

SOUTH AFRICAN REVENUE SERVICE

Government Gazette No. 32601

No. R.941

2009-10-02

**CUSTOMS AND EXCISE ACT, 1964
AMENDMENT OF RULES (DAR/60)**

Under sections 46A, 59A 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.

**GEORGE NGAKANE VIRGIL MAGASHULA
COMMISSIONER FOR THE SOUTH AFRICAN REVENUE SERVICE**

SCHEDULE

(a) By the substitution for rule 46A3.01 of the following rule:

“46A3.01 (a) The rules numbered 46A3 are rules contemplated in sections 46(4)(d) and 46A(4)(b) in respect of the enactments of the Russian Federation relating to the Generalised System of Preferences (GSP) wherein are prescribed the origin and other requirements in terms of which goods exported from a developing country (which in terms of a Decree of the Russian Federation of 18 March 2003, includes the Republic with effect from 1 April 2003), will qualify for preferential tariff treatment on importation into the Russian Federation.

(b) The enactments of the Russian Federation to which these rules relate are the following English versions received from the South African Embassy in Moscow:

“(i) AGREEMENT ON THE RULES OF DETERMINING THE ORIGIN OF GOODS OF DEVELOPING COUNTRIES WHEN GRANTING TARIFF PREFERENCES WITHIN THE GENERAL SYSTEM OF PREFERENCE (MOSCOW, APRIL 12, 1996)

(An Agreement between the Governments of the Commonwealth of Independent States);

(ii) RULES OF DETERMINING THE ORIGIN OF GOODS OF DEVELOPING COUNTRIES WHEN GRANTING TARIFF PREFERENCES WITHIN THE GENERAL SYSTEM OF PREFERENCE

(Appendix to the Agreement referred to in these rules as RO Rules. In terms of Article 1 of the Agreement the Contracting Parties (the Governments of the Commonwealth Member States) accept these Rules, which are stated to be an integral part of the Agreement. The contents of the Decisions to which the two paragraphs preceding the text of the Agreement refer do not affect the wording of the Rules contained in the Appendix referred to in this subparagraph. The order referred to in the final paragraph of Rule 5 has been substituted by Order No. 223-r a translation of which is included with the enactments on the SARS website.);

(iii) PROTOCOL ON THE AMENDMENTS AND ADDENDA TO THE RULES OF DETERMINING THE ORIGIN OF GOODS OF DEVELOPING COUNTRIES WHEN GRANTING TARIFF PREFERENCES WITHIN THE GENERAL SYSTEM OF PREFERENCES PROVIDED BY AGREEMENT ON THE RULES OF DETERMINING THE ORIGIN OF GOODS OF DEVELOPING COUNTRIES WHEN GRANTING TARIFF PREFERENCES WITHIN THE GENERAL SYSTEM OF PREFERENCES DATED 12 APRIL 1996;

(iv) THE REQUIREMENTS APPLIED TO THE COMPLETING OF THE CERTIFICATE OF ORIGIN (COMBINED DECLARATION AND CERTIFICATE) FORM “A” (referred to in these rules as RCO requirements) (Enclosure to the Protocol);

- (v) LIST OF THE GOODS IMPORTED TO THE TERRITORY OF THE RUSSIAN FEDERATION ORIGINATED FROM THE DEVELOPING AND LEAST DEVELOPING, ON WHICH THE REGIME OF PREFERENCES IS APPLIED TO;
- (vi) LIST OF THE COUNTRIES USERS OF THE PREFERENTIAL SCHEMES WHEN IMPORTING TO THE TERRITORY OF THE RUSSIAN FEDERATION.”

Note: These enactments are included on the SARS website (www.sars.gov.za).

