway and Switzerland which is issued by a Member State of the Community or Norway or Switzerland as proof of the originating status of goods exported to the Republic for the purposes of the GSP;

"Norway" means the Kingdom of Norway;

"origin", "originate", "originating status" and cognate expressions, relate to, unless the context otherwise indicates, the origin of goods determined in terms of any provision of origin contemplated in an enactment;

"preferential tariff treatment" shall have the meaning assigned thereto in section 46A (1);

"Switzerland" means the Confederation of Switzerland;

(bb) For the purposes of Ns 3 and CA 68 -

"company" means a company contemplated in the Companies Act, No. 61 of 1973;

"registered or recorded in" or "sail under the flag of a GSP beneficiary country" or "beneficiary country" includes "registered" or "of South African nationality" as contemplated in the Merchant Shipping Act, No 57 of 1951;

"seabed" and "marine soil" or "subsoil" means " the bed of the sea and the subsoil thereof" included in the definition of "sea" in section 1 of the Maritime Zone Act, No 15 of 1994;

"territorial waters" means the territorial waters as defined in section 4 of the Maritime Zone Act, No 15 of 1994

(iii) the expression -

"enactment" means an enactment as defined in section 46A (1) and includes any legislative enactment specified in paragraph (b), any amendment thereof or any directive in connection therewith issued by the Community, Norway or Switzerland, but in the case of Switzerland does not include the Articles in German referred to in paragraph (d) (iv) (cc);

"exporter" means a registered exporter as contemplated in section 46A (6);

"goods" as used in these rules means depending on the context, "goods" or "products" or "materials" as defined in an enactment;

"list rule" means the "List of working or processing required to be carried out on non-originating materials" in order that the product manufactured can obtain originating status as contained in the enactments;

"manufacturer" means a registered manufacturer as contemplated in section 46A (6) and includes, depending on the context, a "producer";

"producer" means a registered producer as contemplated in section 46A (6) and includes a person that breeds and raises any animals, mines any minerals and grows and harvests any products and depending on the context, any person that manufactures, processes or assembles goods or any combination thereof;

"relevant enactment" means an enactment of the Community, Norway or Switzerland;

"SACU" means the Southern African Customs Union of which the members are the Republic of Botswana, the Kingdom of Lesotho, the Republic of Namibia, the Kingdom of Swaziland and the Republic of South Africa;

"Republic" means the Republic of South Africa

- 46A2 02
- (a) Subject to section 3 (2), any power, duty or function contemplated in sections 46 (4) (d) and 46A (4) is delegated to the extent specified in these rules to the Assistant General Manager in the Customs Division of the South African Revenue Service, the Controller or the Officer: Origin Administration or any officer designated to exercise such power or perform such duty or function;
 - (b) For the purposes of paragraph (a) any Officer: Origin Administration or any other officer authorised by the Manager: Commercial Services or by any Controller may exercise any power or duty or function conferred or imposed on customs authorities in any enactment or on any officer in terms of any other provision of this Act

for the purpose of verification of the originating status of goods or the fulfilment of the other requirements of such enactment

46A2 03 Transitional arrangements

- (a) The responsibility of the South African Revenue Service for the administration of the GSP in respect of the Community, Norway or Switzerland commences on the date these rules come into operation
- (b) Any matter arising from the administration of the GSP before that date, must be finalised with the existing offices in the Department of Trade and Industry currently responsible for the administration of the GSP

46A2 04 Registration of exporter and producer

For the purposes of section 46A (6) and section 59 -

- (a) every exporter and producer of GSP goods shall be registered and shall submit a completed form DA 185 and the relevant annexure (DA 46A2 01 and DA 46A2 02 respectively) to the Commissioner;
- (b) if the exporter is also the producer of the goods concerned, application for registration as exporter as well as a producer, must be so submitted

46A2 05 Exporters must ascertain precise qualifying requirements and extent of benefit from importer or customs authority in countries concerned

- (a)
 - (i) The enactments of the Community and Norway referred to in these rules have been obtained from the Internet and in the case of Switzerland a publication in English has been supplied by that country's customs administration
 - (ii) These enactments (as well as the Switzerland legislation in German) are included in the SARS website and copies are available at the offices of Controllers where certificates of origin are issued
- (b) The enactments are mainly similar, but in some instances contain variations in the requirements for a procedure in different sections (for example, cumulation under General Information in the enactments of Norway) and refer to publications that are not included (for example, item 4 3 3 of General Information of the Norway enactment or Council Regulation (EC) No 2501/2001
- (c) Care must therefore be exercised in applying any provision and the South African Revenue Service cannot warrant that the enactments are free from errors or up to date or otherwise complete and having regard to the provisions of section 46A (7), it is the duty of exporters to ascertain particulars or confirmation of the precise qualifying requirements and the extent of any benefit from the importer or the customs authority in the countries concerned.

