

- (vi) the customs regimes and procedures;
- (vii) the current domestic legislation relating to import taxes, customs and port charges, and any subsequent amendments;
- (viii) new technologies for preventing and detecting customs fraud;
- (ix) new trends in customs infractions.

7. Without prejudice to the provisions of other agreements, upon entry into force of this Agreement, each Party agrees to notify the customs authorities of the other Party of any intention to implement new customs regulations.

APPENDIX I TO ANNEX I

RULES OF ORIGIN

ARTICLE I

Definitions

For the purposes of this Appendix, the following definitions shall apply:

- (i) Materials: means raw materials, intermediate goods and parts or components utilised in production;
- (ii) Goods: means any materials or finished articles;
- (iii) Production: means planting, extraction, harvesting, fishing, hunting, manufacturing, processing or assembly of goods or products;
- (iv) Originating goods: means goods or materials which meet the Rules of Origin established in this Appendix.

The Transaction Value shall be determined according to the national legislation of the Parties.

ARTICLE II

Scope of Application

The scope of application of the Rules of Origin and its amendments is limited to the trade of goods governed by the provisions of this Agreement.

ARTICLE III

Criteria for Determining Originating Status

Goods shall be considered as originating in the territory of one of the Parties to this Agreement where they comply with either of the following conditions:

- (i) they must be wholly produced in one of the Parties; or
- (ii) they must be produced in one of the Parties wholly or partly from materials imported from countries other than the Parties by a process which effects a substantial transformation characterised—
 - (a) by the goods being classified in a six-digit-subheading of the Harmonised Commodity Description and Coding System different from that in which any of the materials imported from countries other than the Parties are classified, as specified in the attachment to this Appendix; or
 - (b) by other criteria specified in the Attachment to this Appendix.

ARTICLE IV

Wholly Produced Goods

Wholly Produced Goods are:

- (i) Products from the mineral, plant or animal kingdoms (including those from hunting and fishing), extracted harvested or gathered, born, bred or captured in the territories of the Parties, or in their territorial waters or in their exclusive economic zones;
- (ii) products of the sea extracted beyond the territorial waters of the Parties and their exclusive economic zones by ships, wholly or partially owned by nationals of the Parties, legally chartered, leased or contracted under joint venture arrangements by enterprises established in the territories of the Parties;
- (iii) products of factory ships, wholly or partially owned by nationals of the Parties, legally chartered, leased or contracted under joint venture arrangements by enterprises established in the territories of the Parties produced from goods or products of the sea, extracted by ships in accordance with the provisions in (i) and (ii) above;

- (iv) the slag, ashes, residues, waste or scrap, gathered or obtained from manufacturing and processing operations performed in the territories of the parties, fit only for the recovery of raw materials, as long as they do not constitute toxic or hazardous wastes in accordance with national and international law;
- (v) goods produced in the territories of the Parties which are made solely from originating goods.

ARTICLE V

Insufficient Working or Processing

Goods shall not be treated as originating, if they are produced by any operation or process which consists only of one or more of the following:

- (i) operations to ensure the preservation of goods or products during transportation or storage, such as ventilation, refrigeration, freezing; addition of preservative or salt, removal of damaged parts and the like;
- (ii) operations such as dust removal, washing or cleaning, sifting, peeling, shelling, winnowing, maceration, drying, sorting, classification, grading, selection, crushing, filtering, diluting in water, painting or cutting up;
- (iii) the simple formation of sets of goods;
- (iv) the packing, placing in containers or repackaging;
- (v) the dividing up or assembly of packages;
- (vi) the affixing of bands, labels or other similar distinctive signs;
- (vii) the simple mixture of materials, if the characteristics of the product obtained are not essentially different from the characteristics of the materials which have been mixed;
- (viii) the slaughter of animals.

ARTICLE VI

Materials not Incorporated in the Goods

Any material, input or product which is not physically incorporated in goods used in the production, verification and inspection of the goods and operation of equipment related with it or for the maintenance of buildings, will be considered originating regardless of the country where it was manufactured or produced.

