

This procedure provides guidelines on the issuance of certificates of origin in accordance with requirements of the regional, unilateral and multilateral trade protocols where Kenya is a signatory. It specifically covers certificates of origin for the: COMESA region, European Union, United States under the AGOA programme and the various GSP schemes.

Stations where certificates of origin are issued: Nairobi, Mombasa, Kisumu, Nakuru and Eldoret stations.

COMESA - Common Market for Eastern and Southern Africa

GSP - Generalised System of Preferences

AGOA - African Growth and Opportunity Act

EUR 1 - Export Certificate for the European Union

ACP - African Caribbean and Pacific countries

EU - European Union

ROO - Rules of Origin

CIF - Cost Insurance and Freight

Registration of Exporters

Companies wishing to export goods under COMESA, EUR 1, GSP or AGOA trade preference regimes shall be registered with the Rules of Origin office of the Customs Services Department.

A written application on the Exporter's Registration Form is made to the Commissioner of Customs Services Department.

Applications shall be submitted in advance of any intended export.

Certified copies of the following documents shall be attached to the exporters' application:

Certificate of incorporation

- PIN certificate
- VAT registration certificate or letter of exemption
- Export licence from HCDA where horticultural produce is involved

Verification of origin of export goods

On receipt of the application, the Rules of Origin office shall conduct a verification of the exporters manufacturing plant to establish whether the export goods meet the origin criteria stipulated under the applicable trade arrangement. This only applies to manufactured goods.

Registered exporters then make payment for the certificates required.

Origin criteria

Rules of Origin are a set of criteria used to determine the origin of goods. The Rules of Origin that govern the issuance of COMESA, AGOA, EUR 1 and GSP certificates are known as preferential rules of origin. They are used for granting tariff preferences to goods originating from beneficiary countries. The verification of origin is based on the Rules of Origin that apply to the certificates required by the exporter as shown in the next page.

COMESA Certificate of Origin

The certificate is applied for goods traded within the COMESA region.

A company shall be registered for export on a COMESA certificate if goods qualify under any of the five criteria described in Rule 2 of the COMESA protocol on Rules of Origin. The criteria are as follows:

- The goods should be wholly produced in a member state; or
- The goods should be produced in the member states and the CIF value of any foreign materials should not exceed 60% of the total cost of all materials used in their production; or
- The goods should be produced in the member states and attain a value added of at least 35% of the ex-factory cost of the goods; or
- The goods should be produced in the member states and should be classifiable under a tariff heading other than the tariff heading of the non-originating materials used in their production;
- The goods should be designated by the Council of Ministers as goods of particular importance to the economic development of the member states and should contain not less than 25% value added, notwithstanding the provisions of paragraph (iii) above.

The EUR 1 Certificate

This certificate is issued for goods originating from the ACP countries and destined for the EU market. It is applied in accordance with the ACP/EU Cotonou Trade Agreement of the year 2000.

Goods will be considered as originating from the ACP beneficiary countries if;

- They are wholly obtained in that country.
- They are sufficiently processed in that country.

Processing shall be considered to be sufficient under any of the cases described below;

- Change in Tariff Heading Criterion: - This means that the product is considered to be processed when the final output is classified in a 4-digit heading of the Harmonised System Code which is different from those in which all the non-originating materials used in the manufacture are classified.
- Value-added Criterion: - This criterion applies where value of non-originating materials used may not exceed a given percentage of the ex-works price of a product. The value-added percentage requirement differs with the type of goods exported to the EU;
- The Specific Process Criterion: - This criterion is applied when certain operations or stages in a manufacturing process have to be carried out on any non-originating materials. In the textile sector for instance, origin requirement for wove garments of chapter 62 of the HS is, manufacture from yarn.

The GSP Certificate

The GSP Certificate is applied under the unilateral trade arrangement. Each individual country in the developed world (donor), grants preferential duties to goods originating in certain developing or least developed countries (beneficiaries).

Donor countries in this trade arrangement are; Australia, Canada, Japan, New Zealand, Norway, Switzerland, U.S.A, Belarus, Bulgaria, The Russian Federation and the EU.

The rules of origin applied in issuance of the GSP certificate are drawn by the individual donor country. The main elements are however similar and they include the following;

General Conditions: To qualify for preference, products must:

- fall within a description of products eligible for preference in the country of destination. The description entered on the form must be sufficiently detailed to enable the products to be identified by the customs officer examining them;
- comply with the rules of origin of the country of destination. Each article in a consignment must qualify separately in its own right; and
- comply with the consignment conditions specified by the country of destination. In general, products must be consigned direct from the country of exportation to the country of destination but most preference-giving countries accept passage through intermediate countries subject to certain conditions.

Origin Criteria

- The goods must be wholly produced in the exporting country or,
- Products must be sufficiently worked or processed in the country of exportation. The local percentage input will be determined by the individual importing country.

The AGOA Textile Certificate of Origin

The Trade Development Act was signed into law in USA in May 2000. Title 1 of this Act 'African Growth and Opportunity Act'(the 'AGOA'), extends duty free and quota free trade benefits to sub-Saharan Africa for goods identified under the AGOA category.

The AGOA Textile Certificate of Origin covers textile articles that fall under the goods approved for export to the US under the AGOA programme. The rules applied for this certificate are same as the GSP rules of origin applied by USA save for a few variations.

Certification fee: - A uniform fee of two hundred shillings is charged for certification. This shall be paid by the exporter directly into KRA account at the National Bank of Kenya.

Issuance of the certification forms: - The exporter shall submit the payment receipt and Form F147 to the ROO staff for issuance of the forms.

Filling the Certificate: - The exporter shall fill the form in triplicate, attach the export invoice and return it for authentication. Correct documents shall be authenticated by appending the authorizing stamp and signature in the appropriate box.

The exporter shall retain the original and duplicate copies while the issuing office shall retain the triplicate copy and the invoice.

(The AGOA certificate shall however be submitted to The Kenya Association of Manufacturers who will verify the entries on the certificate(s) and forward them to KRA for certification and issuance of the export visa)

Distribution of the Certificate of Origin

The original certificate of origin shall accompany the goods to the export destination while the duplicate shall be retained by the exporter for the purpose of record keeping.

Queries from customs authorities of importing countries

In situations where the customs authorities raise a query over the origin status of the goods or authenticity of the certificate of origin, the following procedure shall apply;

- The query shall be received in the Rules of Origin office through the Commissioner of Customs Services.
- For authenticity queries, the Rules of Origin office confirms the authenticating stamp and signature as genuine or not. A suitable reply shall then be made to the authorities in the importing country.
- For queries on the origin status of goods, the exporter shall be required to avail copies of all the documents related to the export in question. A post verification audit shall be carried out on the documents availed to confirm the details of the export in relation to the information provided on the certificate of origin.
- Queries on manufactured goods call for a verification of the manufacturing process.
- Where an exporter shall be found guilty of making misleading entries on the certificates of origin or fraudulently obtaining the same, an offence shall be preferred against the company and penalties imposed in accordance with the Sec.203 (b) of the EAC Customs Management Act (2004).