Rules relating to enactments of the Community, Norway and Switzerland prescribing requirements concerning the origin and proof of origin in respect of goods exported from beneficiary countries.

Chapter I - General Provisions

46A2 06 Definitions (CA 66; Ns 1; SS 2 4)

No rule

Chapter II – Originating Products

46A2 07 Origin criteria (CA 67 and 90 (a); NGI 4 3 2 and 4 3 3, s2 and s2 3; SS 2 2)

- (a) In terms of the relevant enactments the basic requirements for a product to be regarded as originating in a GSP beneficiary country are that it must be -
- (i) wholly obtained in that country; (CA 68; Ns 3; SS 2 1A)
 - (ii) obtained in that country in the manufacture of which products other than those referred to in subparagraph (i) are used provided that the said product has undergone sufficient working or processing (CA 69, Annex 14 and 15; Ns 4, Part II (list of working and processing , introductory notes to the list and list of processing rules); SS 2 1 B Annex I)
- (b) (i) Products originating in the Community, Norway or Switzerland which are exported to a GSP beneficiary country and which are subject to working or processing there going beyond the processes regarded as insufficient working or processing (CA 70; Ns 5; SS 2 3) are regarded as originating in that GSP beneficiary country (CA 67, NGI 4 3 and Ss 2 2)
- (ii) The process referred to in subparagraph (i) is referred to as cumulation and in this regard the enactments provide that -
- (aa) regional cumulation (CA 72 and 72(a) and 72(b); NGI 4 3 1 and s 6; SS 2 2 and 2 10(1)) only applies in respect of the ASEAN group (CA 72(a), NGI 4 3 1);
 - (bb) cumulation is not applicable to goods of HS Chapters 1 to 24 (CA 67; N 4 3 3 and SS 2 2);
 - (iii) General Information item (Norway) 4 3 2 relates to bilateral cumulation and item 4 3 3 to diagonal cumulation
- (c) Certain tolerances, which do not apply to textile products of HS chapters 50 to 63, of the Harmonised System, are allowed (CA 71; N 4 1 3, s4; SS 2 10 (2)).
- (d) An originating product is eligible, on importation into the Community, Norway or Switzerland, to benefit from the relevant tariff preference provided -
- (i) it has been transported directly (CA 78; Ns 14; SS 6);
 - (ii) a valid certificate of origin Form A is submitted or an invoice declaration is produced; and
 - (iii) the customs administration (or other government authority) of a beneficiary country assists the customs authorities of Member States of the Community or of Norway or Switzerland to verify (when

required) the authenticity of the document or the accuracy of the information regarding the origin of the product.

- (e) For the purposes of these requirements -
 - (i) exporters and producers (as defined) must ensure that proper records are kept to prove the originating status of goods exported (whether on completion of Form A or an invoice declaration) under the GSP scheme as specified in these rules;
 - (ii) exporters must produce a duly completed application form and submit the necessary supporting documents proving the originating status of the goods concerned when applying for certification of Form A
- (f) Whenever originating status is claimed for any product in which materials originating in the Community, Norway or Switzerland have been incorporated, the exporter shall, in addition to any other documentation that may elsewhere be specified in these rules, keep available for inspection all appropriate records to prove compliance with the conditions for cumulation
- (g)
 - (i) Where goods are exported from the Community, Norway or Switzerland to the Republic for working or processing, the form EUR 1 must reflect the endorsement "GSP BENEFICIARY COUNTRY" and COMMUNITY, NORWAY or SWITZERLAND as the case may be, in block 2 of the form
 - (ii) Where goods are imported into the Republic for cumulation purposes, the bill of entry import must be endorsed with the movement certificate EUR 1 number and date or to the effect that the importer is in possession of an invoice declaration

46A2 08 Products wholly obtained in a GSP beneficiary country (CA 68; Ns 3; SS 2 1)

Goods wholly obtained must be so described on Form A or any invoice declaration and any entry for export, for example, "coal (wholly obtained)"

46A2 09 Products sufficiently worked or processed – processing list (CA 69, 71 and annex 15; NGI 4 1 2, 4 1 3, s4 and Part II; SS 2 1 (B), 2 10 (2) and Annex 4 (see rule 46A2 01))