2. These include:

- (i) fuel, electrical energy, catalysts and solvents;
- (ii) equipment apparatus and accessories used for the verification or inspection of goods;
- (iii) gloves, protective eye masks, footwear, apparel, security equipment and accessories;
- (iv) tools, dies (for die-cutting) and moulds;
- (v) spare parts and materials used in the maintenance of equipment and buildings;
- (vi) lubricants, oils compound products and other products used in the production process, equipment operation or maintenance of building; and
- (vii) any other material or product which is not incorporated in the goods, but which can be shown to be part of the said production.

ARTICLE VII

Cumulation

For the purpose of the origin requirements, materials or products originating in the territory of any of the Parties, incorporated in particular goods in the territory of the other Party, shall be considered as goods originating in the Party where final production take place.

ARTICLE VIII

Regional Value Content

The Regional Value Content (RVC) of the goods shall be calculated based on the transaction value method, applying the following formula:

RVC = $[(TV-NOG)/TV] \cdot 100$ where;

RVC = Regional Value Content expressed as percentage;

TV = Transaction Value of the merchandise, adjusted on an FOB base;

NOG = Value of non-originating goods used in the production of the final product.

2. Where the value of the goods is on a basis other than FOB it shall be adjusted to FOB for purposes of this Article.

3. When the origin is determined by the Regional Value Content, the required percentage shall be specified in the Attachment to this Appendix.

4. All costs considered in the calculation of Regional Value Content, shall be registered and kept in accordance with generally accepted accounting principles, applicable in the territory of the Party where the good is produced.

ARTICLE IX

De Minimis

Where the value of all non-originating materials used in the production of goods that do not undergo an applicable change in tariff classification as set out in the Attachment to this Appendix is not more than seven per cent (7%) of the transaction value of the goods adjusted to a FOB basis, these materials shall be considered to be originating goods.

ARTICLE X

Management of Inventory

The Parties will ensure that enterprises will apply appropriate systems in the management of this Appendix provided that the systems are based on generally accepted accounting principles.

Each Party will inform the other of the systems in use to manage inventories including those of interchangeable goods.

ARTICLE XI

Sets

Sets, as defined in General Rule 3 of the Harmonised System, shall be regarded as originating when all component articles are originating products. Nevertheless, when a set is composed of originating and non-originating articles, the set as a whole shall be regarded as originating provided that the value of the non-originating articles does not exceed seven per cent (7%) of the FOB price of the set.

ARTICLE XII

Assembly

The rules governing assembly goods shall be defined on a case-by-case basis in the Attachment to the Appendix provided for in Article III.

ARTICLE XIII

Accessories, Spare Parts and Tools

The accessories, spare parts and tools dispatched with a piece of equipment, machine, apparatus or vehicle which are part of the normal equipment, will not be considered in determining if all non-originating materials or products used in the production of a piece of equipment, machine, apparatus or vehicle comply with the correspondent change in the classification established in this Appendix and its Attachment, provided that:

- (i) the accessories, parts and tools are not separately billed from the piece of equipment, machine, apparatus or vehicle, regardless of any detailed information contained in the invoice; and
- (ii) the quantity and the value of these accessories, parts and tools are the normal ones used for related goods.

The origin of the accessories, parts and tools that do not fulfill the conditions in the preceding paragraph will be determined by applying the corresponding rule of origin to each one of them separately.

ARTICLE XIV

Treatment of Retail Packing

Packing presented with the merchandise and classified with the goods that they contain, will not be considered for determining the origin of the related goods, as long as they are used on a normal basis.

Where the packing is not that used on a normal basis, each Party may treat goods separately from their packing to determine the origin of the goods and the packing.

ARTICLE XV

Treatment of Packing Required for the Transport or Storage of Goods

No part of any packing required for the transport or storage of goods will be considered when determining origin of goods as a whole.