- (c) (i) Expressions used in the rules with reference to any enactment of the Russian Federation shall, unless the context otherwise indicates, have the meaning assigned thereto in the said enactment or relevant provisions of the Act or as defined in these rules.
- (ii) The provisions of rules 46A3.08, 46A3.09, 46A3.10, 46A3.11, 46A3.12 and 46A3.13 follow in part respectively the contents of Community Regulation 2454/93 (as amended) Articles 70, 70a, 73, 74, 75, and 77, to which the rules numbered 46A2 relate, as the RO rules do not specify such provisions.
- (d) (i) Any reference to legislation of the Russian Federation in these rules is merely quoted to facilitate tracing relevant provisions in the enactments and 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 reference.
- (ii) Where any rule reflects an alphabetical prefix or alphabetical prefixes or words and a number or numbers in brackets in any heading to the rule, such a reference refers to an enactment and its number of the Russian Federation, for example:

“RO Rule 3 RO Rule followed by a number refers to

the relevant Rule of the Russian Federation enactment: Rules of determining the origin of goods of developing countries when granting tariff preferences within the General System of Preferences.”

- (e) In the application of provisions of the Act to any enactment -
- (i) the following expressions in any enactment of the Russian Federation shall have the meanings assigned thereto in this paragraph:

“authority or authorities”, “competent authority”, “competent bodies”, “competent national bodies”, “customs bodies”, “relevant authority”, or “relevant body authorised to issue the Certificates” means, with effect from the date these rules come into operation, the Commissioner, or in accordance with any delegation in these rules, the Head Customs Operations Support in the Operational Service division of the South African Revenue Service, the Controller or any other officer;

“Certificate of Origin Form A” or “Form A” means the Generalised System of Preferences, Certificate of Origin (combined declaration and certificate) Form A referred to in the enactment specified in paragraph (b)(iv), 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 rule 46A3.16;

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

“developing country” or “developing countries”, includes the Republic, but excludes a least developed country listed in the “List of the countries users of the preferential schemes

when importing to the territory of the Russian Federation” referred to in paragraph (b)(vi);

“**Direct delivery**” in respect of imported goods, means goods invoiced to an importer in the Republic by an exporter in the Russian Federation and transported directly therefrom to that importer, arriving in the same ship, aircraft or container on which they were loaded on exportation;

“**FOB basis**” used in the instructions for the completion of Box 8 of Form A means the price free on board of goods exported contemplated in section 72;

“**HS Code**” 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);

“**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;

“**price free ex manufacturing works**” referred to in RO Rule 3, which is reproduced in rule 46A3.06, means the price paid for the goods ex manufacturing works to the manufacturer in whose undertaking the last working or processing is carried out, provided that the price includes the value of all the materials used, minus any internal taxes which are, or may be, repaid when the goods obtained are exported;

“tariff preferential treatment” or **“tariff preferences”** or **“regime of preferences”** shall have the meaning assigned to tariff preferential treatment in section 46A (1);

(ii) 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 Russian Federation;

“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 contemplated in an enactment and defined in section 1;

“GSP” means the Generalised or General System of Preferences as in operation in the Russian Federation in terms of which non-reciprocal preferential tariff treatment is granted to goods originating in developing countries which include the Republic;

“Harmonized System” shall have the meaning assigned to **“HS Code”**;

“invoice declaration” means a declaration by an exporter on the invoice or other shipping documents in respect of small consignments contemplated in RO Rule 5 (Documentary Certificate);

“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 any enactment of the Russian Federation;

“Republic” means the Republic of South Africa;

“RCO Requirements” means the requirements applied to the completing of the certificate of origin (combined declaration and certificate) Form “A” referred to in paragraph (b)(iv);

“RO Rules” means the Rules of determining the origin of goods of developing countries when granting tariff preferences within the general system of preferences referred to in paragraph (b)(ii);

“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 Republic of South Africa and the Kingdom of Swaziland;

“sufficiently worked” means the working or processing required to be carried out on non-originating materials in order that the product manufactured can obtain originating status prescribed in RO Rule 3;

(iii) for the purposes of RO Rule 2 -

“ships of said country”, “ships rented or chartered by said country”, floating fish-factories of said country”, “floating fish-factories chartered by said country” -

- (aa) means ships which are owned or rented or chartered by a legal person registered in the Republic in accordance with the laws of the Republic and which has its place of effective management in the Republic or by a natural person who is ordinarily resident in the Republic; and
- (bb) includes “**registered**” or “**of South African nationality**” as contemplated in the Merchant Shipping Act No. 57 of 1951.”

(b) By the insertion after rule 46A3.01 of the following rules:

“46A3.02 Exporters must ascertain precise qualifying requirements and extent of benefits from the importer or the customs authority in the Russian Federation

- (a) The English versions of the enactments of the Russian Federation referred to in these rules have been obtained from the South African Embassy in Moscow.
- (b) The translations are not clearly worded in some respects and 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 Russian Federation.