Derogations as provided in CA 76 and Ns 11 are only applicable to least-developed beneficiary countries

46A2 10 Insufficient working or processing (CA 70; NGI 4 2, s5; SS 12 3)

Any record kept to prove the originating status of goods exported shall reflect the nature of the working or processing carried out to distinguish sufficient and insufficient working

46A2 11 Unit of qualification (CA 70(a); NGI 4 and s7; SS 2 1 and 2 5)

No rule

46A2 12 Accessories, spare parts and tools (CA 73; NGI 4 and s8; SS 2 5)

No rule

46A2 13 Sets (CA 74; NGI 4 and s9; SS 2 5)

Any proof of origin kept of goods exported shall contain sufficient details for verification of the heading and other characteristics of the goods for the purposes of application of the relevant provisions of origin

46A2 14 Neutral elements (CA 75; NGI 4 and s10; SS 2 5)

No rule

Chapter (1) - Territorial requirements, transport etc.

46A2 15 The principle of territoriality / re-importation of goods (CA 77; NGI 5 and s12 and 13; SS 2 6)

- (a) For the purpose of application of the relevant enactments "exported" includes goods removed to any SACU country other than the Republic
- (b) When entering any goods under rebate of duty for which originating status as contemplated in any relevant enactment is claimed on re-importation from any country other than a SACU country, it must be proved for the purposes of entry under item 409 00 of Schedule No 4 that the goods returned -
 - (i) are the same as those which were exported;
 - (ii) have not undergone any operations beyond that necessary to preserve them in good condition while in that country or while being exported
- (c) The provisions of paragraph (b) shall apply *mutatis mutandis* when goods re-imported from such SACU country are so entered on form CCA 1

46A2 16 Direct transport (CA 78; NGI 5 and s 14; SS 2 6)

- (a) The provisions of this rule relating to the import of goods only apply in respect of the provisions of rule 46A2 07 (b) (cumulation)
- (b) (i) "Transported directly" means goods invoiced to an importer in the Republic by an exporter in a Member State of the Community or in Norway or Switzerland (or by a person in another country) and transported directly from those countries to that importer, arriving in the same ship, aircraft or container on which they were loaded on exportation
- (ii) The evidence specified in the relevant enactments in respect of goods which have not been transported directly between the countries concerned and the Republic shall be produced to the Controller at the time of entry together with the form EUR 1 or invoice declaration and other documents contemplated in section 39

- (c) If the Controller is not satisfied with the evidence and provided no false statement or a statement suspected on reasonable grounds to be false is produced, the Controller may release the goods on the furnishing of a provisional payment or other security pending production of the documents necessary to prove the originating status and complying with the requirements specified in the relevant enactment
- (d) "A single transport document" may include a through bill of lading or air waybill indicating a contract for the carriage of goods from the country concerned to the Republic
- (e) "Any substantiating documents" referred to in the enactments shall be documents, which provide the facts specified therein and may include a declaration by the exporter supported by a statement from the customs authorities of the country concerned that according to their investigations the facts contained in the declaration are correct or to the extent that although all the facts have not been verifiable they have no reason to doubt their correctness
- (f)
 - (i) The provisions of paragraphs (c), (d) and (e) shall apply *mutatis mutandis* in respect of goods exported to the Community, Norway or Switzerland
 - (ii) The exporter in the Republic must produce the evidence required on importation into the Community, Norway or Switzerland to the Controller together with the application for issue of Form A, completed Form A and other prescribed export documents

46A2 17 Exhibitions (CA 79; NGI 5 and s15)

- (a)
 - (i) The provisions of this rule relating to the import of goods only apply in respect of the provisions of rule 46A2.07 (b)
 - (ii) In addition to the proof of origin referred to in the enactments the importer must produce on entry of the goods imported -
 - (aa) an invoice from the exporter in the country concerned endorsed with the statement "these goods were consigned to you from (name and place of exhibition)";
 - (bb) a statement from the exporter confirming the particulars specified in the enactments

Chapter IV – Proof of Origin

46A2 18 General conditions and issue of certificates of origin Form A (CA 80 and 81; NGI 6 1 1, s16 and s17; SS2 7 1)