ARTICLE XVI

Direct Transport

In order for goods to benefit from the preferential treatment provided for under this Agreement, they must be directly delivered from the exporting country to the importing country.

For this purpose, the following shall be considered as direct consignment:

- (i) goods transported without going through third countries;
- (ii) goods transported in transit through one or more third countries, with or without transshipment or temporary storage under the surveillance of Customs Authorities of such countries, provided that:
 - (a) the transit is justified by geographical reasons or by considerations related to transport requirements;
 - (b) they are not designed for trade or use in the transit country; and
 - (c) they do not undergo during transportation or storage any operation other than loading or unloading or operations to keep them in good condition and ensure their conservation.

ARTICLE XVII

Transshipment through the Parties

Nothing in Article XVI shall preclude the transshipment of goods through the Parties.

Where such transshipment takes place, the Certifying Authority in the State through which the goods are transhipped shall affix on the relevant transport documentation the approved stamp and an authorised signature pursuant to Article XIX.

ARTICLE XVIII

Declaration and Certification of Origin

The Certificate of Origin shall include:

- (i) a declaration by the exporter or the final producer that the origin requirements prescribed in this Appendix have been met;
- (ii) a certificate by the authorised body of the exporting country that the declaration by the exporter or the final producer, as the case may be, is accurate.

2. Where the exporter is not the final producer of the goods or products, the former shall present the declaration of origin to the authorised body.

3. In every case, the Certificate of Origin shall be prepared by an exporter in the country of final production.

4. The competent authority in the exporting country shall carry out such control as is necessary to permit the certification provided for in this Article and shall confirm all the data set out in the Certificate of Origin.

5. The Certificate of Origin shall have affixed the signature of an official notified by the authorised body of the exporting country pursuant to Article XIX.

6. The date of the Certificate of Origin may not precede that of the relevant commercial invoice.

7. The Certificate of Origin shall be valid for a period of 180 days from the date of issue.

8. Where the goods traded under this Agreement are accompanied by a Certificate of Origin, that Certificate shall be deemed to satisfy the requirement of the Consular Invoice.

ARTICLE XIX

The Functions and Obligations of Bodies Authorised to carry out Certification

The Bodies authorised by the Parties to carry out Certification will:

- (i) verify the accuracy of the declaration presented to them by the final producer or the exporter by way of systems or procedures which ensure the accuracy of the data;

(ii) provide to the other Party the administrative co-operation required for the control of documentary proof or origin.

2. The bodies authorised by the Parties will, no later than thirty (30) days after entry into force of the Agreement, transmit through their respective Foreign Ministries, the approved list of the bodies authorised to issue the certificates mentioned in this Appendix, along with a list of authorised signatories, facsimile of the authorised signatures and the stamps of the authorised bodies.

3. Any changes to such listings shall enter into force thirty (30) days after receipt of notification.

ARTICLE XX

Requirement to maintain Records and Documents

Each Party shall require the exporter or final producer who completes and signs a Certificate of Origin to keep all the records and documents pertaining to the origin of the goods for a minimum of three years from the date of the Certificate and to produce these records and documents as requested by the competent authority, in accordance, with national legislation.

ARTICLE XXI

Non-Requirement of the Certificate of Origin

An Invoice, with a duly signed declaration that the goods were produced in a CARICOM Member State or in the Dominican Republic, shall be deemed to satisfy the requirement of the Certificate of Origin, where the value of the goods expressed in national currency, does not exceed the equivalent of One Thousand US Dollars (US\$1,000.00).

This exception will not apply where the imports are proven to be the result of two or more parts of a consignment.

ARTICLE XXII

Confidentiality

Each Party shall maintain, in accordance with its national legislation, the confidentiality of confidential business information collected pursuant to this Agreement and shall protect that information from disclosure that could prejudice the competitive position of the persons providing the information.