46A3.03 (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 Head Customs Operations Support in the Operational Service division of the South African Revenue Service, the Controller or any officer designated to exercise such power or perform such duty or function.

- (b) For the purposes of paragraph (a) any officer authorised by the Manager: Origin or by a 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.

46A3.04 Transitional arrangements

- (a) The responsibility of the South African Revenue Service for the administration of the GSP in respect of the Russian Federation 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 responsible for the administration of the GSP before the date these rules came into operation.

46A3.05 Registration of exporter and producer

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

- (a) every exporter and producer of GSP goods shall be registered and shall submit to the Commissioner a completed form DA 185 and the relevant annexure in the case of -
 - (i) an exporter, a completed Annexure DA 185.4A2 and exporter's application for registration (DA 46A1.02 incorporated in Section C thereof); and
 - (ii) a producer, a completed Annexure DA 185.4A7;
- (b) if the exporter is also the producer of the goods concerned, application for registration as an exporter as well as a producer must be so submitted.

Rules relating to enactments of the Russian Federation prescribing requirements concerning origin and proof of origin in respect of goods exported from developing countries

46A3.06 RO "Rules of determining the origin of goods of developing countries when granting tariff preferences within the General System of Preferences"

- (a) In terms of RO Rule 1, goods are regarded as originating in a developing country which is subject to the tariff preferential treatment where the goods are -
- (i) wholly produced in such country (specified in RO Rule 2);
 - (ii) produced in such country by using raw materials, semi-finished or finished items originating from another country or goods of unknown origin provided the goods have been put through sufficient finishing or processing in such country in accordance with RO Rule 3.
- (b) In terms of RO Rule 3 goods are considered to have been put through sufficient finishing or processing in a developing country which is subject to the tariff preferential treatment in the following circumstances:
- “(a) the goods have undergone sufficient finishing or processing in a developing country which is subject to the tariff preferential treatment and the value of the goods utilized in that process (feedstock, semi-finished and finished goods) originating from other countries which are not subject to the tariff preferential treatment or the goods of unknown origin do not exceed 50% of the value of the goods exported by a developing country which is subject to the tariff preferential treatment;
 - (b) the goods have undergone finishing or processing in several developing countries which are subject to the tariff preferential treatment and the value of the goods utilized in the process originating from other countries which are not subject to the tariff preferential treatment or the goods of unknown origin do not exceed 50% of the value of the goods exported by one of the developing countries which is subject to the tariff preferential treatment;
 - (c) the goods have been produced in one of the developing states which are subject to the tariff preferential treatment and have been put through finishing or processing in other, one or several developing countries which are subject to the tariff preferential treatment.

The value of the goods mentioned under Sub-items (a) and (b) hereof that originate from the country not subject to the tariff

preferential treatment shall be determined on the basis of the customs cost of said goods fixed in the manufacturing country of the exported goods.

The value of the goods of unknown origin mentioned under Sub-items (a) and (b) hereof, shall be set as equal to the price paid for the said goods in the territory of a developing country – a manufacturer of the exported goods.

The goods (raw materials, semi-finished and finished products) taken from one of the countries granting preferences into the country which is subject to the tariff preferential treatment and utilized there for the production of goods to be exported into the same country that grants preferences shall be deemed as the goods that have been produced in said developing country – the exporter.

The value of the goods exported by a developing country shall be determined on the basis of the price free ex manufacturing works.”

- (c) Originating goods are eligible, on importation into the Russian Federation, to benefit from the relevant tariff preferences provided:
- (i) the conditions of “**direct purchase**” and “**direct delivery**”, stated in RO Rule 4, which are reproduced in rule 46A3.14, are complied with;
 - (ii) a valid Certificate of Origin Form A is produced and in terms of RO Rule 5 -
 - (aa) a Form A is valid for 12 months from the date of issue thereof;
 - (bb) Form A must be submitted to the customs authorities in printed form, free from corrections in English;
 - (cc) a discrepancy of not exceeding 5% between the quantities of goods actually delivered and those stated on the Form A is allowed on importation into the Russian Federation;
 - (dd) where a Form A is lost, a duly completed duplicate may be accepted which may be applied for in accordance with the procedures specified in rule 46A3.18;
 - (ee) a presentation of Form A is not required for small consignments of a total value of not exceeding