- (a) Numbered certificate of origin Form A forms have been printed in accordance with the provisions of the enactments and are available on application from the South African Revenue Service at the offices of Controllers specified in paragraphs (a) and (b) of item 200 03 of the Schedule to the Rules on application by any exporter who wishes to export originating products to the Community, Norway or Switzerland
- (b)
 - (i) All forms received must be accounted for and mutilated, spoilt or cancelled forms must be returned to the nearest Controller
 - (ii) An affidavit must be furnished in respect of any forms lost, explaining the circumstances of the loss

- (iii) (aa) The Form A, export bill of entry, application form and supporting documents for each consignment must be delivered for processing at the office of the Controller nearest to the place of business of the exporter unless the Manager: Commercial Services otherwise determines
- (bb) Every export bill of entry shall be endorsed -
 - (A) whether Form A or an invoice declaration is produced;
 - (B) with the Form A number, if applicable;
- (cc) "Supporting documents" include those contemplated in paragraph (m)
- (dd) In addition to any copies required in terms of other export clearing procedures, the exporter or his or her agent must also submit for retention by the Controller -
 - (A) an additional copy of the bill of entry export;
 - (B) copies of the documents specified in subparagraph (aa); and
 - (C) a copy of the export invoice (endorsed with the invoice declaration, where applicable), a copy of the bill of lading, air waybill or the transport document, and producer's declaration, where applicable
- (ee) If an invoice declaration is produced after export a copy of the relevant export bill of entry must be submitted therewith to the Officer: Origin Administration.
- (ff) Every export invoice, bill of lading, packing list or consignment note, delivery note or other commercial document must state clearly the full description of the goods and bear reference numbers or other particulars sufficient to allow them to be identified in the exporter's records
- (iv) The officer processing the documents must check the copy of Form A submitted for retention to verify whether it is a true copy of the original and if satisfied must certify it as such
- (c) An exporter may only authorise a licensed clearing agent to complete and sign the Form A and the application form
- (d) The authorisation must be completed on the exporter's own letter-headed paper and confirm full details of the agent's name and address and the full names of the staff who will complete and sign the said forms
- (e) The exporter shall authorise and issue instructions to the clearing agent in writing in respect of each occasion such forms are to be completed and shall specify clearly that he holds evidence to the effect that the goods qualify as originating products within the meaning of the provisions of origin in the relevant enactment.
- (f) The letter of authority shall be submitted together with the completed Form A and application form and will be retained by the Controller

- (g) (i) Completion of a Form A or invoice declaration is conditional on the exporter holding, and being able to produce on demand, all necessary evidence that the goods comply with the origin rules of the relevant enactment
- (ii) Form A must be accompanied by the Application for Certificate of origin Form A (DA 46A2 03) and if the exporter is not the producer a Declaration by Producer (Form DA 46A2 04)
- (h) Form A must be completed to be authentic in accordance with the instructions in the relevant enactments, the notes on the reverse thereof and the following requirements:
- (i) (aa) The certificate must be filled in in English;
- (bb) If the certificate is being made out in manuscript, it must be made out in ink and capital letters must be used throughout;
- (ii) the numbered boxes of the certificate must be completed as follows:
- Box 1
- The exporter must be a natural person ordinarily resident in the Republic or a person whose place of business or the place of business of which is in the Republic.
- Box 2
- Insert the consignee's name, address and country
- Box 3
- Insert the details which will be inserted on the export bill of entry
- Box 4
- Insert the bill of entry export number and date, client number of the exporter referred to in rule 59A 06 (1) and one of the following endorsements where necessary –
 - "Duplicate" (where application is made for a duplicate);
 - "Issued retrospectively" (where the goods have been exported before application is made for a certificate and application is made for retrospective issue thereof);
 - "Norway Cumulation", "EC Cumulation" or "Switzerland Cumulation" where goods have acquired originating status by cumulation of origin involving products originating in the Community, Norway or Switzerland as contemplated in rule 46A2 07 and the relevant enactment
- Boxes 5 and 6
- Enter item numbers in Box 5 and identifying marks and numbers in Box 6
 - Except if goods are wholly obtained, only goods subject to the same originating rule or rules specified for any heading number or group of heading numbers must be reflected on each certificate
 - If they are not marked state "No marks and numbers".
 - No space must be left between items