The confidential business information collected pursuant to this Agreement may be disclosed only to those authorities responsible for the administration and enforcement of determinations of origin and of customs and revenue matters.

ARTICLE XXIII

Origin Verification

For purposes of determining whether goods imported into its territory from the territory of another Party qualify as originating goods, a Party may conduct verification solely by means of:

- (i) submitting to the competent authority of the exporting Party request for information from an exporter or a producer, in a territory of another Party;
- (ii) visits to the premises of an exporter or producer in the territory of another Party to review records and observe the production of the goods;
- (iii) other procedures agreed upon by the Parties whenever necessary.

2. Prior to conducting verification pursuant to paragraph 1, a Party shall, through its designated entity, notify the competent authority of the exporting Party of its intention to carry out verification. Within five (5) days of dispatch of this notification, the competent authority in the exporting Party shall notify the exporter and/or the producer of the goods.

3. The competent authority of the importing Party shall obtain the written consent of the exporter or producer of the goods whose premises are to be visited.

4. The notification of visits which are provided for in paragraph 1(ii) shall include:

- (i) the identity of the designated entity issuing the notification;
- (ii) the name of the exporter or producer whose premises are to be visited;
- (iii) the date and place of the proposed verification visit;
- (iv) the object and scope of the verification visit, including specific reference to the goods which are the subject of the verification;
- (v) the names and designation of the officials who will carry out the visit; and
- (vi) the legal basis for the verification visit.

5. The competent authority of the exporting Party may, at the request of the Party wishing to carry out verification pursuant to paragraph 1, call on the producer or the exporter to make available, *inter alia*, documentation and accounting records and permit inspection of materials, production facilities and processes.

6. Where a verification has been notified, any modification of the information referred to in this Article shall be notified in writing to the competent authority of the exporting Party, who in turn shall immediately notify the modifications to the producer or the exporter. Such modifications shall be notified by the importing Party no later than fifteen (15) days after the initial notification.

7. Where an exporter or a producer does not either give written consent to a proposed verification visit or provide any information requested as provided for in this Article within thirty (30) days of despatch of the notification, the Party which has notified intention to carry out verification may deny preferential tariff treatment to goods which would have been the subject of such verification.

8. The Competent Authority of the importing Party may grant to the competent authority of the exporting Party an extension of not more than ten (10) days for the submission of any documents which may be required to support an application for verification of origin under this Agreement.

9. Each Party shall provide that, where its competent authority receives notification, the competent authority may, within seven (7) days of receipt of the notification, postpone the proposed verification visit for a period not exceeding fifteen (15) days from the date of such receipt or for such longer period as the Parties may agree.

10. The Parties shall permit an exporter or a producer whose goods are the subject of a verification visit to designate two observers to be present during the visit, providing that:

- (i) the observers do not participate in a manner other than as observers; and
- (ii) the failure of the exporter or producer to designate observers shall not result in the postponement of the visit.

ARTICLE XXIV

Findings of the Verification

The Party conducting a verification shall provide the exporter or producer whose goods are the subject of the verification with a written determination of whether or not the goods qualify as originating goods, including findings of fact and the legal basis for the determination, within twenty-one (21) days of the conclusion of the verification exercise.

ARTICLE XXV

Guarantee of Payment of Revenue

In no case shall the customs authorities of the Parties interrupt an import procedure of the products covered by a Certificate of Origin. However, the competent authorities of the importing Party, in addition to requesting the appropriate additional information from the competent authorities of the exporting Party, may adopt any action it deems necessary to safeguard its fiscal interests.

The competent authorities of the importing Party shall take appropriate action with respect to any financial security given to protect the fiscal interest based on the determination of the verification.

ARTICLE XXVI

Appeals

Each Party will establish procedures for the review of decisions by the various authorities regarding the origin verification procedures.

ARTICLE XXVII

Penalties

Each Party, in its legislation, shall provide penalties for breaches of the provisions of this Appendix which shall be similar to those applied for breaches of its laws and regulations in similar circumstances.