US \$ 5 000, for which procedures are prescribed in Rule 46A3.20;

- (iii) the Russian Federation must have received from the developing country which have been granted tariff preferences, the names, addresses and imprints of seals of competent bodies authorised to issue certificates as specified in RO Rule 6 (Customs Co-operation);
- (d) 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 for completion of Form A or a declaration for small consignments) 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.
- (e) Whenever originating status is claimed for any goods contemplated in RO Rule 3, 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 in terms of which goods are considered to have been put through sufficient finishing or processing in a developing country for the purposes of preferential tariff treatment in the Russian Federation.
- (f)
- (i) Where goods are exported from the Russian Federation to the Republic for working or processing as contemplated in the penultimate paragraph of RO Rule 3, the bill of entry import must be endorsed “**Goods originating in the Russian Federation for working or processing in the Republic**”.
 - (ii) In respect of goods that have been so worked or processed, the words “**Russian Cumulation**” must be inserted in Box 4 of Form A as specified in rule 46A3.16(h).

46A3.07 Goods wholly obtained in a GSP developing country

Goods wholly obtained must be so described on Form A or any invoice declaration and any bill of entry for export, for example, “**coal (wholly obtained)**”.

46A3.08 Insufficient working or processing

(a) 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.

(b) The following operations shall be considered as insufficient working or processing to confer the status of originating products, whether or not the requirements of RO Rule 3 are satisfied:

(i) operations to ensure the preservation of goods in good condition during transport and storage (ventilation, spreading out, drying, chilling, placing in salt, sulphur dioxide or other aqueous solutions, removal of damaged parts, and like operations);

(ii) simple operations consisting of removal of dust, sifting or screening, sorting, classifying, matching (including the making-up of sets of articles), washing, painting, cutting up;

(iii) (aa) changes of packing and breaking-up and assembly of packages;

(bb) simple placing in bottles flasks, bags, cases, boxes, fixing on cards or boards, etc., and all other simple packaging operations;

(iv) affixing marks, labels and other like distinguishing signs on products or their packaging;

(v) simple mixing of products, whether or not of different kinds, where one or more components of the mixture do not meet the conditions to enable them to be considered as originating in a beneficiary country or in the Russian Federation;

(vi) simple assembly of parts to constitute a complete product;

(vii) a combination of two or more of the operations specified in (i) to (vi);

(viii) slaughter of animals.

- (c) All the operations carried out in either a beneficiary developing country or the Russian Federation on a given product shall be considered together when determining whether the working or processing undergone by that product is to be regarded as insufficient within the meaning of paragraph (b).

46A3.09 Unit of qualification

- (a) The unit of qualification for the application of the provisions to determine origin shall be the particular product which is considered as the basic unit when determining classification using the nomenclature of the Harmonized System.
- (b) Accordingly, it follows that -
 - (i) when a product composed of a group or assembly of articles is classified under the terms of the Harmonized System in a single heading, the whole constitutes the unit of qualification;
 - (ii) when a consignment consists of a number of identical products classified under the same heading of the Harmonized System, each product must be taken individually when applying the provisions for determining origin.
- (c) Where, under General Rule 5 of the Harmonized System, packaging is included with the product for classification purposes, it shall be included for the purposes of determining origin.

46A3.10 Accessories, spare parts and tools

Accessories, spare parts and tools dispatched with a piece of equipment, machine, apparatus or vehicle which are part of the normal equipment and included in the price thereof or which are not separately invoiced, shall be regarded as one with the piece of equipment, machine, apparatus or vehicle in question.

46A3.11 Sets

- (a) Sets, as defined in General Rule 3 of the Harmonized System, shall be regarded as originating when all the component products are originating products. Nevertheless, when a set is composed of originating and non-originating products, the set as a whole shall be

regarded as originating, provided that the value of the non-originating products does not exceed 15% of the ex-works price of the set.

- (b) 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.