Box 7

- State identifying marks and numbers on the packages
- For goods in bulk which are not packed insert "In bulk"
- The quantity stated must agree with the quantities on the invoice, for example, 100 cartons
- The goods must be identified by giving a reasonably full commercial description supplemented where necessary by information which enable the appropriate tariff heading to be determined, for example, electric insulators (8546) or watch cases and parts (9111).
- If both originating and non-originating goods are packed together describe only the originating goods and add at the end "Part contents only".
- If non-originating goods are included in a consignment of originating goods, the non-originating goods must be marked with an asterisk on the invoice and the following statement put in Box 7, below the description of the goods:
 - Goods marked * on the invoice are non-originating and are not covered by this Form A
 - Draw a horizontal line under the only or final item in box 7 and rule through the unused space with a Z-shaped line or otherwise cross it through

Box 8 (see Notes on the reverse of Form A)

- Enter the letter "P" for goods wholly obtained; or
- The letter "W" followed by the Harmonized System heading at the 4-digit level for goods sufficiently worked or processed in terms of the relevant enactments

Box 9

- Insert metric measures or any other quantity required

Box 10

- Insert the invoice number and date

Box 11

- Certification -
 - The officer must print his or her initials and surname below his or her signature and date-stamp the certificate in the space provided by imprinting thereon the special stamp issued to him or her for this purpose

Box 12

- The box must be duly completed and the initials and surname and capacity of the person signing the certificate must be stated below the signature
- If the certificate is signed by a clearing agent on behalf of an exporter, the name of the clearing agent must be stated below the signature
- The signature must not be mechanically reproduced or made with a rubber stamp
- No certificate shall be valid –
 - If any entered particulars are incorrect and not in accordance with these rules;
 - If it contains any erasures or words written over one another;

- o If altered, unless any alterations are made by deleting the incorrect particulars, by adding any necessary corrections and such alterations are signed in full by the person who completed the certificate and endorsed by the officer who signs the certificate

Application form for certification of Form A

(j) For the purposes of verification of the originating status of goods declared in the application for Form A (form DA 46A2 03) the exporter, whether –

- (i) the manufacturer in whose undertaking the last working or processing was carried out; or
- (ii) an exporter who has bought in the goods from a manufacturer for exportation in the same state; or
- (iii) an exporter who re-exports in the same state goods imported from the Community, Norway or Switzerland or re-exports of goods re-imported as contemplated in rule 46A 2 15;

must produce to an officer at any time including at the time of presentation of such application, as the officer may require, documents proving the originating status of the goods exported, including (as may be applicable) -

- (aa) accounts or internal bookkeeping and any other documents providing direct evidence of working or processing of materials carried out by the exporter or producer to obtain the goods concerned, movement certificates and invoice declarations authorised in terms of the relevant enactment, proving the originating status of goods imported and re-exported or materials used and producer's declaration (form DA 46A2 04);
- (bb) documents which prove the identity of materials used in production and which contain enough particulars to determine the tariff heading thereof;
- (cc) documents proving the value of materials used and added value;
- (dd) costing records showing the calculation of the ex-works price defined in the enactments

(k) The requirements for signing the declaration on Form A are also applicable in respect of the application form which -

- (i) must bear the original signature of the person signing the declaration;
- (ii) must be signed by the same person who signed the declaration on the Form A
 - (aa) The exporter must ensure that the application is duly completed and must submit the supporting documents specified in paragraph (3) of the declaration; and
 - (bb) the supporting documents must include any relevant documents referred to in paragraph (j)

(m) Where the Officer: Origin Administration has reasonable doubts about the correctness of the statements made on the application for a Form A, such officer may -

- (i) request the exporter or manufacturer to produce documentary proof of origin;
- (ii) detain and examine the goods entered for export;
- (iii) investigate the books, accounts and other documents required to be kept for the purposes of the information contained in the application for a Form A; and
- (iv) refuse to issue the Form A until he is satisfied that the originating requirements of the enactments have been complied with

46A2 19 Certificate of origin Form A issued retrospectively (CA 85; Ns 19; SS 2 7 3)

- (a)
 - (i) The exporter may only apply for the issue of a certificate of origin Form A after exportation at the office of the Controller where the goods were originally entered for export.
 - (ii) Form A may only be issued after exportation of the products to which it relates, if -
 - (aa) it was not issued at the time of exportation because of errors or accidental omissions or special circumstances; or
 - (bb) it is demonstrated that a Form A was issued but not accepted on importation of the goods in the country of destination for technical reasons.
- (b) The application shall be in writing, stating fully the reasons for the request and shall be supported by -
 - (i) a completed Form A and its application form of which -
 - (aa) Box 4 shall be endorsed "issued retrospectively"; and
 - (bb) If a Form A has not been issued previously for the goods concerned, the declaration by the exporter on form DA46A2 03 shall include a statement to this effect;
 - (ii) copies of the bill of entry export, invoices, bill of lading or air waybill or other transport document for the consignment and proof of the identity of the goods ordered and received in the country of destination;
 - (iii) proof that the goods comply with the provisions of origin of the relevant enactment;
 - (iv) full reasons of the circumstances in which a retrospectively issued Form A is required
- (c) Before such application is considered an officer will first conduct an examination for verification that the particulars contained in the exporter's application conform with those contained in the corresponding export documents
- (d) The application for the issue of a Form A retrospectively shall be considered by the Controller

46A2 20 Issue of a duplicate certificate of origin Form A (CA 86; Ns 20; SS 2 7 4)

- (a) The exporter shall furnish to the Officer: Origin Administration at the office of the Controller where the original Form A was issued -
- (i) a written statement giving reasons why a duplicate is required and the number and date of the original Form A;
 - (ii) a completed Form A and application form reflecting the word DUPLICATE and the number and date of the original form in Box 4;
 - (iii) copies of the bill of entry export, export invoice, bill of lading, air waybill or other transport documents together with any other

46A2 21 Issue of replacement certificate of origin Form A (CA 87; Ns 21; SS 2 7 4)



The enactments listed above provide for the issuing of replacement certificates of origin Form A by a Member State of the Community, Norway or Switzerland where goods originate in a GSP beneficiary country are re-exported from any of, to another of, those countries

46A2 22 Content and format of invoice declaration (CA 89 and 90, and Annex 18; N 22 and 23 and Appendix II to Part II)

- (a) The provisions for approved exporters are applicable to exporters of goods from the Community or Norway to a beneficiary country for working or processing to acquire originating status in such country
- (b) The provisions relating to invoice declarations are only applicable to goods exported to the Community, Norway or Switzerland in respect of a consignment consisting of one or more packages containing originating products of which the total value does not exceed EUR 6000 in the case of the Community or NOK 25000 in the case of Norway or SF 7500 in the case of Switzerland
- (c) Every exporter must -
- (i) ensure that the goods comply with the relevant provisions of origin at the time of export;
 - (ii) be in possession of the records and documents proving the originating status of the goods exported;
 - (iii) use serially numbered invoices;
 - (iv) insert a reference number or other particulars on any invoice, delivery note or another commercial document according to which the goods can be readily identified in such records and documents;
 - (v) describe the goods on such invoice and any delivery note or another commercial document with sufficient detail to enable them to be identified and for the purposes of determination of the tariff heading;
 - (vi) insert on any such document the applicable tariff heading;

(vii) indicate clearly on such documents by means of an asterisk and statement goods which are not of preferential origin; and

(viii) insert on 3 copies of the invoice or such other document the English version of the declaration specified below, which shall -

(aa) be dated and bear the original signature of the exporter in manuscript; and

(bb) reflect the name and capacity of the person signing the declaration in capital letters below the signature

"The exporter of the products covered by this document declares that, except where otherwise clearly indicated, these products are of preferential origin according to the rules of origin of the

* Norwegian Generalized System of Preferences / Generalized System of Preferences of the European Community / Switzerland

(place and date)

(place and date)

(Signature of the exporter; in addition the name of the person signing the declaration has to be indicated in clear script)

(Signature of the exporter; in addition the name of the person signing the declaration has to be indicated in clear script)

* Insert the reference to the Generalized System of Preferences as applicable "

(ix) The documents referred to in subparagraph (viii) shall be dealt with by -

(aa) forwarding one copy of the document on which the declaration is made to the consignee;

(bb) including with the other export documentation one such copy and a copy of the invoice for retention by the Controller; and

(cc) creating a file for storing a copy of the invoice, such delivery note or other commercial document and supporting evidence to prove the origin of the goods

(e) Any exporter who issues any invoice declaration may be prohibited from issuing such declarations where such exporter -

(i) makes a false declaration concerning the origin or the value of any consignment;

(ii) does not comply with the requirements of the relevant enactment or these rules;

(iii) fails to notify the Manager: Commercial Services that the goods no longer fulfil the required origin conditions (for example, by change of sources or materials)

(f) If an exporter has been so prohibited from using invoice declarations, such exporter shall apply for Form A in respect of all exports for which originating status is claimed

- (g) (i) If any invoice declaration is required to be made after exportation, the documents reflecting the invoice declaration together with the copies of the other documents produced at the time of export and the documents proving originating status shall be produced and application shall be made to the Officer: Origin Administration at the office of the Controller where the goods were entered for export.
- (ii) The provisions of rule 46A2 19 shall apply *mutatis mutandis* to such application