46A3.12 Neutral elements

In order to determine whether a product is an originating product, it shall not be necessary to determine the origin of the following which might be used in its manufacture:

- (a) energy and fuel;
- (b) plant and equipment;
- (c) machines and tools;
- (d) goods which do not enter, and which are not intended to enter, into the final composition of the product.

46A3.13 Re-importation of goods exported

- (a) The conditions set out in enactments of the Russian Federation for acquiring originating status must continue to be fulfilled at all times in the Republic or in the Russian Federation.
- (b) If originating products exported from the Republic or from the Russian Federation to another country are returned, they must be considered as non-originating unless it can be demonstrated to the satisfaction of the competent authorities that -
 - (i) the products returned are the same as those which were exported; and
 - (ii) they have not undergone any operations beyond that necessary to preserve them in good condition while in that country or while being exported.
- (c) For the purposes of application of the relevant enactments “**exported**” includes goods removed to any SACU country other than the Republic.

- (d) When entering any goods for which originating status as contemplated in any relevant enactment is claimed on re-importation, it must be proved 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.

46A3.14 Direct purchase and direct delivery (RO Rule 4)

- (a) (i) In terms of RO Rule 4:
- “The tariff preferences with regard to the goods originating from developing countries which are subject to the tariff preferential treatment shall be granted only under the condition of direct purchase of such goods in those countries and direct delivery thereof to the country granting tariff preferences.

The goods shall be considered as directly purchased if the importer has acquired them from a person registered according to the established procedure as the subject of business activity in a developing country which is subject to the tariff preferential treatment.

The direct delivery shall be the delivery of goods transported from a developing country which is subject to the tariff preferential treatment to the country granting tariff preferences without the transit through the territory of any other state.

The rule of direct delivery shall be met by the goods transported through the territory of one or several countries due to geographic, transport, technical or economic reasons, provided that the goods in the countries of transit, including during their temporary storage in the territory of those countries shall be under customs control.”

- (ii) When goods are exported from the Republic to the Russian Federation, the exporter in the Republic must produce the evidence that will be required on importation into the Russian Federation to the Controller together with the application for the issuing of Form A, the completed Form A and other prescribed export documents.
- (b)
- (i) The provisions of this rule in respect of imported goods only relate to goods originating in the Russian Federation that are imported into the Republic for finishing or processing in the Republic as contemplated in the penultimate paragraph of RO Rule 3 and in rule 46A3.06(f):
 - (ii) The evidence required in respect of goods which have not been transported directly between the Russian Federation and the Republic shall be produced to the Controller at the time of entry with the other documents contemplated in section 39.
 - (iii) 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 furnishing of a provisional payment or other security pending production of the documents necessary to prove the originating status of the goods and compliance with the requirements stated in RO Rule 4.
 - (iv) As evidence may be produced -
 - (aa) a single transport document, which 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;
 - (bb) other substantiating documents which must 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.

46A3.15 Exhibitions (RO Rule 4)

- (a) (i) In terms of RO Rule 4 -

“The rule of direct delivery shall also be observed by the goods purchased by the importer at exhibits or fairs subject to the compliance with the following conditions:

 - (aa) the goods have been delivered from the territory of a developing country which is subject to the tariff preferential treatment to the territory of a country of holding an exhibition or fair and have been kept under customs control during the duration of the same;
 - (bb) the goods have not been used since their despatch to an exhibit or fair for any other purpose, except for the purpose of demonstration;
 - (cc) the goods are imported into the country granting tariff preferences in the same condition in which they have been delivered to an exhibit or fair disregarding the change in the goods condition due to the natural wear and tear or a loss under the normal conditions of transportation and storage.”
 - (ii) When goods are exported from the Republic to the Russian Federation, the exporter in the Republic must produce the evidence that will be required on importation into the Russian Federation to the Controller together with the Application for Certificate of Origin Form A, the completed Form A and other prescribed export documents.
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- (b) (i) The provisions of this rule in respect of imported goods only relate to goods originating in the Russian Federation that are imported into the Republic for finishing or processing in the Republic as contemplated in the penultimate paragraph of RO Rule 3 and in rule 46A3.06(f).
 - (ii) When entering such imported goods -

- (aa) the provisions of paragraph (a)(i) shall apply *mutatis mutandis*;
- (bb) the importer must produce from the exporter in the Russian Federation -
 - (A) an invoice endorsed with the statement
 “**these goods were consigned to you from**
(name and place of
exhibition)”
 - (B) a statement confirming the relevant particulars specified in paragraph (a)(i) as they apply to such goods.

46A3.16 Requirements applied to the completion of the Certificate of Origin (combined declaration and certificate) Form A

- (a) Numbered Certificates of Origin Form A have been printed and are available on application from the South African Revenue Service at the offices of the 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 Russian Federation.
- (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: Origin 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 (ij).

- (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);
 - (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.
 - (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 an 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 46A.03) and if the exporter is not the producer a Declaration by Producer (Form DA 46A.04).
- (h) Form A must be completed to be authentic in accordance with the notes on the reverse thereof and the instructions in the relevant enactments and the following requirements:
- (i) (aa) The certificate must be completed in English;
- (bb) the certificate must be completed by using a printing process;
- (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.
- If the name of the consignee in the Russian Federation is not known at the time the certificate is issued, the words "**to order**" or "**Russian Federation**", may be printed in this Box. The consignee's name and address may in addition be printed after the words "**to order**" or

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);
 - **“Issued instead of**” (the number and date of the cancelled certificate, where application is made to replace a cancelled certificate);
 - **“Russian Cumulation”** (where goods have acquired originating status by cumulation of origin involving products originating in the Russian Federation as contemplated in the penultimate paragraph of RO Rule 3 and in rule 46A3.06(f))

Boxes 5 and 6

- Enter the 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 number and kind of 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”**.
- If the space in the column is insufficient, additional sheets may be used on which the serial number of the certificate must be quoted and which must be signed by the person signing the declaration in Box 12 and signed by the officer who signs and stamps Box 11, by using the same special stamp for both impressions.
- 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

- Enter the letter –
 - “**P**” for goods wholly produced;
 - “**Y**” where goods have been sufficiently finished or processed using imported raw materials, half-finished products, or assemblies or components originating in any other country or of unknown origin. The percentage to be inserted after “**Y**” shall be calculated as indicated in paragraph (b)(4) of the Notes on the reverse of Form A;
 - “**PK**” where goods have undergone sufficient finishing or processing in any other developing country receiving tariff preferential treatment in terms of the RO Rules or have undergone finishing or processing in several such countries (as provided in the RCO requirements referred to in rule 46A3.01(b)(iv) and to which the instruction in the said paragraph (b)(4) relates).

Box 9

- Insert gross metric measures or any other quantity required for each item.

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;
 - 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 Certificate of Origin Form A (form DA 46A.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 Russian Federation or re-exports goods re-imported as contemplated in rule 46A3.13,

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 46A.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 as defined in these rules.

- (k) The requirements for signing the declaration on Form A are also applicable in respect of the application form which must –
 - (i) bear the original signature of the person signing the declaration; and
 - (ii) be signed by the same person who signed the declaration on the Form A.

- (l) The exporter must –
 - (i) ensure that the application is duly completed;
 - (ii) submit the supporting documents specified in paragraph (3) of the declaration; and
 - (iii) include any relevant documents referred to in paragraph (ij);

- (m) Where the officer has reasonable doubts about the correctness of the statements made on the Application for Certificate of Origin 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 Certificate of Origin Form A;
and

(iv) refuse to issue the Form A until he or she is satisfied that the originating requirements of the enactments have been complied with.

(n) Invoice declarations may be issued instead of Form A in respect of small consignments as prescribed in rule 46A3.20.

46A3.17 Certificate of Origin Form A issued retrospectively (RCO Requirements)

(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 DA 46A.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 to those contained in the corresponding export documents.
- (d) The application for the issue of a Certificate of Origin Form A retrospectively shall be considered by the Controller.

46A3.18 Issue of a duplicate Certificate of Origin Form A (RCO Requirements)

- (a) The exporter shall furnish to the officer 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 supporting evidence produced when the original certificate was issued.
- (b) The officer shall attach a copy of the original application form to the application form for a duplicate and shall take into account the facts or circumstances considered when the original Form A was issued.