46A2 23 Submission of proof of origin (CA 90 (b) 1, 2 and 3; Ns 25)

- (a) These provisions are only applicable in respect of goods imported for cumulation purposes as contemplated in rule 46A2 07
- (b) Any proof of origin in respect of imported goods must be -
 - (i) delivered to the Controller at the time the goods are entered for home consumption or deemed to have been entered for home consumption; or
 - (ii) if imported by post, delivered to the postmaster before delivery thereof where the goods are not entered at a customs and excise office as contemplated in section 13;
 - (iii) must be in English and if not so a translation must be attached thereto
- (c) Exporters must submit the form A or the invoice declaration as proof of origin to reach the importer timeously in the country of destination as such proof of origin must be produced to the customs authorities in the country concerned within 10 months from the date of issue in the Republic.
- (d) After such period proof of origin is only accepted -
 - (i) if failure to observe the time limit is due to exceptional circumstances, or
 - (ii) where the goods have been submitted to the customs authorities in the country of destination before the final date of expiry
- (e) The provisions of Article 90 (b) 4 of the Community regulations have not been implemented

46A2 24 Importation by instalments (CA 82; Ns 26; SS 2 5)

- (a) These provisions are only applicable to goods imported for cumulation purposes as contemplated in rule 46A2 07
- (b) Where any importer requests approval to import goods contemplated in this Article by instalments application shall be in writing and -
 - (i) in the case of any machine provided for in Additional Note 1 of Section XVI of Part 1 of Schedule No 1, apply to the Group Manager: Tariff Policy at Head Office and forward a copy of the application to the Manager: Commercial Services;

- (ii) in the case of other dismantled or non-assembled goods within the meaning of general rule 2 (a) of the Harmonized System (General Note A 2 (a) to Schedule No 1) and falling within Section XVI or XVII or heading 7308 or 9406 of Part 1 of Schedule No 1, application shall be made to the Manager: Commercial Services stating a full description of the goods, the tariff heading, the number of consignments and include pro forma invoices of each
- (c) Copies of proof of origin shall be presented with each bill of entry for the importation of consignments subsequent to the first instalment and such bill of entry shall reflect the number and date and place of entry of the first bill of entry
- (d) When such goods are exported to the Community, Norway or Switzerland, one Form A shall be issued and submitted to the importer in the country of destination on exportation of the first instalment

46A2 25 Exemptions from requirement of formal proof of origin (CA 90 (c); Ns 27; SS 2 8)

- (a) Proof of origin is not required if the goods are sent as small packages from private persons to private persons, or form part of a traveller's personal baggage
- (b) According to the enactments the following general conditions apply to exemption from production of proof of origin in respect of the importations concerned, where -
 - (i) the value of such goods does not exceed the limit of EURO 500 (the Community), NOK 1750 (Norway) and SFR 500 (Switzerland) in the case of small packages or EURO 1200 (the Community), NOK 5000 (Norway) and SFR 1500 (Switzerland) in the case of goods forming part of travellers' personal baggage;
 - (ii) imports are occasional, not for the purposes of trade and are sent from private persons to private persons or form part of travellers' personal luggage for the personal use of the recipients or travellers or their families;
 - (iii) the goods have been declared as meeting the requirements of the relevant enactment and there is no reason to doubt the veracity of such declaration

46A2 26 Discrepancies and formal errors (CA 92; Ns 28)

- (a) Slight discrepancies in proof of origin documents submitted at the time of entry of imported goods may include -
 - (i) spelling or typing mistakes or other minor errors not corrected;
 - (ii) amendments which have no direct bearing on the validity of the declaration of origin;
 - (iii) that the information is valid and accurate but not in the correct box;
 - (iv) that the exporter's declaration box is not dated

- (b) Any proof of origin document submitted with slight discrepancies or formal errors may be accepted provided the documents and goods comply with the conditions contemplated in the relevant enactment

Chapter V – Administrative matters, etc.