46A3.19 Issue of a new certificate for a cancelled Certificate of Origin Form A (RCO Requirements)

- (a) In terms of the RCO Requirements where an earlier issued certificate has been cancelled, Box 4 of the newly issued certificate must reflect the wording **"issued instead of"** (the number and date of the cancelled certificate).
- (b) The provisions of rule 46A3.18 shall apply *mutatis mutandis* in respect of the application for such a certificate.

46A3.20 Invoice declarations for small consignments (RO Rule 5)

- (a) (i) In terms of RO Rule 5, presentation of Form A is not required in respect of a small consignment of a total value not exceeding US \$ 5 000 in which case the exporter may declare the country of origin on the invoice or other shipping documents.
- (ii) Where there are reasonable doubts as to the accuracy of such origin declaration, the exporter will be required to apply for issuance of Form A.

- (b) 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 providing 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 other commercial documents 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 three copies of the invoice (or other documentation) in English 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 Generalised System of Preferences of The Russian Federation.

.....
(Place and date)

.....
(Signature of the exporter)”

(Note: In addition the name of the person signing the declaration has to be indicated in clear script.)

- (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, if it is not an invoice, 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.

- (c) 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: Origin that the goods no longer fulfil the required origin conditions (for example, by change of sources or materials).

- (d) 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.

- (e) (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 Controller where the goods were entered for export.
- (ii) The provisions of rule 46A3.17 shall apply *mutatis mutandis* to such application.

46A3.21 Submission of proof of origin in respect of imported and exported goods (RO Rule 5)

- (a) (i) These provisions are only applicable in respect of imported goods originating in the Russian Federation that are imported into the Republic for finishing or processing in the Republic as contemplated in RO Rule 3 and rule 46A3.06(f).
- (ii) Any proof of origin in respect of imported goods must be -
 - (aa) delivered to the Controller at the time the goods are entered for home consumption or deemed to have been entered for home consumption; or
 - (bb) 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;
 - (cc) in English and if not so, a translation must be attached thereto.
- (b) (i) 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 12 months from the date of issue in the Republic.
- (ii) After such period, proof of origin is only accepted -
 - (aa) if failure to observe the time limit is due to exceptional circumstances; or

(bb) where the goods have been submitted to the customs authorities in the country of destination before the final date of expiry.

46A3.22 Exportation by instalments (RO Rule 3)

When such goods are exported to the Russian Federation, one Form A shall be issued and submitted to the importer on exportation of the first instalment.

46A3.23 Notification of competent bodies (RO Rule 6)

(a) The Commissioner will supply the Russian Federation with imprints of customs stamps and other information relating to the issuance of certificates.

(b) The customs stamp of which the imprint is supplied to the Russian Federation must be used for issuing Form A.

46A3.24 Mutual assistance (RO Rule 6)

The Manager: Origin shall be responsible for rendering any assistance contemplated in the relevant enactment to the customs administration of the Russian Federation.

46A3.25 Verification of proof of origin (RO Rule 6)

(a) Any proof of origin in respect of imported goods shall be submitted for verification to the customs authorities of the exporting country.

(b) (i) If a request for verification of proof of origin is received from the customs authorities in the Russian Federation, 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 any enactment.

- (ii) The Russian Federation will only grant the tariff preference after receipt of a satisfactory response to the request.
- (c) The Manager: Origin shall determine whether or not to refuse entitlement to preferences in respect of imports from the Russian Federation for cumulation purposes as contemplated in rule 46A3.06.

46A3.26 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 relevant enactment.
- (b) Every exporter or producer or any other person contemplated in section 46A(3)(b) shall maintain and keep for a period of three 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 Russian Federation, 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 Russian Federation;

- (v) any other documents contemplated in rule 46A3.16(*ij*).
- (c) (i) For the purposes 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) An invoiced price is not acceptable as the ex-works price, and may be determined by the Manager: Origin in consultation with the Group Manager: Valuation, 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 six 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, and 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.”

- (c) By the substitution in rule 46A4.04 for paragraph (a) of the following paragraph:
“(a) every exporter and producer of GSP goods shall be registered and shall submit to the Commissioner a completed form DA 185 and the relevant annexure in the case of –
- (i) an exporter, a completed Annexure DA 185.4A2 and exporter’s application for registration (DA 46A1.02 incorporated in Section C thereof); and
 - (ii) a producer, Annexure DA 185.4A7;”.