46A2 27 Notification of competent authorities (CA 93; Ns 29)

The stamp in use for issuing certificates of origin must be used for issuing Form A

46A2 28 Mutual assistance (CA 94; Ns 30; SS 2 10)

The Manager: Commercial Services shall be responsible for rendering the assistance contemplated in the relevant enactments to the customs administrations of the Community, Norway and Switzerland

46A2 29 Verification of proof of origin (CA 94; N 31; SS 2 9)

- (a) Any proof of origin in respect of imported goods shall be submitted for verification to the customs authorities of the exporting country.
- (b) If a request is received from the customs authorities in the Community, Norway or Switzerland, the exporter, manufacturer, producer or any other person contemplated in section 4 (12A) shall produce all documents and furnish the information necessary to determine the authenticity of proofs of origin, the originating status of the goods concerned or the fulfilment of the other requirements of the enactments
- (c) The Manager: Commercial Services shall determine whether or not to refuse entitlement to preferences in the circumstances contemplated in the enactments

46A2 30 Ceuta and Melilla (Article 96 of the Community enactment)

- (a) In terms of this Article, the term “Community” does not cover Ceuta and Melilla, nor does the term “products originating in the Community” cover products originating in Ceuta and Melilla. However, paragraphs 2 to 5 thereof provide that –
- (i) “this Section shall apply *mutatis mutandis* in determining whether products may be regarded as originating in the export beneficiary country benefiting from the generalised system of preferences when imported into Ceuta and Melilla or as originating in Ceuta and Melilla;
- (ii) Ceuta and Melilla shall be regarded as a single territory;
- (iii) the provisions of this section concerning the issue, use and subsequent verification of certificates of origin Form A shall apply *mutatis mutandis* to products originating in Ceuta and Melilla;
- (iv) the Spanish customs authorities shall be responsible for the application of this section in Ceuta and Melilla.”
- (b) (i) The section referred to contains the provisions of Articles 66 to 97 of Community regulation 2454/93

- (ii) The stated provisions of the regulation as well as the provisions of these rules must therefore be applied *mutatis mutandis* to goods exported to or imported (for cumulation purposes) from Ceuta and Mellila.

46A2 31 Keeping of books, accounts and other documents

- (a) Any books, accounts and other documents kept for providing evidence of the originating status of goods shall utilise information prepared in a manner consistent with generally accepted accounting principles appropriate for the proving of the originating status of the goods and for fulfilling of the other requirements of the related enactment;
- (b) Every exporter or producer or any other person as contemplated in section 46A (3) (b) shall maintain and keep for a period of 3 years from the date goods were exported complete books, accounts or other documents relating to the origin of goods for which preferential tariff treatment was claimed including any such books, accounts or other documents in connection with -
 - (i) (aa) the purchase of, sale of, cost of, value of, and payment for the goods that are exported;
 - (bb) the purchase of, cost of, value of, and payment for, all materials, including indirect materials, used in the production of the goods exported;
 - (ii) the production of the goods in the form in which they are exported, including proof of the originating status of the materials used and goods produced, the use of materials and other documentation and information to prove the originating status of the goods exported;
 - (iii) documents relating to any goods imported from the Community, Norway or Switzerland, including proof of origin in respect of any goods exported in the same state as imported or any goods used in the production of goods exported;
 - (iv) the exportation of the goods to the countries concerned;
 - (v) any other documents contemplated in rule 46A2 18 (ij)
- (c) (i) For the purpose of paragraph (b) the books, accounts and other documents must include specifically the following:
 - (aa) direct evidence of working or processing of materials carried out by the exporter or manufacturer to obtain the goods concerned;
 - (bb) documents proving the identity of materials used in production and which contain enough particulars to determine the tariff subheading thereof;
 - (cc) documents proving the value of materials used and added value;
 - (dd) costing records showing the calculation of the ex-works price;
 - (ee) serially numbered invoices of goods sold for export; and

- (ff) copies of Form A and all export documents (including transport documents)
- (ii) The invoiced price is not acceptable as the ex-works price, and may be determined by the Manager: Commercial Services in consultation with the Group Manager: Valuation Policy, where -
 - (aa) different terms apply, for example, CIF price;
 - (bb) a special price has been charged between associated companies, in which case the true price shall be established on the basis of the price charged to non-associated purchasers for similar goods;
 - (cc) goods are invoiced by manufacturers to purchasers at a net price, in which case any agent's commission shall be added when computing an ex-works price for the purpose of a percentage rule;
 - (dd) a discount has been granted subject to conditions, for example, payment to be made within 6 months of sale to a distributor, in which case it should be ignored when calculating the ex-works price;
 - (ee) any other instances where the invoiced price is not an ex-works price
- (c) For the purpose of compliance with the provisions of the enactments, the Controller must keep a copy of the certificate of origin Form A, any supporting documentary evidence and any related export documents for at least three years after the date of entry of export of the goods concerned "